

**ORIGINAL**  
**JOHNSON UTILITIES, L.L.C.**



0000035757

5230 East Shea Boulevard \* Scottsdale, Arizona 8.  
PH: (480) 998-3300; FAX: (480) 483-7908

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Mr. Brian Bozzo  
Arizona Corporation Commission  
1200 W. Washington  
Phoenix, AZ 85007

December 16, 2005

**RE: DOCKET NO. WS-02987A-04-0288**  
**DECISION NO. 68237**  
**Compliance with Affiliated Interest Reporting Requirements**

Dear Mr. Bozzo,

In compliance with the above referenced Decision, dated October 25, 2005, we are responding to the affiliated interest questions listed under the Staff Recommendations section:

In accordance with the April 19, 2005 late-filed "Exhibit 1" agreement between Johnson and Staff, Johnson must file with Docket Control within 60 days of the effective date of this Decision the following:

- i. The name, home office location and description of any of the entities that are named as defendants in the La Osa litigation, and their relationship to each other and to Johnson Utilities Company;

Named:

1. George H. Johnson Revocable Trust
2. George H. Johnson & Jana Johnson Co-Trustees
3. Johnson International Inc.
4. The Ranch @ South Fork, L.L.C.
5. General Hunt Properties, Inc.
6. Atlas Southwest, Inc.

Location:

The home office location for all of the above named entities is located at: 5230 E. Shea Blvd. #200, Scottsdale, AZ. 85254

Associated Relationships:

George H. Johnson & Jana Johnson Co-Trustees of the George H. Johnson Revocable Trust.

AZ CORP COMMISSION  
DOCUMENT CONTROL

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The majority interest in Johnson International is the George H. Johnson Revocable Trust. Johnson Utilities has no ownership in Johnson International.

The members of the The Ranch @ South Fork, L.L.C. are the George H. Johnson Revocable Trust and Johnson International, Inc.

The stockholder for General Hunt Properties, Inc. is Atlas Southwest Recreation Company.

The stockholders for Atlas Southwest, Inc. are George H. and Jana S. Johnson.

Johnson Utilities has no ownership in any of the above referenced entities. None of the above referenced entities have a direct relationship with Johnson Utilities, or will affect it's viability or financial responsibilities.

- ii. A brief description of the business activities conducted by any entity in subsection i, above:
  - 1. George H. Johnson & Jana S Johnson as Trustees of the George H. Johnson owns lands and businesses for estate purposes.
  - 2. Johnson International, Inc. has bought and sold real estate in the past years and is collecting funds on deeds of trust.
  - 3. The Ranch @ South Fork, L.L.C. owed 36+ acres in Gila County, Arizona for development into a ranch facility for business meetings. This property was sold in July 2005.
  - 4. General Hunt Properties, Inc. has bought and sold real estate to home builders and developers in Pinal County. It also owns an affiliated company that operates an 18 hole golf course.
  - 5. Atlas Southwest, Inc. owns affiliated companies that includes own two airplanes; a construction company; and management of same.
- iii. A description of plans for the entities identified in subsection i, above, to modify or change business activities, enter into a new business venture or to acquire, merge or otherwise establish a new business entity;

The above entities have no plans to modify or change business activities; enter into new business ventures; or to acquire, merge or establish new business entities.

Entity #3 – The Ranch @ South Fork, L.L.C. has sold all of it's land and improvements and will not be an active future business.

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- iv. An assessment of the effect of current and planned affiliated activities by each entity identified in subsection I, above, on Johnson Utilities' capital structure and its ability to attract capital at fair and reasonable rates;

None of the above named entities operations will have affect on Johnson Utilities capital structure or its ability to attract capital at fair and reasonable rates.

- v. The dollar amount transferred between Johnson Utilities Company and each of the entities identified in subsection i, above, during the previous 12 months and the purpose of each transfer. Johnson shall prepare and submit to Staff an update to this report every 6 months.

Funds transferred between Johnson Utilities and listed entities:

1. George H. Johnson is the owner of a long-term note with Johnson Utilities, L.L.C. in the amount of \$772,000 as approved by the commission in Decision No. 60223. The interest rate on this note is 8% and Mr. Johnson receives \$61,760 in interest each year. \$25,733 was received in this period. Johnson Utilities pays rent to Mr. Johnson for business office space at the rate of \$2,560 per month. This will be the first year Mr. Johnson draws \$240,000 per year as compensation for his services. In addition, Mr. Johnson has withdrawn, for income taxes, the amount of \$1,000,000 during this period.
  2. Johnson International gets reimbursed for office supplies and expenses in the amount of under \$1,000 per year from Johnson Utilities. It also received \$89,963 for line extension refunds for the period of 7/1/03 thru 6/30/05. These refunds are per the 5% refund for CAIC as required by the approved tariff and were for subdivisions funded by Johnson International.
  3. The Ranch @ South Fork, L.L.C. has not received or paid funds to Johnson Utilities, L.L.C. during this period.
  4. General Hunt Properties, Inc. has not received or paid funds to Johnson Utilities, L.L.C. during this period.
  5. Atlas Southwest, Inc. has not received or paid funds to Johnson Utilities, L.L.C. during this period.
- vi. Copies of contracts or agreements to receive, or provide management, engineering, accounting, legal, financial or other similar services between Johnson Utilities, Company and any of the entities identified in subsection i, above. Johnson shall prepare and submit to Staff an update to this report every 6 months;

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1. There are no agreements to receive, or provide management, engineering, accounting, legal, financial or other similar services between Johnson Utilities and any of the previously identified entities.
  
- vii. Copies of contracts or agreements to purchase or sell goods or real property between Johnson Utilities Company and any of the entities identified in subsection i, above; and

There are no existing agreements to purchase or sell goods or real property between Johnson Utilities and the above referenced entities.

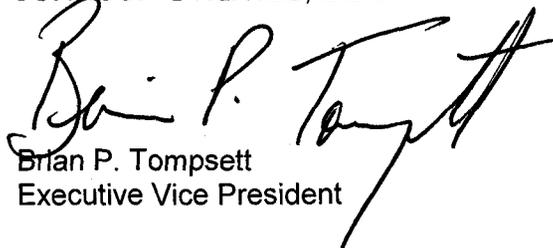
Johnson Utilities will be purchasing some property in the near future for location and construction of the Anthem water reclamation plant.

- viii. Contracts or agreement to lease goods or real property between Johnson Utilities Company and any of the other entities identified in subsection i, above.

See Attachments 1 & 2. These are the only Lease Agreements that exist between the above referenced entities.

If you have any questions, please contact me at 480-998-3300

Sincerely,  
JOHNSON UTILITIES, L.L.C.



Brian P. Tompsett  
Executive Vice President

BT/cg

cc: Daniel Hodges, Johnson Utilities  
Richard Sallquist, Sallquist Drummond  
Ernest Johnson, Director  
Docket Control

# ATTACHMENT 1

## HOME OFFICE RENT ALLOCATION AGREEMENT

THIS ALLOCATION AGREEMENT, is dated as of 1<sup>st</sup> day of JANUARY, 2003, by and between George H. and Jana S. Johnson (the "Johnson's"), as owners of the office building at 5230 E. Shea Blvd., Scottsdale, Arizona (the "Home Office") and JOHNSON UTILITIES, L.L.C., dba JOHNSON UTILITIES COMPANY ("JUC").

### WITNESSTH

WHEREAS, JUC is primarily managed by Shea Utility Services Company ("Shea") pursuant to the Management Agreement dated January 1, 1998 (the "Management Agreement"); and

WHEREAS, the Management Agreement does not provide adequate office space in the size or at the location necessary for the owners and management of JUC to conduct the construction, operation, engineering, regulatory or legal aspects of its business; and

WHEREAS, George Johnson, and others on behalf of JUC, are directly involved with meetings and negotiations with Real Estate Developers and other groups and individuals which meeting, negotiations and resulting decisions are beyond the scope of the Management Agreement; and

WHEREAS, the offices, conference room and facilities of the Home Office are used for conducting those meetings and negotiations; and

WHEREAS, Mr. Johnson does not at this time directly receive any compensation for his time and effort in those meetings and negotiations; and

WHEREAS, the direct and indirect cost for employees located at the Home Office are not directly charged to or allocated to JUC; and

WHEREAS, it is equitable to allocate to JUC the portion of the space at the Home Office that is associated with the use of those facilities by JUC for these essential meetings and negotiations.

NOW, THEREFORE, it is mutually covenanted and agreed by and between the parties hereto as follows:

1. The current rent to third parties for space in the Home Office building, which the Johnson's believes to be a fair market rate, is \$20.00 per foot per year.
2. The space currently allocated to JUC is based upon the time Mr. Johnson spends on JUC matters, which is presently approximately one third of his time.
3. Based on the above monthly allocation of those office rent to JUC is \$1,000 per month.

4. The Home Office Rent Allocation shall be directly billed to JUC by Johnson on a monthly basis.

5. JUC shall pay said statement within 15 days of receipt.

6. Johnson avers that the space allocated to JUC under this Agreement, is not being otherwise allocated to any other Johnson business or entity, nor to any third party tenant in the Home Office building.

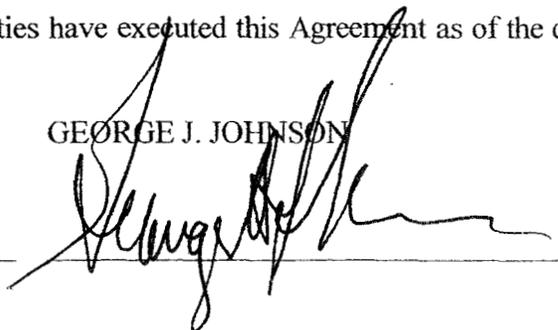
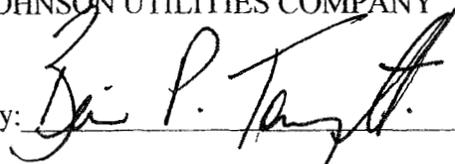
7. The allocation shall be reviewed annually and adjusted to the market rate per square foot and the portion of the time the Home Office space is used for JUC related business conducted at the Home Office.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

JOHNSON UTILITIES COMPANY

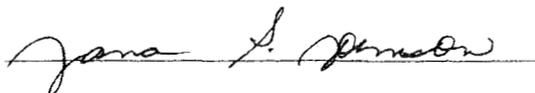
GEORGE J. JOHNSON

By:



Its: EXECUTIVE VICE PRESIDENT  
"Company"

JANA S. JOHNSON



# ATTACHMENT 2

**LEASE AGREEMENT**

**BETWEEN**

**GEORGE H. and JANA S. JOHNSON**

**AND**

**JOHNSON UTILITIES, L.L.C. dba**

**JOHNSON UTILITIES COMPANY**

**January 1, 2003**

## LEASE AGREEMENT

THIS LEASE AGREEMENT is made as of the 1<sup>st</sup> day of January, 2003, by and between GEORGE H. and JANA S. JOHNSON ("Landlord"), and JOHNSON UTILITIES, L.L.C. dba JOHNSON UTILITIES COMPANY, an Arizona limited liability company ("Tenant").

1.

### PREMISES

Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, on the terms and subject to the conditions herein set forth, approximately 1,500 square feet of office space plus a pro rata portion of the Common Area and Maintenance Yard located at 968 East Hunt Highway, Queen Creek, Arizona 85242 ("Building"), together with all landscaping, driveways, parking areas and other improvements appurtenant to the Building and Tenant Improvements as indicated on Exhibits "A & B" attached hereto and made a part hereof (collectively, the "Premises").

2.

### TERM

The term ("Term") of this Lease shall be sixty (60) months commencing on January 1, 2003 ("Commencement Date"). The Lease shall terminate on December 31, 2007 ("Termination Date"), unless otherwise extended by the Parties.

3.

### RENT

Tenant shall pay to Landlord, during the Term of this Lease, rent for the Premises payable in monthly installments of One Thousand Five Hundred and 00/100 Dollars (\$1,500.00) each payable on or before the first (1<sup>st</sup>) day of each calendar month, commencing on the first (1<sup>st</sup>) day of the Lease Term and through the Term, unless otherwise adjusted. The Rent may be adjusted annually as mutually agreed upon by both Tenant and Landlord. Said adjustment will become effective January 1st upon execution of a Lease Addendum in the form attached hereto as Exhibit "C". Rent shall be paid to Landlord, without deduction or offset, in lawful money of the United States of America and shall be paid to Landlord at the address designated herein or at such other place as Landlord may, from time to time, designate. Tenant shall also pay to Landlord with the payments of rent above required, as rent or other tax (other than net income taxes) now or hereafter levied, assessed or imposed, directly or indirectly, by any governmental authority upon any rent or other payments required by this Lease.

4.

### SECURITY DEPOSIT

Upon execution of this Lease, Tenant shall deposit with Landlord or its agent the sum of One Thousand and 00/100 Dollars (\$1,000.00) ("Security Deposit"), receipt of which is hereby

acknowledged by Landlord, as partial security for Tenant's full and faithful performance of each and every term, condition, covenant and provision of this Lease. In the event Tenant defaults in the performance of any term, condition, covenant or provision hereof, Landlord may use, apply or retain the whole or any part of such Security Deposit for the curing of any default or to compensate Landlord for any loss or damage that Landlord may suffer because of Tenant's default. In no event shall Tenant use such Security Deposit as payment for rent or any other sum payable under this Lease, and any attempted use by Tenant of such deposit shall constitute a material breach of this Lease.

Any use, application or retention of the Security Deposit by Landlord shall be in addition to, and not in substitution of or as an alternative to, any other rights or remedies Landlord may have at law or under this Lease, shall not prevent Landlord from pursuing its other rights and remedies hereunder or at law or equity, and shall not prevent Landlord from recovering damages in case of Tenant's default(s) in excess of the amount of the Security Deposit used, applied or retained. In no event shall the Security Deposit be construed as a liquidation of the damages by the parties. If Landlord uses, applies or retains any portion of the Security Deposit, Landlord shall notify Tenant, in writing, of the alleged default under this Lease and the amount of the Security Deposit used, applied, or retained by Landlord. Not later than ten (10) days after such notice to Tenant, Tenant shall deposit a sufficient sum in cash with Landlord to restore the Security Deposit to the full amount initially deposited, and Tenant's failure to do so shall be a material breach of this Lease.

If Tenant, at the expiration of the Lease Term, including extensions and hold over periods, if any, and after vacating the Premises, shall have fully and faithfully complied with all of the terms and provisions of this Lease, the Security Deposit or any balance thereof not used, applied or retained by Landlord hereunder, shall be returned, within fourteen (14) days after termination of this Lease, to Tenant. No interest or other payment shall be made to Tenant on or for the use of the Security Deposit nor shall any trust relationship be created by the deposit of the Security Deposit. Tenant agrees that if Landlord shall sell or otherwise dispose of the Premises, Landlord shall be relieved of its obligation to return the Security Deposit, provided that Landlord actually transfers the Security Deposit to Landlord's transferee, and provided that Landlord's transferee assumes in writing the obligations of Landlord with respect to such Security Deposit. Landlord shall not be required to keep the Security Deposit separate from its general funds.

5.

#### TENANT IMPROVEMENTS

Landlord shall furnish and install within the Premises certain tenant improvements more particularly described in Exhibit "B" attached hereto and made part hereof ("Tenant Improvements"). Except for the Tenant Improvements, Landlord shall not be required to pay for any tenant improvements, additions or alterations required by Tenant and approved by Landlord and such tenant improvements, additions or alterations shall be furnished and installed at Tenant's sole cost and expense.

6.

#### USE OF PREMISES

The Premises are to be used for an office and for general office and related water and wastewater utility operations, and for no other purpose ("Permitted Use") without the prior written consent of Landlord.

Tenant shall not do or permit anything to be done in or about the Premises which will in any way increase the risk of fire to the Premises beyond that inherent or reasonably necessary to the Permitted Use, nor keep or bring anything therein which will in any way increase the existing rate of or affect any policy of fire, extended coverage or any other insurance covering the Building or the Premises or any other contents, or cause a cancellation of any of the same. Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of other tenants of Landlord or injure or annoy them, or use or allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose, or maintain, or permit any nuisance in, on or about the Premises or permit anything to be done which may injure or damage the Premises. Tenant shall not damage, deface or commit or suffer to be committed any waste in or upon the Premises.

7.

#### COMPLIANCE WITH LAW

Tenant shall not permit anything to be done in or about the Premises which will in any way conflict with any law now in force or which may hereafter be enacted or promulgated. Tenant shall at its sole cost and expense promptly comply with all such laws, statutes, ordinances and governmental rules, regulations or requirements applicable to the Tenant now in force or which may hereafter be in force and with the requirements applicable to the Tenant of any board of fire underwriters or other similar body relating to or affecting the condition, use or occupancy of the Premises, excluding structural changes not related to or affected by tenant's improvements or acts.

8.

#### RULES AND REGULATIONS

Landlord may from time to time make Building Rules and Regulations and such modifications, additions and deletions in the Building Rules and Regulations as in the sole judgment of Landlord are necessary or convenient for the management and operation of the Project. Landlord shall notify Tenant from time to time of the adoption, modification, addition, or deletion in the Building Rules and Regulations, and any such modification, addition, or deletion shall be effective after Landlord gives five (5) days' written notice thereof to Tenant; provided, however, if an emergency arises which in the sole judgment of Landlord makes it impracticable to give five (5)

days' written notice, such modification, addition, or deletion shall become effective immediately upon implementation by Landlord, with the written notice to be subsequently given. Tenant agrees to faithfully observe and comply with the Building Rules and Regulations and all modifications, additions or deletions thereto and the breach of any Building Rule and Regulation by Tenant shall constitute a material breach of this Lease. Landlord shall not be responsible to Tenant for the nonperformance by any other tenant of Landlord of any such Building Rules and Regulations, unless Landlord fails to take reasonable action under the circumstances to enforce performance, but the Building Rules and Regulations from time to time in effect shall be uniformly applicable to all tenants and occupants similarly situated.

9.

ALTERATIONS

Tenant shall not make or permit to be made any alterations, additions, improvements, or installations to or in the Premises or any portion thereof without the prior written consent of Landlord, which shall not be unreasonably withheld so long as the same does not affect the structural elements or systems or appearance of the Building or any part thereof visible from outside the Tenant's premises. Any alterations, additions, improvements, or installations to or of the Premises, except movable furniture and trade fixtures, shall at once become a part of the realty and belong to Landlord. In the event Landlord consents to alterations, additions, improvements, or installations, pursuant to this Article, the same shall be made by Tenant at Tenant's sole cost and expense and selection by Tenant of any person or entity to construct or install the same shall be subject to the further prior written consent of Landlord, which consent may be conditioned upon (1) Tenant providing Landlord, at Tenant's sole cost and expense, a lien and completion bond in an amount equal to one and one-half times the estimated cost of all of such alterations, additions, improvements or installations and (2) acquisition by Tenant of all permits needed to authorize such alterations, additions, improvements or installations from the appropriate governmental agencies, furnishing a copy thereof to Landlord at least ten (10) days prior to the commencement of such work and complying with all of the conditions of such permits in a prompt manner. It shall be a material breach hereof for Tenant to make any alterations, additions, improvements or installations without the prior consent of Landlord, and in addition to any other remedies Landlord may have, Landlord may require that Tenant remove any or all of the same within thirty (30) days of receipt by Tenant of a notice demanding such removal. Upon the expiration or sooner termination of the Term hereof and upon demand by Landlord, Tenant, at Tenant's sole cost and expense and with all due diligence, shall remove any alteration, addition, improvement or installation designated by Landlord at the time of Landlord's consent as an alteration, addition, improvement or installation to be removed by Tenant upon the expiration or sooner termination of the Term hereof. Tenant shall repair any damages to the Premises caused by such removal.

10.

### REPAIRS

Tenant shall, at Tenant's sole cost and expense, keep the Premises and every part thereof, including the landscaping and all leasehold improvements, in good condition and repair, ordinary wear and tear and damage thereto by fire, earthquake, act of God or the elements excepted. If Tenant does not make such repairs, Landlord may make such repairs and Tenant shall pay the costs thereof and any accrued interest thereon upon demand. Landlord does not warrant any equipment or materials which it installs into the Premises and which are covered by a manufacturer's warranty but shall assign the benefit of any such warranty to Tenant as required in order for Tenant to enforce its rights thereunder. The foregoing is in lieu of all other warranties, express or implied.

Landlord shall, at Landlord's expense, keep the structural portion of the Premises in good order, condition and repair; provided, however, that in the event any damage to the structural portion of the Premises is caused by the acts or omissions of Tenant, its agents, contractors, invitees or employees, any cost and expense of completing the repairs necessary to place the Premises in good order, condition and repair shall be paid by Tenant upon demand.

Upon the expiration or sooner termination of the Term hereof, Tenant shall surrender the Premises to Landlord in the same condition as when received, ordinary wear and tear excepted.

11.

### ABANDONMENT

Tenant shall not, except as provided in Article 2, vacate or abandon the Premises at any time prior to the expiration or earlier termination of the Term hereof. In the event Tenant shall abandon, vacate or surrender the Premises, or be dispossessed by process of law, or otherwise, any personal property belonging to Tenant and left on the Premises shall be deemed to have been abandoned. The absence of Tenant for a period of ten (10) consecutive days during the Term of this Lease, without Tenant having given Landlord prior written notice of such absence, shall automatically be deemed on abandonment of the Premises, and such period of absence shall be the exclusive test for a determination that Tenant has vacated or abandoned the Premises.

12.

### LIENS

Tenant shall keep the Premises free from any vendor's, mechanic's, materialmen's or like liens arising out of any work performed, materials furnished or obligations incurred by Tenant; provided, however, that Tenant shall not be in default hereunder as a result of any lien or claim of lien if Tenant shall cause such lien to be removed by posting a bond therefore and shall contest the same in good faith and by means of appropriate proceedings. Landlord shall have the right at all

times to post notices of nonresponsibility on the Premises and record verified copies thereof in connection with all work of any kind upon the Premises.

13.

### ASSIGNMENT AND SUBLETTING

Neither Tenant nor anyone claiming by, through or under Tenant shall assign, transfer, mortgage, pledge, hypothecate or encumber this Lease, or any interest therein, nor sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, or permit any other person (the agents and servants of Tenant excepted) to occupy or use the Premises or any part thereof (a "Transfer"), without the prior written consent of Landlord, which consent may be granted or denied by Landlord in the manner hereinafter provided. In the event Tenant is willing to Transfer this Lease and thereafter remain liable for performance of all of Tenant's obligations hereunder, Landlord's consent to such Transfer shall not be unreasonably withheld. In the event Tenant requests Landlord to release Tenant from liability hereunder after any Transfer, Landlord shall be entitled to investigate the proposed Transferee and grant or withhold Landlord's consent to the Transfer in its sole and absolute discretion. Factors Landlord may consider in determining whether to accept a proposed Transferee and release Tenant from liability hereunder include, but are not limited to (i) the general character and business reputation of the proposed Transferee, (ii) the creditworthiness of the proposed Transferee, and (iii) whether the proposed Transferee will provide additional security for such Transferee's performance under the Lease which is comparable to the security for such performance Tenant has given Landlord. In the event Landlord elects to release Tenant's obligations under the Lease in the manner described above, Landlord agrees to execute and deliver release documentation in form and substance acceptable to Landlord and Tenant to accomplish such release. Landlord may require as a condition of any consent to Transfer requested under this paragraph that any additional compensation paid by the Transferee beyond the amounts payable to Landlord hereunder shall be paid to Landlord. A consent to one Transfer shall not be deemed a consent to any subsequent Transfer, and except as otherwise provided herein, no such Transfer shall relieve Tenant of any liability or obligation hereunder. Any of the foregoing acts without Landlord's consent shall be void and shall constitute a default of Tenant under this Lease. Tenant shall pay Landlord's reasonable attorneys' fees incurred in connection with any Transfer or request for consent to Transfer.

In no event shall this Lease or any interest therein be assigned or assignable by operation of law without the prior written consent of Landlord or by voluntary or involuntary bankruptcy proceedings or otherwise and in no event shall this Lease or any rights or privileges hereunder be an asset of Tenant under any bankruptcy, insolvency or reorganization proceedings.

In the event any assignee of Tenant or any successor of Tenant should default in the performance of any of the terms hereof, and in the further event that Landlord has not theretofore released Tenant from Tenant's obligation to perform under the Lease, as provided herein, Landlord may proceed directly against Tenant without the necessity of exhausting or pursuing any remedies against said assignee or successor. Landlord may consent to subsequent Transfers of this Lease or amendments or modifications to this Lease with assignees or successors of Tenant, without prior or

subsequent notice to Tenant, and without obtaining its or their consent thereto, and such action shall not relieve Tenant of any liability or obligation under this Lease.

14.

#### INDEMNIFICATION OF LANDLORD; INSURANCE

Tenant agrees to indemnify Landlord against, and hold Landlord, the Premises and the Building free and harmless from, any and all penalties, costs, expenses (including attorneys' fees), claims, demands and causes of action including claims based upon imputed negligence due to ownership of the Building and the Premises, arising out of or in connection with (a) any accident or other occurrence in or on the facilities (including, without limiting the generality of the term "facilities," stairways, passageways or hallways) the use of which Tenant may have in conjunction with other tenants of the Premises, when such injury or damage shall be caused in part or in whole by the act or omission of Tenant, its agents, contractors, servants, employees, licensees, invitees, permittees, customers, clients or guests, (b) the condition of, or any defect in, the Premises or any part thereof or any improvements thereof, when such condition or defect shall be caused in part or in whole by the act or omission of Tenant, its agents, contractors, servants, employees, licensees, invitees, permittees, customers, clients or guests, (c) the condition of, or any defect in, Tenant's fixtures or equipment or any part thereof, (d) the use or occupancy of the Premises by Tenant or any tenant of Tenant, or (e) any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease; provided, however, that this paragraph shall not apply to any intentional, willful or malicious act of Landlord.

If any action or proceeding be brought against Landlord for any of the foregoing reasons, Tenant, upon notice from Landlord, shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord.

Tenant shall at its own cost and expense procure and maintain, during the entire Term and any extensions thereof, workmen's compensation insurance as required by statute as well as comprehensive public liability insurance covering the Premises and naming Landlord as an additional insured in such amounts as Landlord may from time to time reasonably require. The initial liability coverage under such comprehensive public liability insurance shall not be less than \$500,000 for any one person injured or killed, \$1,000,000 for injury or death to persons in any one incident and \$200,000 for damage to property in any one incident. Said comprehensive public liability insurance shall also contain cross liability endorsements and insure performance by Tenant of the indemnity provisions provided above. The limits of such insurance shall not, however, limit the liability of Tenant under the first paragraph of this Article. The originals of all policies shall remain the possession of Tenant; provided, however, that Landlord shall have the right to receive from Tenant, upon written demand, a duplicate policy or policies of any or all policies. All policies of insurance shall provide that such insurance will not be canceled or subject to reduction of coverage or other modification except after thirty (30) days' written notice to Landlord. Tenant shall furnish policy renewals to Landlord not less than ten (10) days prior to the expiration of any policy required hereunder. All insurance policies procured shall be issued by a responsible

company or companies authorized to do business in the State of Arizona and reasonably satisfactory to Landlord.

15.

#### DENIAL OF SUBROGATION RIGHTS

Neither Landlord nor Tenant shall be liable to the other for any business interruption or any loss or damage to property or injury to or death of persons occurring on the Premises, or in any manner growing out of or in connection with the Tenant's use or occupation of the Premises, or the condition thereof whether or not caused by the negligence or other fault of the Landlord or the Tenant or of their respective agents, employees, subtenants, licensees, or assignees. This release shall apply only to the extent that such business interruption, loss or damage to property, or injury to or death of persons is covered by insurance, regardless of whether such insurance is payable to or protects the Landlord or the Tenant or both. Nothing in this Article shall be construed to impose any other or greater liability upon either Landlord or Tenant than would have existed in the absence of this Article. This release shall be in effect only so long as the applicable insurance policies contain a clause to the effect that this release shall not affect the right of the insured to recover under such policies. Such clauses shall be obtained by the Landlord and the Tenant in the policies of insurance required to be provided by either hereunder.

16.

#### SERVICES

Landlord agrees to furnish to the Premises water and wastewater services suitable for the use of the Premises for an office and maintenance yard. Tenant shall be responsible for all other services required in Tenant's judgment for the comfortable use and occupation of the Premises, including but not limited to, electricity, heat, air conditioning, and janitorial service. Landlord shall not be responsible for any interruption of water service caused by accidents, breakage, repairs, strikes, labor disturbances of any character, governmental order, material shortages, energy or fuel shortages, or by any other cause, similar or dissimilar, beyond the reasonable control of Landlord, when Landlord acts with reasonable diligence to correct the failure to furnish such service after receiving written notice of the absence of such service. Landlord shall not be liable under any circumstances for loss of or injury to property occurring through or in connection with or incidental to Landlord's or Landlord's agents', contractors' or employees' failure to furnish the foregoing service.

17.

#### CORPORATE OR PARTNERSHIP TENANT

If Tenant is a corporation, Tenant shall, at the time of execution of this Lease, deliver to Landlord a certified resolution of its board of directors authorizing the execution of this Lease on behalf of Tenant. If Tenant is a partnership, Tenant shall, at the time of execution of this Lease, deliver to Landlord a copy of the partnership agreement and any amendments thereto establishing

the partnership, designating all of the partners therein, evidencing the authority of the partnership to enter into this Lease, designating the person or persons authorized to execute this Lease on behalf of the partnership, and indicating the persons having effective operating control of the partnership.

18.

#### HOLDING OVER

Tenant shall not hold over after the termination or expiration of this Lease without Landlord's prior written consent. If Tenant holds possession of the Premises after the Term of this Lease with Landlord's consent, Tenant shall become a tenant from month to month upon the terms herein specified, except at the greater of the rate of rental and other payments provided for herein or the then fair market value of such Premises reasonably determined by Landlord. The rent shall be payable in advance on or before the first day of each month. Tenant shall continue in possession until such tenancy shall be terminated by either Landlord or Tenant giving written notice of termination to the other party at least thirty (30) days prior to the effective date of the termination.

19.

#### ENTRY BY LANDLORD

Landlord shall have the right to enter the Premises at any time to inspect the same or to cure any default (including a breach of the Building Rules and Regulations), to supply any service to be provided by Landlord hereunder, to submit the Premises to prospective purchasers, tenants or mortgagees, to post notices of non-responsibility, to repair the Premises and to alter or improve any portion of the Building (excepting the Premises therefrom), without abatement of rent, and may for the purposes of repair and alteration erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed; provided, however, that so long as Tenant is not in default hereunder the business of Tenant shall not be interfered with unreasonably; and further provided that Landlord shall be required to give Tenant at least twenty-four (24) hours prior notice of intent to enter the Premises unless Landlord reasonably believes that an emergency may exist or Tenant is in default hereunder. In the event that Landlord has the right to enter the Premises, Tenant hereby waives any claim for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned by Landlord's rightful entry.

For each of the aforesaid purposes, Landlord shall at all times have and retain a key with which to unlock all of the doors upon the Premises, excluding Tenant's vaults, and Landlord shall have the right to use any and all means to open said doors in an emergency in order to obtain entry to the Premises, and any such entry to the Premises obtained by Landlord shall not under any circumstances constitute forcible or unlawful entry into or a detainer of the Premises or an eviction of Tenant from the Premises or any portion thereof. Landlord shall not be liable for the consequences of admitting by passkey or refusing to admit to the Premises Tenant or any agent or employee of Tenant.

DEFAULT

In addition to any events defined elsewhere in this Lease as constituting a default of Tenant, any of the following shall be considered an event of default by Tenant hereunder: (a) the failure of Tenant to pay rent (including additional rent) or any part thereof or any other sums payable pursuant to this Lease as and when due hereunder; provided, however, that Tenant shall be entitled not more frequently than two (2) times during any period of twelve (12) consecutive months to receive notice from Landlord that any amount has not been paid when due and shall not be considered in default hereunder if Tenant shall pay all such overdue amounts in full within ten (10) days after receipt of such notice; (b) the failure of Tenant to observe or perform any of the other covenants or agreements contained in this Lease to be observed or performed by Tenant, other than those described in Article 21(a) hereof, where such failure shall continue for thirty (30) days after written notice of such failure from Landlord; (c)(i) the making by Tenant of any general assignment, or general arrangement for the benefit of creditors; (ii) the filing by or against Tenant of a petition to have Tenant adjudged 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 ninety (90) days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets or of Tenant's interest in this Lease where possession is not restored in Tenant within sixty (60) days; or (iv) the attachment, execution or judicial seizure of substantially all of Tenant's assets or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days; (d) the default by Tenant under any other lease agreement between Landlord and Tenant; (e) the passage or devolution of Tenant's interest in this Lease to any person or entity except that named as Tenant herein, by law or otherwise, without the prior written consent of Landlord, which shall not be unreasonably withheld; (f) the vacating or abandoning of the Premises by Tenant; or (g) the discovery by Landlord that any financial statement given to Landlord by Tenant, any assignee of Tenant, or any subtenant of Tenant, or any successor in interest of Tenant, or any of them, was materially false.

REMEDIES

In the event of any such material 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:

(1) 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 breach or default including, but not limited to: the cost of recovering possession of the Premises; expenses of reletting, including the cost of necessary renovation and alteration of the Premises, reasonable attorneys' fees, any real estate commissions actually paid; the amount by which the total of the unpaid rent and other sums due hereunder for the

balance of the term hereof exceed the total amount of any payments of like character to be received by Landlord from any subsequent tenant or tenants during the same period; and that portion applicable to the unexpired term of this Lease of any commission paid by Landlord to a real estate broker or agent as a result of this Lease;

(2) maintain Tenant's right to possession in which event this Lease and all obligations of Tenant hereunder shall continue in effect, except that Landlord, at its option, may give notice to Tenant that all of the rent to become due during the Term hereof is due and payable immediately, in which event Tenant shall pay the sum within ten (10) days of receipt of such notice;

(3) reenter the Premises without terminating this Lease and relet the Premises or any part thereof for such term or terms and at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable with the right to make reasonable alterations and repairs to said Premises. Rentals received by Landlord from such reletting shall be applied as follows: first, to the payment of the cost of such reletting as more specifically set forth in subsection (1) above; second, to the payment of the cost of such alterations and repairs to the Premises; third, to the payment of any indebtedness, other than rent, due hereunder from Tenant to Landlord; and the residue, if any, shall be held by Landlord and applied in payment of future rent as the same may become due and payable hereunder. Should such rentals received from such reletting during any month be less than that agreed to be paid during that month by Tenant hereunder, then Tenant shall pay such deficiency to Landlord. Such deficiency shall be calculated and paid monthly. Tenant shall also pay to Landlord, as soon as ascertained, the costs and expenses incurred by Landlord in such reletting or in making such alterations and repairs. No such re-entry or taking possession of the Premises by Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention be given to Tenant or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach; and

(4) pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the State of Arizona.

Tenant hereby acknowledges that late payment by Tenant to Landlord of rent or other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amounts of which will be extremely difficult to ascertain. Such costs including, but are not limited to, processing and accounting charges, and late charges which may be imposed on Landlord by the terms of any mortgage or deed of trust covering the Premises or any part thereof. Accordingly, if any such payments due from Tenant shall not be received by Landlord when due, and after the expiration of any period of notice and grace to which Tenant may be entitled, Tenant shall pay to Landlord a late charge equal to five percent (5%) of such overdue amount plus reasonable attorneys' fees incurred by Landlord by reason of Tenant's failure to pay such rent and/or other charges when due hereunder. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant's default with respect to such

overdue amount nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.

22.

### DAMAGE OR DESTRUCTION

Except as otherwise provided in this Lease, in the event the Premises or the Building are damaged by fire or other casualty covered by Landlord's insurance, such damage shall be repaired by and at the expense of Landlord and this Lease shall remain in full force and effect except that Tenant shall be entitled to a proportionate reduction of rent while such repairs are being made, such proportionate reduction to be based upon the extent to which the making of such repairs shall materially interfere with Tenant's business. If the damage was caused by Tenant or its agents, contractors, invitees, licensees, servants, employees, customers, clients or guests, there shall be no reduction of rent.

In the event such repairs cannot, in the reasonable opinion of Landlord, be substantially completed within sixty (60) days after the occurrence of such damage (without the payment of overtime or other premiums), Landlord may, at its option, exercisable by giving written notice to Tenant within thirty (30) days after the occurrence of such damage, make such repairs within a reasonable time and shall proceed to make such repairs with due diligence. In such event, this Lease shall continue in full force and effect and the rent payable by Tenant hereunder shall be determined as provided in the first paragraph of this Article. In the event Landlord does not elect to repair the damage, as provided above, this Lease shall terminate effective as of the date of the occurrence of such damage. Whether or not Landlord terminates this Lease pursuant to this Article, all proceeds of insurance maintained by Landlord shall belong to and become the sole property of Landlord.

With respect to any damage which Landlord is obligated to repair or elects to repair, Tenant waives the provisions of Arizona Revised Statutes Section 33-343 (which Section deals with Tenant's right to termination in the event of damage to or destruction of the Premises).

Landlord shall not under any circumstances be required to make any repairs to or replacements of any decorations, fixtures, furnishings, improvements or any other property installed in the Premises by Tenant or personal property of Tenant located in or about the Premises.

Notwithstanding anything to the contrary contained above, in the event of damage to or destruction of all or any portion of the Premises or Building to the extent of five percent (5%) or more of the then insurable replacement value from any cause not covered by insurance, or in the event of a declaration of any governmental authority that the Premises or the Building are unsafe or unfit for occupancy and would require repairs exceeding five percent (5%) or more of the then insurable replacement value of the Building, Landlord shall have the right to terminate this Lease by written notice to Tenant given within thirty (30) days after the date of such damage, destruction or declaration. Upon the giving of any such notice, this Lease shall terminate and any prepaid rent shall be promptly returned to Tenant, provided that Tenant is not in default hereunder. In the event

that the damage or cost of repair is less than five percent (5%) of the replacement value, or in the event Landlord does not elect to terminate this Lease, the Lease shall remain in full force and effect and the Premises shall be repaired and rebuilt in accordance with the other provisions of this Lease.

23.

#### EMINENT DOMAIN

If at any time during the Term of this Lease the entire Premises or any part thereof shall be taken as a result of the exercise of the power of eminent domain or sold under threat of the exercise of such power (a "Taking"), this Lease shall terminate as to the part so taken as of the date the condemning authority takes possession or title, whichever occurs first.

If all or any substantial portion of the Premises shall be taken, Landlord may terminate this Lease, at its option, by giving Tenant written notice of such termination within thirty (30) days of such taking. If all or a portion of the Premises in excess of twenty percent (20%) of the floor area thereof shall be taken with the result that Tenant's use of the Premises is substantially impaired, Tenant may terminate this Lease at its option, effective as of the date possession is required to be surrendered to the Taking authority, by giving Landlord written notice of such termination within thirty (30) days of such Taking and any prepaid rent shall be promptly returned to Tenant, provided that Tenant is not in default hereunder. If neither party terminates this Lease pursuant to this Article, this Lease shall remain in full force and effect except that the rent payable by Tenant hereunder shall be reduced in the same proportion as the floor area taken in the Premises bears to the total floor area in the Premises.

Landlord shall be entitled to and Tenant hereby assigns to Landlord the entire amount of any award or payment made in connection with a Taking, except that Tenant may claim in its own name an award for the Taking of its leasehold interest, personal property and trade fixtures and may retain any proceeds derived therefrom.

24.

#### SUBORDINATION; ATTORNMENT

This Lease, at Landlord's option, shall be subordinate to any ground lease, mortgage, deed of trust, or any other hypothecation for security now or hereafter placed upon the Premises or any part thereof and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof. If Landlord or any mortgagee, trustee or ground lessor shall elect to have this Lease prior to the lien of 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 regardless of whether this Lease is dated prior to subsequent to the date of said mortgage, deed of trust or ground lease or the date of recording thereof. Tenant agrees to execute any documents required to effectuate such subordination or to make this Lease prior to the lien of any mortgage, deed of trust or ground lease, as the case may be, and by failing to do so within ten (10) days after written demand therefore shall automatically

make, constitute and irrevocably appoint Landlord as Tenant's attorney-in-fact and in Tenant's name, place and stead, to do so.

Tenant agrees that in the event any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage or deed of trust affecting the Premises, whether or not the Lease is terminated by such foreclosure or sale, Tenant will, upon request by the purchaser, attorn to the purchaser under any such foreclosure or sale and recognize such purchaser as Landlord under this Lease, provided that such landlord shall not, so long as Tenant is not in default hereunder, disturb the possession, use or enjoyment of the Premises by Tenant, nor disaffirm this Lease or Tenant's rights hereunder.

25.

#### NOTICES

All notices, demands, consents and statements which may or are required to be given by either party to the other hereunder shall be in writing. All notices and demands by Landlord to Tenant shall be personally delivered or sent by United States mail or United States certified or registered mail, postage prepaid and addressed to Tenant at the address set forth herein. All notices and demands by Tenant to Landlord shall be personally delivered or sent by United States certified or registered mail, postage prepaid, addressed to Landlord at the address set forth herein. Either party may change its address by notice given to the other in the manner set forth in this paragraph. Notices, demands, and statements shall be deemed given and received when personally delivered or, if delivered by mail as above provided, when received.

26.

#### LANDLORD'S RIGHT TO CURE DEFAULTS

All covenants and agreements to be performed by Tenant under any of the terms of this Lease shall be at its sole cost and expense and, except as otherwise specifically provided herein, without any abatement of rent. If Tenant shall fail to pay any sum of money owing to a party other than Landlord required to be paid by it hereunder or shall fail to perform any other act on its part to be performed hereunder, Landlord may, but shall not be obligated to and without waiving any rights of Landlord or releasing Tenant from any obligations of Tenant hereunder, make such payment or perform such other act, to be made or performed by Tenant hereunder. Tenant covenants to reimburse Landlord for such sums and Landlord shall have (in addition to any other right or remedy of Landlord) the same rights and remedies in the event of the nonpayment thereof by Tenant as in the case of default by Tenant in the payment of any sums due Landlord hereunder. All sums so paid or expenses incurred by Landlord and all necessary incidental costs together with interest thereon at the rate of sixteen percent (16%) per annum from the date of such payment by Landlord until paid shall be considered as rent owing hereunder and shall be payable to Landlord on demand, or, at the option of Landlord, may be added to any rent then due or thereafter becoming due under this Lease.

DELAYS, DEFAULT BY LANDLORD

Landlord shall not be responsible for any delay or failure in the observance or performance of any term or condition of this Lease to be observed or performed by Landlord to the extent that such delays result from action or order of governmental authorities; civil commotions, strikes; fires, acts of God or the public enemy; act or default of any tenant of Landlord; inability to procure labor, material, fuel, electricity, or other forms of energy; or any other cause beyond the reasonable control of Landlord, whether or not similar to the matters herein specifically enumerated. Any delay shall extend by like time any period of performance by Landlord and shall not be deemed a breach of or failure to perform this Lease or any provisions hereof.

Landlord shall not be deemed to be in default under this Lease and Tenant may not exercise any rights or remedies that it may have as a result thereof, until Tenant shall have given notice of such default to Landlord and Landlord shall have failed to commence diligent efforts to correct and cure any default or shall thereafter fail to prosecute the same continuously until completion. Tenant also agrees to give the holders of any mortgages or deeds of trust ("Mortgagees") by registered or certified mail, a copy of any notice of default served upon the Landlord, provided that prior to such notice Tenant has been notified in writing (by way of Notice of Assignment of Rents and Leases, or otherwise) of the addresses of such Mortgagees. Tenant further agrees that if Landlord shall have failed to cure or commence to cure such default within the aforesaid time limit, then the Mortgagees shall have an additional thirty (30) days within which to cure such default or if such default cannot be cured within that time, then such additional time as may be necessary if, within the first such thirty (30) days, any Mortgagee has commenced and thereafter is diligently pursuing the remedies necessary to cure such default (including but not limited to commencement of foreclosure proceedings if necessary to effect such cure), in which event this Lease shall not be terminated while such remedies are being so diligently pursued.

Landlord may not be personally liable by reason of any default which may occur in the performance of any of the terms hereof undertaken or required to be performed by Landlord. Tenant shall not seek or be entitled to any personal judgment against Landlord by reason of any default hereunder and the sole remedy of Tenant in the event of any default shall be to proceed against the Premises.

TRANSFER OF LANDLORD'S INTEREST

In the event Landlord transfers its reversionary interest in the Premises (other than a transfer for security purposes only), Landlord shall be relieved of all obligations accruing hereunder after the effective date of such transfer, including, but not limited to, the return of the Security Deposit or other funds held by Landlord, provided that such obligations have been expressly assumed in writing by the transferee.

Tenant agrees at any time and from time to time upon ten (10) days prior written request by Landlord, to execute, acknowledge and deliver to Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), and the dates to which the rent and any other charges have been paid in advance, if any, and acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, or specifying such defaults if any are claimed. Any such statement delivered pursuant to this paragraph may be conclusively relied upon by any prospective purchaser, mortgagee or assignee of any mortgage of the Premises.

If Tenant fails to deliver such statement within such time, any prospective purchaser or encumbrancer may conclusively assume: (i) that this Lease is in full force and effect, without modification except as may be represented by Landlord, (ii) that there are no uncured defaults in Landlord's performance, and (iii) that not more than one month's rent and no other charges have been paid in advance, and such failure shall constitute a material default by Tenant under this Lease.

If Landlord desires to finance, refinance or sell the Premises or any part thereof, Tenant hereby agrees, within a reasonable time after written request, to deliver to any prospective lender or purchaser designated by Landlord such financial statements of Tenant as may be reasonably required by such prospective lender or purchaser. Such statements shall include the past three (3) years' financial statements of Tenant and may be unaudited unless Tenant has prepared audited financial statements for its own business purposes. All such financial statements shall be received in confidence and shall be used only for the purposes herein set forth.

29.

#### SUCCESSORS AND ASSIGNS

Subject to all limitations on assignment and subletting set forth herein, all of the terms and provisions of this Lease shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto.

30.

#### ATTORNEYS' FEES

Should either party commence legal proceedings relating to this Lease, the prevailing party in any such proceeding shall be entitled to receive reimbursement for its reasonable attorneys' fees and costs, which shall be due and payable upon demand and shall constitute additional rent hereunder.

31.

SURRENDER OF PREMISES

The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of Landlord, terminate all or any existing subtenancies, or may, at the option of Landlord, operate as an assignment to it of any or all such subtenancies.

32.

WAIVER

No waiver of any term, covenant, condition, or obligation of this Lease, or any breach thereof, shall be effective unless granted in writing. The waiver by Landlord or any term, covenant, condition or obligation herein contained or any breach thereof shall not be deemed to be a waiver of any other term, covenant, condition or obligation or of any other breach of the same or other term, covenant, condition or obligation herein contained. The subsequent acceptance of rent hereunder by Landlord shall not constitute a waiver of any preceding breach by Tenant, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent.

33.

GOVERNING LAW

This Lease shall be governed by and construed in accordance with the local laws of the State of Arizona, and the invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision hereof.

34.

TIME OF ESSENCE

Time is of the essence of this Lease and each and every provision hereof.

35.

PARKING

Tenant hereby also rents for the term of the Lease associated parking spaces. Tenant shall pay no additional rent for the parking spaces described above. All parking spaces rented by Tenant shall be considered part of the Premises for the purposes of Tenant's obligations and Landlord's rights under Articles 6, 7, 8, 13, 14 and 16 hereof.

Tenant's use of all parking areas shall be subject to any rules and regulations relating thereto included from time to time in the Building Rules and Regulations, including regulations governing the designation of specific parking spaces for use by Tenant and its guests and invitees, the hours during which such parking spaces may be used, the size of such parking spaces, and the traffic flow in the parking areas. Landlord shall not be responsible for any vandalism or other damages from any cause occurring to automobiles or their contents while located in such parking spaces or moving in the parking area.

36.

#### COVENANTS AND CONDITIONS

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

37.

#### RECORDING

Tenant shall not record this Lease without Landlord's prior written consent, and such recordation shall, at the option of Landlord, constitute a non-curable default by Tenant. Tenant shall, upon request of the Landlord, execute, acknowledge and deliver to Landlord a "short form" memorandum of this Lease for recording purposes.

38.

#### INTEREST ON PAST DUE OBLIGATIONS

Any amount due Landlord not paid when due shall bear interest at the rate of sixteen percent (16%) per annum from the date due or, if said rate is not a lawful one, the highest rate permitted by law. Payment of such interest shall not excuse or cure any default by Tenant under this Lease; provided, however, that interest shall not be payable on late charges assessed against Tenant.

39.

#### 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.

40.

#### PERSONAL PROPERTY TAXES

Tenant shall pay when due all taxes assessed against and levied upon tenant alterations and any property of Tenant contained in, on or about the Premises or any part thereof. When possible, Tenant shall cause all such taxes to be levied and assessed separately from taxes upon the Premises.

41.

#### ENVIRONMENTAL POLLUTANTS

Tenant hereby covenants with Landlord that Tenant will not at any time generate, use, have, manage or release any "Environmental Pollutant" (as defined below) in, on, under, from or around the Premises, nor will Tenant permit any other person to do so. For the purposes of this Article, the term "Environmental Pollutant" shall mean any pollutant, contaminant, solid waste or toxic waste, substance or material, defined as such pursuant to any applicable environmental statutes, rules or regulations, as are now applicable or shall hereafter during the existence of this Lease become applicable, including without limitation the Resource Conservation and Recovery Act (42 U.S.C. Section 6901, et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601, et seq.), and the Arizona Water Quality Control Program (ARS Title 49, Chapter 2).

Tenant further covenants that it shall not allow any asbestos or other disposed hazardous substance to be above, in, on, under or around the Premises, nor will Tenant take or permit any other person to take any action which would result in the Premises becoming subject to regulation under the environmental statutes, rules and regulations described above, including without limitation, becoming subject to any environmental permit, requirements or environmental abatement, corrective, remedial or response action.

Tenant shall, and does hereby agree to, indemnify and hold Landlord harmless from any actions, claims, damages, liabilities, remedial action costs and other costs, including without limitation court costs, attorneys' fees, punitive damages, civil penalties and criminal penalties, which may result in connection with any Environmental Pollutant which is or may be generated, used, had, managed or released in, on, under, from or around the Premises at any time after the date of this Lease. This indemnification shall survive the termination of this Lease.

If at any time it is determined that there is an Environmental Pollutant above, in, on, under, from or around the Premises, then it shall be the obligation of the Tenant to take prompt, timely and appropriate corrective and remedial measures, at Tenant's sole expense, and in accordance with all applicable laws, statutes, ordinances, rules and regulations. Tenant's failure to do so within a reasonable time shall be deemed an Event of Default under this Lease.

Tenant, immediately upon obtaining knowledge thereof, shall notify Landlord in writing (i) of the presence of any Environmental Pollutant above, on, in, under, from or around the Premises, (ii) of any proceeding or inquiry by any governmental authority with respect to the Premises and the presence of any Environmental Pollutant, and (iii) of the activities of any third persons, known to Tenant, whose activities pose a risk of transmitting or depositing any Environmental Pollutants on, in, under, from or around the Premises.

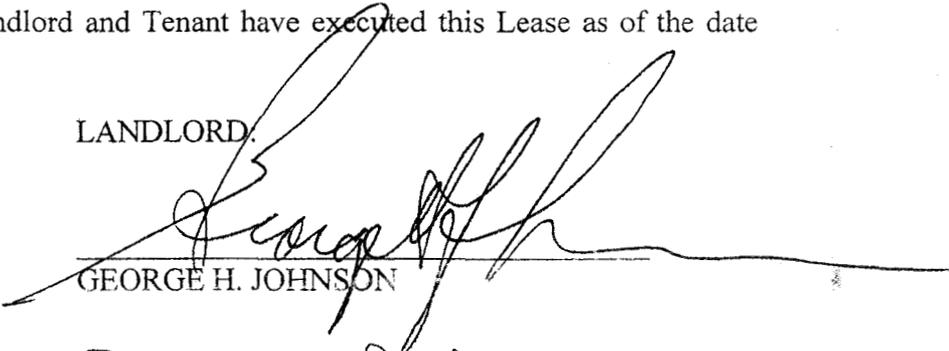
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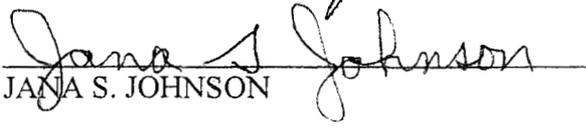
ENTIRE AGREEMENT

This Lease, the Building Rules and Regulations, and any addendum attached hereto and executed by the parties, constitute the entire agreement of the parties and supersede all prior agreements or understandings between the parties with respect to the subject matter hereof. No prior agreement or understanding shall be effective. This Lease may not be modified or amended except by written agreement of the parties.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the date first above written.

LANDLORD:

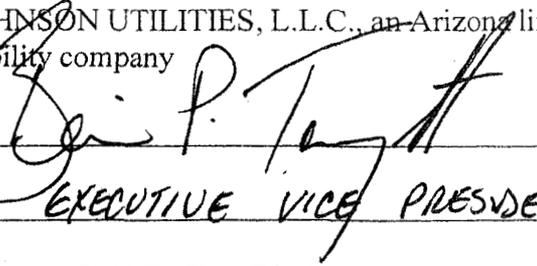
  
\_\_\_\_\_  
GEORGE H. JOHNSON

  
\_\_\_\_\_  
JANA S. JOHNSON

Address: 5230 E. Shea Blvd.  
Scottsdale, Arizona 85254

TENANT:

JOHNSON UTILITIES, L.L.C., an Arizona limited liability company

By:   
\_\_\_\_\_  
Its: EXECUTIVE VICE PRESIDENT

Address: 5230 E. Shea Blvd.  
Scottsdale, Arizona 85254

EXHÍBIT "A"

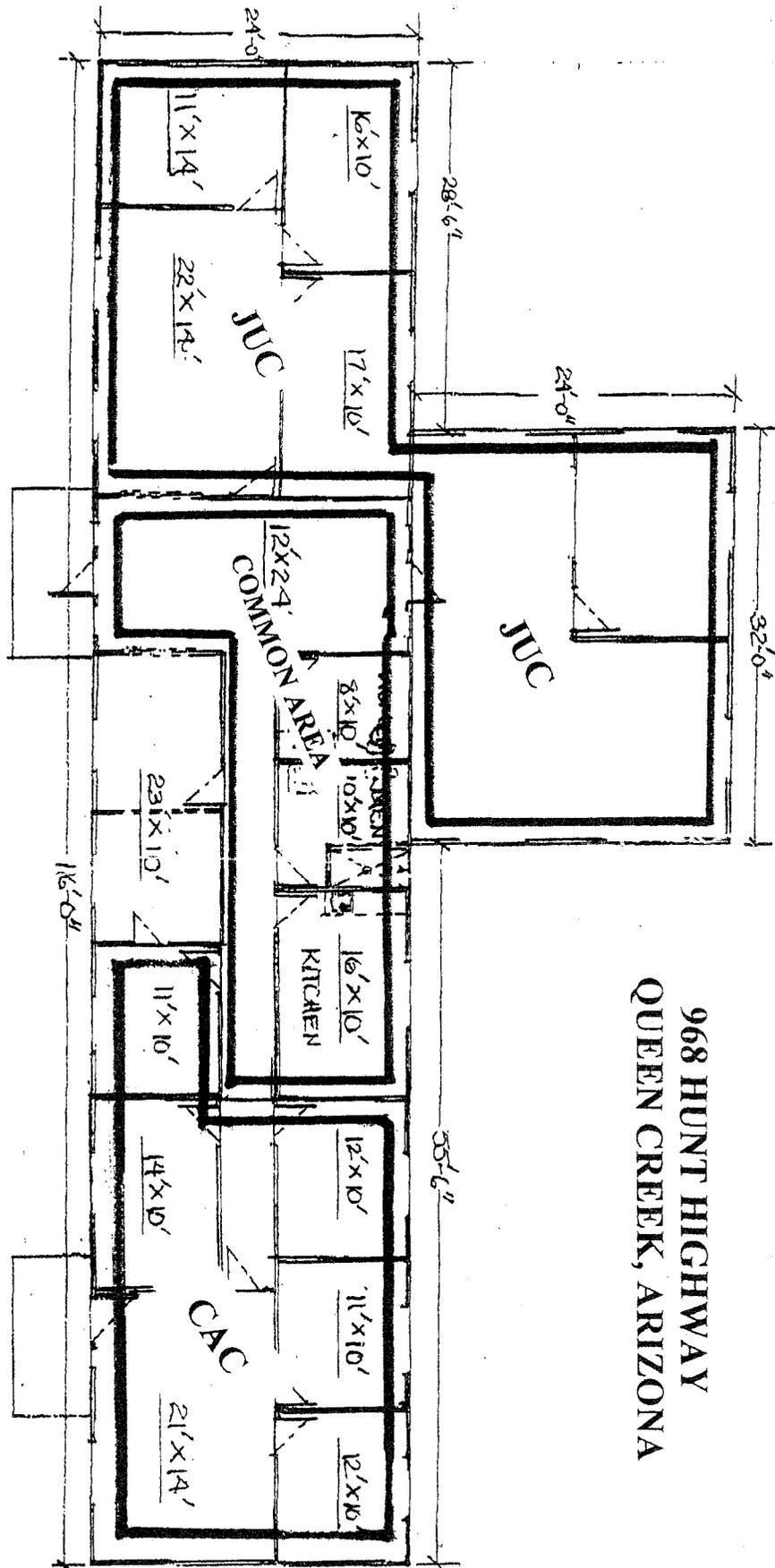


Exhibit A

EXHÍBIT "B"

NONE

EXHIBIT "C"

LEASE ADDENDUM

THIS LEASE ADDENDUM is made as of the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between GEORGE H. and JANA S. JOHNSON ("Landlord"), and JOHNSON UTILITIES, L.L.C. dba JOHNSON UTILITIES COMPANY, an Arizona limited liability company ("Tenant") for the LEASE AGREEMENT dated the 1<sup>st</sup> of January, 2003, on 968 East Hunt Highway, Queen Creek, Arizona 85242 ("Building & Premises").

The rental terms in Paragraph 2, TERM, and Paragraph 3, RENT, are hereby amended as follows:

Termination Date \_\_\_\_\_  
Square Footage \_\_\_\_\_ SQ.F.T.  
Monthly Rent Installment \$ \_\_\_\_\_  
Effective Date of New Terms January 1, 20\_\_

These adjustments to the Term and Rent provisions under this Addendum are hereby approved by both parties. All other terms and conditions of the Lease remain in full force and effect.

LANDLORD:

\_\_\_\_\_  
GEORGE H. JOHNSON

\_\_\_\_\_  
JANA S. JOHNSON

Address: 5230 E. Shea Blvd.  
Scottsdale, Arizona 85254

TENANT:

JOHNSON UTILITIES, L.L.C.,  
an Arizona limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

Address: 5230 E. Shea Blvd.  
Scottsdale, Arizona 85254