

NORTH TEXAS CERTIFIED DEVELOPMENT CORPORATION

Sample Lease

THIS indenture, made this ____ day of _____, 2013, between _____, hereinafter, whether singular or plural, masculine, feminine, or neuter, designated as "Lessor," which expression shall include Lessor's heirs, personal representatives, assigns, and successors in interest, and _____, a Texas Corporation hereinafter whether singular or plural, masculine, feminine, or neuter, designated as "Lessee," which expression shall include all Lessees, jointly and severally, and shall include Lessee's heirs, personal representatives, assigns and successors in interest, **WITNESSETH:**

I. DEMISE OF PREMISES.

Lessor, for and in consideration of the covenants and agreements herein contained to be kept and performed by Lessee, Lessee's heirs, personal representatives, assigns and successors in interest, and upon the terms and conditions herein contained, does hereby let, lease, and demise to Lessee the following described premises situated at _____, Texas, in the County of _____, State of Texas, to-wit:

SEE ATTACHED EXHIBIT A.

And if there is equipment being financed as part of the SBA 504 loan, the lease of said equipment which is described in Exhibit B, if applicable, is covered by the terms herein.

SEE ATTACHED EXHIBIT B.

II. TERM OF LEASE.

The term of this lease shall be for a period of Twenty (20) years, beginning on the 1st day of _____, 2013 and ending on the ____ day of _____, 2033.

III. RENT.

Lessee, for and in consideration of this Lease and the demise of the said premises by Lessor to Lessee, hereby agrees and covenants with Lessor to pay as rent for the said premises, without notice or demand, the sum of (in an amount to be determined which amount shall not exceed total debt coverage of the First and Second Mortgage loans, taxes, insurance and maintenance) Dollars in the following manner, to-wit:

Rent shall be due on the 25th day of the month prior to the month due.

All of the rent shall be paid by Lessee to Lessor on Lessor's order in lawful money of the United States at such place as Lessor may designate from time to time for this purpose.

IV. USE OF PREMISES.

Lessee, for and in consideration of this Lease and the demise of the said premises by Lessor to Lessee, hereby agrees and covenants with Lessor to use and occupy the

said premises for the purpose of operating a small business and for no other purpose without first obtaining the written consent of Lessor therefor; the Lessee shall not use or occupy or permit the demised premises to be used or occupied, or do or permit anything to be done in or on the demised premises, in a manner which will make void or voidable any insurance then in force with respect thereto, or which will make it impossible to obtain fire or other insurance required to be furnished hereunder, or which will cause or be likely to cause structural damage to the demised premises or any portion thereof, or which will constitute a public or private nuisance. Further, the Lessee shall not use or occupy or permit the demised premises to be used or occupied for any business, purpose, or use deemed disreputable or extra-hazardous, or for any purpose or in any manner which is in violation of any present or future municipal, state and federal ordinances, laws, rules and regulations.

V. CONDITION OF PREMISES AND REPAIRS.

Lessee, for and in consideration of this Lease and the demise of the said premises, hereby agrees and covenants with Lessor that Lessee has examined the said premises prior to the execution hereof, knows the condition thereof, and acknowledges that Lessee has received the said demised premises in good order and condition, and that no representation or warranty as to the condition or repair of the said premises has been made by Lessor, and, at the expiration of the term of this Lease, or any renewal or extension thereof, Lessee will yield up peaceably the said premises to Lessor in as good order and condition as when the same were entered upon by Lessee, loss by fire or inevitable accident, damage by the elements, and reasonable use and wear excepted; that Lessee will keep at Lessee's own expense, the said premises in good order and repair during the term of this Lease, or any extension or renewal thereof, and will repair and replace promptly, at Lessee's own expense, any and all damage, including, but not limited to, damage to roof, walls, floors and foundations, heating and cooling units, plumbing, glass, sidewalks, and all other appurtenances, that may occur from time to time; that Lessee hereby waives any and all right to have such repairs or replacements made by Lessor at Lessor's expense; and that, if Lessee fails to make such repairs and replacements promptly, or, if such repairs and replacements have not been made within fifteen (15) days after the occurrence of damage, Lessor may, at Lessor's option, make such repairs and replacements, and Lessee hereby agrees and covenants to repay the cost thereof to Lessor on demand.

VI. LIABILITY OF LESSOR.

Lessee, for and in consideration of this Lease and the demise of the said premises, hereby agrees and covenants with Lessor that Lessor shall not be liable for any damage to the said premises, and Lessee hereby agrees to indemnify and save harmless Lessor from any and all claims and liability for damage to persons or property arising from any cause whatsoever, which shall occur in any manner in or about the said premises. Further, Lessee hereby agrees and covenants with Lessor that Lessor shall not be liable for any damage to the said demised premises, or to any part thereof, or to any property or effects therein or thereon, caused by leakage from the roof of said premises or by bursting, leakage, or overflowing of any waste pipes, water pipes, tanks, drains or stationary washstands, or by reason of any damage whatsoever caused by water from any source whatsoever, and Lessee hereby agrees and covenants to indemnify and save harmless Lessor from any and all claims and liability for any damage to the said demised premises, or to any part thereof, or to any property or effects therein or thereon.

VII. REQUIREMENTS OF PUBLIC AUTHORITY.

Lessee, for and in consideration of this Lease and the demise of the said premises, hereby agrees and covenants with Lessor that during the term of this Lease, Lessee shall, at its own cost and expense, promptly observe and comply with all present and future municipal, state and federal ordinances, laws, rules and regulations affecting the demised premises or appurtenances thereto, or any part thereof, whether the same are in force and effect at the time of the commencement of the term of this Lease or may in the future be passed, enacted or directed, and Lessee shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims and demands, including reasonable attorney's fees that may in any manner arise out of or be imposed because of the failure of the Lessee to comply with the covenants and agreements of this paragraph VII. Further, Lessee hereby agrees and covenants with Lessor that if Lessee fails to comply promptly with any present or future municipal, state and federal ordinances, laws, rules and regulations, or fails to comply by such time that compliance may be required by law, Lessor may, at Lessor's option, take such actions as may be necessary to comply with all present and future municipal, state and federal ordinances, laws, rules and regulations, and Lessee hereby agrees and covenants to repay the cost incurred by Lessor in taking such action to Lessor on demand.

VIII. ALTERATIONS, ADDITIONS AND IMPROVEMENTS.

Lessee, for and in consideration of this Lease and the demise of the said premises, hereby agrees and covenants with Lessor that Lessee shall not make or suffer or permit to be made, any alterations, additions or improvements whatsoever in or about the said demised premises without first obtaining the written consent of Lessor therefore; provided, however, that such consent, if given, shall be subject to the express condition that any and all alterations, additions and improvements shall be done at Lessee's own expense, in conformity and compliance with all applicable municipal, state and federal ordinances, laws, rules and regulations, and that no liens of mechanics, materialmen, laborers, architects, artisans, contractors, sub-contractors, or any other lien of any kind whatsoever shall be created against or imposed upon the said demised premises, or any part thereof, and that Lessee shall indemnify and save harmless Lessor from any and all liability and claims for damages of every kind and nature which might be made, or from judgments rendered against Lessor or against said demised premises on account of or arising out of such alterations, additions or improvements.

IX. OWNERSHIP OF ALTERATIONS, ADDITIONS AND IMPROVEMENTS.

Lessee, for and in consideration of this Lease and the demise of the said premises, hereby agrees and covenants with Lessor that any and all alterations, additions and improvements, except signs, shelving, moveable furniture and equipment not affixed to the roof, walls, or floors, made at Lessee's own expense after having first obtained the written consent of Lessor therefor, in accordance with the provisions contained in Paragraph VIII, hereof, whether or not attached to the roof, walls, or floors, foundations or the premises in any manner whatsoever, shall immediately merge and become a permanent part of the realty, and any and all interest of the Lessee therein shall immediately vest in Lessor, and all such alterations, additions and improvements shall remain on the premises and shall not be removed by Lessee at the termination of this Lease. The signs, shelving, moveable furniture and equipment not affixed to the roof,

walls or floors shall be removed by Lessee at Lessee's expense on or before the termination of the Lease, and Lessee shall repair any damage caused thereby at Lessee's own expense, such that the premises shall be in as good order and condition as when the same were entered upon by Lessee.

X. ASSIGNMENT AND SUBLETTING.

Lessee, for and in consideration of this Lease and the demise of the said premises, hereby agrees and covenants with Lessor that neither Lessee nor Lessee's heirs, personal representatives, assigns or successors in interest shall assign this Lease or sublet the said demised premises, in whole or in part, without first obtaining the written consent of Lessor therefor; that no assignment of this Lease or any subletting of the said demised premises, in whole or in part, shall be valid, except by and with the written consent of Lessor first obtained; that the consent of Lessor to any such assignment or subletting shall not operate to discharge Lessee or Lessee's heirs, personal representatives, assigns or successors in interest from their liability upon the agreements and covenants of this Lease, and Lessee, Lessee's personal representatives, assigns, and successors in interest shall remain liable for the full and complete performance of all the terms, conditions, covenants and agreements herein contained as principals and not as guarantors or sureties, to the same extent as though no assignments or sublease had been made; that any consent of Lessor to any such assignment or subletting shall not operate as a consent to further assignment or subletting or as a waiver of this covenant and agreements against assignment and subletting; and that the following any such assignment or subletting, the assignee and/or sublettee shall be bound by all of the terms, conditions, covenants, and agreements herein contained including the covenant against assignment or subletting.

XI. UTILITY AND OTHER CHARGES.

Lessee, for and in consideration of this Lease and the demise of the said premises, hereby agrees and covenants with Lessor to pay promptly all utility and other charges of whatsoever kind and nature, including charges for electrical, gas, garbage, sewage, telephone and other services, which may be incurred in connection with Lessee's use of said premises, and to indemnify and save harmless Lessor therefrom.

XII. LESSOR'S RIGHT OF ENTRY AND TO MAKE ALTERATIONS, ADDITIONS, AND IMPROVEMENTS.

Lessee, for and in consideration of this Lease and the demise of the said premises, hereby agrees and covenants with Lessor that Lessor, upon notice to Lessee, shall be able to enter upon the said premises to inspect the same and to make any and all improvements, alterations and additions of any kind whatsoever upon the said premises, providing such improvements, alterations and additions are reasonable, necessary or convenient to the use to which the said premises are being put at the time, but at no time shall Lessor be compelled or required to make any improvements, alterations or additions.

XIII. TAXES, OTHER ASSESSMENTS AND INSURANCE.

Lessee and Lessor hereby covenant and agree that all taxes and special and general assessments of whatsoever kind and nature, extraordinary as well as ordinary,

which have been or may be levied upon the said demised premises and upon the said demised premises and upon any alterations, additions and improvements thereon, shall be paid by Lessee at the time when the same become due and payable, and that all taxes and special and general assessments of whatsoever kind and nature, extraordinary as well as ordinary, which have been or may be levied upon the personal property located upon the said demised premises shall be paid by Lessee at the time when the same shall become due and payable. Lessee, for and in consideration of this Lease and the demise of the said premises, hereby agrees and covenants with Lessor to carry and maintain in full force and effect during the term of this Lease, and any extension or renewal thereof, at Lessee's expense, public liability insurance covering bodily injury and proper damage liability, in a form and with an insurance company acceptable to Lessor.

XIV. HOLDING OVER.

Lessee, for and in consideration of this Lease and the demise of the said premises, agrees and covenants with Lessor that no holding over by Lessee after the expiration of this Lease, or any renewal or extension thereof, whether with or without the consent of Lessor, shall operate to extend or renew this Lease, and that any such holdings over shall be construed as a tenancy from month to month at the monthly rental which shall have been payable at the time immediately prior to when such holding over shall have commenced, and such tenancy shall be subject to all the terms, conditions, covenants and agreements of this Lease.

XV. BANKRUPTCY AND CONDEMNATION.

Lessee, for and in consideration of this Lease and the demise of the said premises, hereby agrees and covenants with Lessor that should Lessee make an assignment for the benefit of creditors or should be adjudged a bankrupt, either by voluntary or involuntary proceedings, or if otherwise a receiver or trustee should be appointed by any court of competent jurisdiction for Lessee because of any insolvency, or any execution, attachment, or replevin, or other court order should be issued against the Lessee or any of Lessee's property, whereby the demised premises or any building or buildings, or alterations, additions or improvements thereof, shall be taken or occupied or attempted to be taken or occupied by someone other than the Lessee, the occurrence of any such event shall be deemed a breach of this Lease, and, in such event, Lessor shall have the option to forthwith terminate this Lease and to re-enter the said demised premises and to take possession thereof, whereupon Lessee shall quit and surrender peaceably the said demised premises to Lessor. In no event shall this Lease be deemed an asset of Lessee after the assignment for the benefit of creditors, the adjudication in bankruptcy, the appointment of a receiver or trustee, or the issuance of a Writ of Execution, a Writ of Attachment, a Writ of Replevin, or other court order against Lessee or Lessee's property whereby the demised premises or any building or buildings, or alterations, additions or improvements thereon, shall be taken or occupied or attempted to be taken or occupied by someone other than the Lessee. Further, Lessee hereby covenants and agrees with Lessor that in the event the said demised premises, or any part thereof, shall be taken for any public or quasi-public use under any statute or by right of eminent domain, this Lease shall automatically terminate, as to the part so taken, as of the date possession shall have been taken, and the rent reserved shall be adjusted so that Lessee shall be required to pay for the remainder of the term that portion of the rent reserved in the proportion that the said demised premises remaining after the taking for public or quasi-public use bears to the whole of the said demised premises before the

taking for public or quasi-public use. All damages and payments resulting from the taking for public or quasi-public use of the said demised premises shall accrue to and belong to Lessor, and Lessee shall have no right to any part thereof.

XVI. DESTRUCTION.

Lessee, for and in consideration of this Lease and the demise of the said premises, agrees and covenants with Lessor that if at any time during the term of this Lease, or any extension or renewal thereof, the said demised premises shall be totally or partially destroyed by fire, flood, earthquake or other calamity, then Lessor shall have the option to rebuild or repair the building or buildings, and any alterations, additions or improvements on the demised premises, in as good condition as they were immediately prior to such calamity; provided, however, that such rebuilding or repair shall be commenced within a period of thirty days after notice in writing to Lessor of such destruction or damage. In such case, a just and proportionate part of the rental herein specified shall be abated until such demised premises shall have been rebuilt or repaired. In case, however, Lessor shall within thirty days following notice in writing to him of such damage elect not to rebuild or repair said premises, Lessor shall notify Lessee and, thereupon, this Lease shall terminate and become null and void. Moreover, in no event, shall Lessor have any duty or obligation to rebuild or repair any signs, shelving, moveable furniture, equipment not affixed to the roof, walls, or floors as a permanent part of the realty, or any other personal property owned or leased by the Lessee and used to carry out the purpose for which Lessee is leasing the demised premises.

XVII. MORTGAGE SUBORDINATION.

Should Lessor acquire financing for the Property and Lender secures said financing with a mortgage on the Property, Lessor and Lessee hereby agree to, and do hereby subordinate any lien they may now have or hereafter have on the Property of Lessor under this Lease to Lender's lien or liens on the Property and agree to execute any documents required by Lender to further satisfy said requirement.

XVIII. SIGNS.

Lessor and Lessee covenant and agree that Lessee may at Lessee's own expense erect and maintain a sign or signs to carry out the purpose for which lessee is leasing the said demised premises; provided, however, the location, type and design of all exterior signs shall be first approved in writing by Lessor. Upon the expiration of this Lease, or any renewal or extension thereof, Lessee shall remove such sign or signs and shall repair any damage to the premises caused thereby at Lessee's own expense. Further, at any time within thirty days prior to the termination of this Lease, or any renewal or extension thereof, Lessor shall have the right to place upon any part of said demised premises any "For Rent" or "For Lease" signs that Lessor may select.

XIX. TERMINATION AND REMEDIES.

It is expressly understood and agreed between the parties hereto, that if the rent above reserved, or any part thereof, shall be in arrears or unpaid on the day of payment whereon the same ought to be paid as aforesaid, or if default shall be made in any of the covenants or agreements herein contained to be kept by Lessee, Lessee's heirs, personal representatives, assigns, and successors in interest, it shall and may be lawful for the

Lessor, Lessor's heirs, personal representatives, agents, attorneys, assigns, or successors in interest, at Lessor's election, to declare said term ended and to re-enter the said premises, or any part thereof, either with or without process of law, and to expel, remove, and to put out the Lessee, or any other person or persons occupying the demised premises, using such force as may be necessary in so doing, and to repossess and enjoy the same premise again as in its first and former state, and to distrain for any rent that may be due thereon any property belonging to Lessee, whether or not the same be exempt from execution and distress by law, and Lessee in that case hereby waives any and all legal rights which Lessee now has or may have, to hold or retain any such property under any exemption laws now or hereafter in force in the State of Texas, or in any other way. It is the intent of the parties hereto to hereby recognize in Lessor, Lessor's heirs, personal representatives, assigns or successors in interest, a valid first lien as provided by the laws of Texas, upon any and all goods, chattels and other property belonging to Lessee and located in said premises, as security for the payment of said rent and fulfillment of the faithful performance of the agreements, covenants, terms and conditions hereof as herein provided, anything hereinbefore mentioned to the contrary notwithstanding. And if at any time said term shall be ended at such election of Lessor, Lessor's heirs, personal representatives, assigns or successors in interest, as aforesaid, or in any other way, Lessee, Lessee's heirs, personal representatives, assigns or successors in interest, do hereby covenant and agree to surrender and deliver up the above-described premises and property peaceably to Lessor, Lessor's heirs, personal representatives, assigns or successors in interest, immediately upon the termination of said term as aforesaid, and if Lessee shall remain in possession of the same ten (10) days after notice of such default, or after the termination of the Lease in any of the ways above named, Lessee shall be deemed guilty of a forcible detainment of said premises under the laws of Texas and shall be subject to all the conditions and provisions above named, and shall also be subject to eviction and removal forcibly or otherwise, with or without process of law as above stated. Further, it is covenanted and agreed by and between the parties hereto that at any time after any such termination, the Lessor may relet the demised premises, or any part thereof, in the name of the Lessor or otherwise, for such term and on such conditions as the Lessor, in Lessor's sole and absolute discretion, may determine, and may collect and receive the rent therefor. Moreover, in the event Lessor relets the demised premises, or any part thereof, it is explicitly understood and agreed by and between the parties hereto that the term may be greater or lesser than the period which would otherwise have constituted the balance of the term of this Lease, and the conditions may include free rent or other concessions which may be reasonably required to induce another party to lease the demised premises. Notwithstanding anything herein to the contrary, the Lessor shall have no obligation hereunder to relet the demised premises, or any part thereof, and shall in no way be responsible or liable for any failure to collect any rent due upon such reletting. It is also covenanted and agreed by and between the parties hereto that no such termination of this Lease shall relieve the Lessee of its liabilities and obligations under this Lease, and such liabilities and obligations shall survive any such termination. In the event of any such termination, whether or not the demised premises, or any part thereof, shall have been relet, the total remaining balance of the rent which would be due and payable for the remainder of the term of this Lease, if this Lease were still in effect, less the net proceeds of any reletting effected pursuant to the Lessor's sole discretion, after deducting from the net proceeds all of the Lessor's expenses in connection with such reletting, including, without limitation, all repossessions costs, brokerage commissions, legal expenses, reasonable attorney's fees, alteration costs, and expenses of preparation for such reletting, shall become immediately due and payable, as liquidated damages for the Lessee's default. Nothing herein contained, however, shall

limit or prejudice the right of Lessor to prove for and obtain as liquidated damages by reason of such termination, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceeds in which, such damages are to be provided, whether or not such amount be greater than, equal to, or less than the amount of the difference referred to above, and whether or not such amount shall be immediately or otherwise due and payable. Further, it is covenanted and agreed to by and between the parties hereto, that in addition to other remedies provided for in this Lease, the Lessor shall be entitled to restraint by injunction of the violation, or attempted or threatened violation, of any agreement or covenant of this Lease, or to a decree specifically compelling performance of any such agreement or covenant. The Lessee, the Lessee's heirs, personal representatives, assigns and successors in interest, hereby expressly waives so far as permitted by law, the service of any notice of intention to re-enter provided for in any statute, or of the institution of legal proceedings to that end. Lessee, the Lessee's heirs, personal representatives, assigns, and successors in interest, also hereby expressly waives any right or redemption or re-entry or repossession or to restore the operation of this Lease in case the Lessee shall be disposed by a judgment or by a warrant or any court or judge or in case of re-entry or repossession by the Lessor. It is further covenanted and agreed by and between the parties hereto, that the Lessee shall pay and discharge all costs, reasonable attorney's fees and expenses incurred by Lessor, lessor's heirs, personal representatives, assigns or successors in interest, in enforcing the covenants of this Lease, or incurred by Lessor in pursuing any or all remedies which are or may be available hereunder or allowed at law or in equity, or incurred by Lessor in connection with reletting the demised premises.

XX. LESSOR'S REMEDIES ARE CUMULATIVE.

The specified remedies to which the Lessor may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which the Lessor may be lawfully entitled in case of any breach or threatened breach by the Lessee of any of the agreements and covenants herein contained.

XXI. WAIVERS.

Lessee, for and in consideration of this Lease and the demise of the said premises, agrees and covenants with Lessor that the delay or omission in the enforcement of any of the agreements and covenants herein contained, or in the exercise of any of Lessor's rights hereunder, shall not affect the duty of the Lessee to thereafter faithfully fulfill and perform all of the agreements and covenants herein contained, and that the failure, neglect or omission of Lessor to terminate this Lease for any one or more breaches of any agreements and covenants hereof, shall not be deemed a consent by Lessor of such breach and shall not impede, impair, stop, bar, or prevent Lessor from thereafter terminating this Lease, either for such violation, or for prior or subsequent violations of any covenant or agreement hereof.

XXII. BINDING ON HEIRS, PERSONAL REPRESENTATIVES, ASSIGNS AND SUCCESSORS IN INTEREST.

It is understood and agreed by and between the parties hereto that the agreements, covenants, terms, conditions, provisions, and undertakings in this Lease, or

in any extension or renewal thereof, shall extend to and be binding upon the heirs, personal representatives, assigns, and successors in interest of the respective parties hereto, as if they were in every case named and expressed, and shall be construed as covenants running with the land; and wherever reference is made to either of the parties hereto, it shall be held to and include and apply also to the heirs, personal representatives, successors and assigns of such party, as if in each and every case so expressed.

XXIII. ADDRESSES FOR NOTICES.

Any and all notices required or permitted to be given hereunder shall be considered to have been given if in writing and delivered to any respective party designated below upon the date of such personal delivery, or upon a date three (3) days following the mailing of any such notice by certified or registered mail, return receipt requested, addressed to the respective party such address as either party may furnish the other for this purpose by written notification delivered or mailed to the other as herein provided:

XXIV. DECLARATION OF CONTRACTUAL LIABILITY.

If there is more than one party Lessee, the covenants and agreements of the Lessee shall be joint and several obligations of each such party.

XXV. GRAMMATICAL USAGE.

In construing this Lease, feminine or neuter pronouns shall be substituted for those masculine in form and vice versa, and plural terms shall be substituted for singular and singular for plural in any place in which the context so requires.

XXVI. COVENANT TO EXECUTE ADDITIONAL INSTRUMENTS.

The parties hereto hereby agree to execute and deliver any instruments in writing necessary to carry out any agreement, covenant, terms, condition, or assurance in this Lease whenever an occasion shall arise and request for such instrument shall be made.

XXVII. SEVERABILITY.

If any provision of this Lease, or any application thereof, shall be declared invalid or unenforceable by any court of competent jurisdiction, the remainder of this Lease, and any other application of such provision, shall continue in full force and effect.

XXVIII. CAPTIONS.

The section headings are for convenience of reference only and shall not otherwise affect the meaning hereof.

XXIX. GOVERNING LAW.

This Lease shall be governed by and construed in accordance with the laws of the State of Texas.

XXX. AMENDMENTS.

It is understood and agreed by and between the parties hereto that this Lease shall not be altered, changed, or amended except by instrument in writing executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and years first above written.

LESSOR(S):

LESSEE(S):

By: _____

By: _____