

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

VARIANCE APPLICATION



OFFICE USE ONLY

DOCKET #: 1601-18-01+1601-VU-01 FILING DATE:
FILING FEE: \$ FEE PLUS \$ PER ADDITIONAL VARIANCE (@) = \$

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: (STAFF NAME) DATE:

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: AMENDMENTS: DEVELOPMENT PLAN:

PRIMARY PLAT: SECONDARY PLAT: VARIANCE(S):

APPLICANT INFORMATION

APPLICANT'S NAME: Christopher J. Woodard TELEPHONE: 317-867-3112

ADDRESS: 17925 Sun Park Drive, Westfield, IN 46074 EMAIL: cwoodard@practicalpropertygroup.com

PROPERTY OWNER'S NAME: ALLCAR, LLC TELEPHONE: 317-870-9900

ADDRESS: 9589 Valparaiso Court, Indianapolis, IN 46268 EMAIL: jlevinsohn@levirealty.com

REPRESENTATIVE'S NAME: John Levinsohn TELEPHONE: 317-840-1951

COMPANY: ALLCAR, LLC EMAIL:

ADDRESS: 9589 Valparaiso Court, Indianapolis, IN 46268

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 17925 Sun Park Drive, Westfield, IN 46074 SECT 36, TWP19 Range 03 ACRES 2.45.

COUNTY PARCEL ID #(S): 0905360000032101 and 0905360000032001

EXISTING ZONING DISTRICT(S): EXISTING LAND USE(S):

VARIANCE REQUEST

[X] VARIANCE OF LAND USE CODE CITATION:

[] VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION:

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

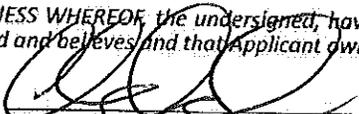
STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY):

This application is a request for extension of the original Variance of Use filed March 12, 2013. To permit the use of a landscape business on this locaiton.

This business type was not addressed in the ordinance. Will be temporary and allowed until October 2018. This is the duration of our current lease.

APPLICANT AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that above information is true and correct as he/she is informed and believes and that Applicant owns or controls the property involved in this application.


Applicant/Representative (signature)

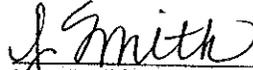
CHRISTOPHER WOODARD
Applicant/Representative (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing Application.

Witness my hand and Notarial Seal this 19 day of NOVEMBER, 2015.

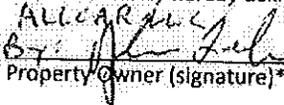
State of INDIANA, County of HAMILTON ss:




Notary Public Signature
JENNIFER SMITH
Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the foregoing Application.

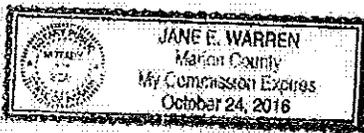
ALLCAR LLC
By:  MEMBER
Property Owner (signature)*

ALLCAR LLC
By: JOHN LEVINSON MEMBER
Property Owner (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

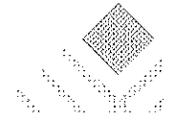
Witness my hand and Notarial Seal this 13th day of November, 2015.

State of Indiana, County of Marion ss:




Notary Public Signature
Jane E. Warren
Notary Public (printed)

*A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required with the application.



FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: Christopher J Woodard

DOCKET #: _____

In taking action on a variance request, the Board of Zoning Appeals uses the following decision criteria to approve or deny a variance, as established by Indiana Code, and the Board may impose reasonable conditions as part of its approval. The applicant must address the criteria below. A variance of land use may be approved by the Board of Zoning Appeals only upon a determination that the Board finds all of the following to be true:

A. The use will not be injurious to the public health, safety, morals, and general welfare of the community because: _____
This will allow local residents an option of a local company that provides snow removal, landscaping and land maintenance.

B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: _____
This will allow for the continued use of the property that was originally vacant. Thereby increasing the business traffic in the area.

C. The need for the variance arises from some condition particular to the property involved because: _____
This property's location is centrally located in our community and allows for access to two highways.

D. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because: _____
This use is not contemplated in our ordinance.

E. The variance of use does not interfere substantially with the Comprehensive Plan because: _____
This enhances its use with the comprehensive plan.

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM
FINDINGS OF FACT (VARIANCE OF USE)



APPLICANT: Christopher J Woodard

DOCKET #: _____

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This use is not contemplated in our ordinance.

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This enhances its use with the comprehensive plan.

**WESTFIELD-WASHINGTON TOWNSHIP
ADVISORY PLAN COMMISSION PUBLIC NOTICE**

NOTICE IS HEREBY GIVEN THAT the Westfield-Washington Township Advisory Plan Commission will hold a public hearing on Monday, _____, 20____, at 7:00 p.m. at Westfield City Hall, 130 Penn Street, Westfield, Indiana, to consider petition(s) **[insert docket #]**, filed by Christopher Woodard (applicant) on behalf of John Levinsohn, Owner of Alicar, LLC. The request pertains to real estate comprising approximately 2.45 acres and generally located at 17925 Sun Park Drive, Westfield, IN 46074, Washington Township, Westfield, Indiana.

The request is for a VARIANCE OF USE to allow Practical Property Group LLC an extension of time to use the property as a landscape contractor business.

Specific details regarding this request, including the application, file, and property legal description, may be obtained from the Westfield Economic and Community Development Department, or by calling (317) 804-3170.

Written suggestions or objections relative to the request may be filed with the Westfield Economic and Community Development Department, at or before the public hearing. Interested persons desiring to present their views upon the request, either in writing or verbally, will be given the opportunity to be heard at the above mentioned time and place, which may be continued from time to time as may be found necessary.

APPLICANT:

Christopher J. Woodard
17925 Sun Park Drive
Westfield, IN 46074
Telephone: (317)867-3112

REPRESENTATIVE:

John Levinshon
9589 Valparaiso Court
Indianapolis, IN 46268
Telephone: (317)894-1951

CITY OF WESTFIELD:

Economic and Community Development Department
2728 East 171st Street
Westfield, Indiana 46074
Telephone: (317) 804-3170
www.westfield.in.us

INDUSTRIAL LEASE

THIS LEASE, made this 15th day of October, 2012 by and between **ALLCAR, LLC** ("Landlord") and **Practical Property Group, LLC** ("Tenant").

WITNESSETH:

ARTICLE 1.
Lease of Premises

Section 1.01. Lease of Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord certain office/warehouse/showroom space commonly known as 17924 N US 31, Westfield, located in Hamilton County, Westfield, Indiana, and which is situated on the tract of land described in **Exhibit A** attached hereto (the "Leased Premises"), subject to the terms and conditions herein set forth, for the specific term hereinafter specified.

Section 1.02. Basic Lease Provisions.

- | | | |
|-----|---------------------------------------|--|
| (A) | BUILDING ADDRESS: | 17924 US Highway 31 North, Westfield, IN 46074 |
| (B) | RENTABLE AREA: | Approximately 12,800 square feet
See Exhibit B |
| (C) | BASIC ANNUAL RENT: | Year 1 \$38,400
Year 2 \$39,600
Year 3 \$40,800 |
| (D) | MONTHLY RENTAL INSTALLMENTS: | Months 1-12 \$3,200 per month
Months 13-24 \$3,300 per month
Months 25-36 \$3,400 per month |
| (E) | TERM: | Three (3) Years |
| (F) | TARGET COMMENCEMENT DATE: | October 1st, 2012 |
| (G) | TENANT IMPROVEMENTS: | Tenant accepts Premises in as-is condition.
See Exhibit C |
| (H) | SECURITY DEPOSIT: | Three Thousand Two Hundred Dollars (\$3,200) |
| (I) | GUARANTOR: | Practical Property Group, LLC |
| (J) | PERMITTED USE: | Landscape Related Uses, Landscape Equipment,
Property Maintenance and Construction Services.
Mulch Sales, Delivery, and Aggregates. General
Storage and Business Use. |
| (K) | ADDRESS FOR RENT PAYMENTS AS FOLLOWS: | |

LANDLORD

ALLCAR, LLC
9589 Valparaiso Court
Indianapolis, IN 46268

CJW

(L) ADDRESS FOR NOTICES AS FOLLOWS:

LANDLORD ALLCAR, LLC
9589 Valparaiso Court
Indianapolis, IN 46268

TENANT Practical Property Group, LLC
17924 US Highway 31 North
Westfield, IN 46074

**ARTICLE 2.
Term**

Section 2.01. Term. The term of this Lease shall be for the period specified in Item E of Section 1.02 ("Original Term") and shall commence on the first to occur of the (i) October 15th, 2012 in Item F of Section 1.02. The date of commencement defined above ("Commencement Date"), and the ("Expiration Date") shall be confirmed by Tenant as provided in Section 2.04. "Lease Term", when used in this Lease shall include the Original Term and any renewal term.

Section 2.02. Condition of Leased Premises. Tenant agrees (i) to accept the Leased Premises in its present condition; or (ii) in the event Landlord concurrently, with or prior to, the execution of this Lease has agreed in writing with the Tenant to complete alterations to, or repairs of, the Leased Premises which agreement shall be attached as **Exhibit C** to this Lease, Landlord agrees to perform pursuant to such an agreement as set forth in **Exhibit C** subject to events and delays due to causes beyond its reasonable control and shall give Thirty (30) days written notice of the day on which its work to be performed in accordance with the terms of **Exhibit C** shall be completed. From and after receipt of said notice or earlier with the consent of Landlord, Tenant shall have the right and privilege of going onto the Leased Premises to complete interior decoration work and to prepare the Leased Premises for its occupancy, provided, however, that its schedule in so doing shall be communicated to Landlord and the approval of Landlord secured so as not to interfere with other work of Landlord being carried on at the time; and provided further that Landlord shall have no responsibility or liability whatsoever for any loss or damage to any of Tenant's leasehold improvements, fixtures, equipment or any other materials installed or left in the Leased Premises prior to the Commencement Date.

Section 2.03. Tenant's Acceptance of the Leased Premises. Upon delivery of possession of the Leased Premises to Tenant as hereinbefore provided, the tenant will be responsible for all maintenance of property. It will be the responsibility of the Landlord to handle any repairs necessary to the structure and the mechanicals over Five Hundred Dollars (\$500). Tenant shall pay the first Five Hundred Dollars (\$500) of any major repair. The Tenant will provide estimates to the Landlord on repairs. Landlord shall promptly thereafter correct all such defects. If Tenant takes possession of the Leased Premises, Tenant shall be deemed to have accepted the Leased Premises in the manner described in this Section 2.03.

**ARTICLE 3.
Occupancy and Use**

Section 3.01. Occupancy and Use. Tenant shall use and occupy the Leased Premises for the purposes as set out in Item J of Section 1.02, and other purposes. Tenant shall use the Leased Premises for no unlawful purpose or act; shall commit or permit no waste or damage to the Leased Premises; shall comply with and obey all laws, regulations, or orders of any governmental authority or agency, directions of the Landlord, including Rules and Regulations which are adopted, changed or modified from time to time by Landlord on reasonable notice to Tenant, all of which are and will be a part of this lease as **Exhibit D**; and shall not do or permit anything to be done which will increase the rate of fire insurance upon the Leased Premises.

COW

Section 3.02. Landlord's Rights Regarding Use. In addition to the rights specified elsewhere in this Lease, Landlord shall have the following rights regarding the use of the Leased Premises and common areas by Tenant, its employees, agents, customers and invitees, which may be exercised without notice or liability to Tenant, including the right of Landlord to install such signs, advertisements, notices or Tenant identification information on the directory board, or Tenant access doors it shall deem appropriate; other window coverings Tenant may propose for use invisible from the outside of the Leased Premises; to approve or disapprove of all signs, sign painting and lettering; to grant any person exclusive right to conduct any business or render service in the Premises, provided that such exclusive right shall not operate to limit Tenant from using the Leased Premises from the permitted use as outlined in Item J of Section 1.02; and to control the common areas in such a manner as the Landlord deems necessary and proper including, excluding or expelling peddlers, solicitors or loud or unruly persons from the Premises; and closing and limiting access to the Premises or other part thereof, including entrances and doors during times of emergencies, or repairs or after regular business.

Section 3.03. Access to Leased Premises. Landlord reserves the right to enter the Leased Premises in any emergency, and to also inspect the same, to alter, improve, remodel or repair the premises or any portion of the real estate of which the Leased Premises are a part, without abatement of rent and without incurring any liability to Tenant therefore. Landlord shall also have the right to enter the Leased Premises during Tenant's normal business hours with advance notice to Tenant, and to show the same to prospective purchasers, mortgagees and tenants. Landlord shall incur no liability through the Tenant for such entry, nor shall such entry constitute an eviction of the Tenant or a termination of the Lease, or entitle Tenant to any abatement of rent therefore. In addition, during the final Three (3) months of this Lease or any renewal term, Landlord may place on the Leased Premises where appropriate the usual notices "For Lease" or "For Sale" or other similar notices which Tenant shall permit to remain without molestation.

Section 3.04. Surrender of Leased Premises. At the end of the term or any renewal thereof or other sooner termination of this Lease, the Tenant will peaceably deliver up to the Landlord possession of the Leased Premises, together with all improvements or additions upon or belonging to the same, by whomsoever made, in the same condition as received, or first installed, ordinary wear and tear and damage by fire, earthquake, Act of God or the elements alone excepted. Upon the termination of this Lease, Tenant shall at Tenant's sole cost, remove all counter, trade fixtures, office furniture and equipment installed by Tenant unless otherwise agreed to in writing by Landlord. Tenant shall also repair any damage caused by such removal. Property not so removed shall be deemed abandoned at the termination of this Lease by the Tenant and title to the same shall thereupon pass to Landlord. Tenant shall indemnify the Landlord against any loss or liability resulting from delay by Tenant in so surrendering the Leased Premises, including without limitation, any claims made by any succeeding Tenant founded on such delay.

Section 3.05. Holding Over. In the event Tenant remains in possession of the Leased Premises or any part thereof without the consent of Landlord after the expiration or earlier termination of this Lease, Tenant shall be deemed, at Landlord's election, either to hold the Leased Premises as a tenant on a month-to-month basis or to have extended this Lease for one year, in either case subject to all of the terms, conditions, covenants and provisions of this Lease (which shall be applicable during the holdover period), except that Tenant shall pay to Landlord such rent as Landlord shall then specify, or in the absence of such specifications, twice the sum last current Basic Annual Rent, which rent shall be payable to Landlord on demand. In addition, Tenant shall be liable to Landlord for all damages occasioned by such holding over. Tenant shall vacate and surrender the Leased Premises to Landlord upon Tenant's receipt of notice from Landlord to vacate. No holding over by Tenant, whether with or without the consent of Landlord, shall operate to extend this Lease except as otherwise expressly provided herein.

ARTICLE 4. Rent and Deposit

Section 4.01. Basic Annual Rent. Tenant hereby agrees to pay a Basic Annual Rent for Leased Premises in the amount specified in Item C, Section 1.02 of this Lease payable in advance in equal consecutive monthly installments as specified in Item D, Section 1.02 of this Lease, on or before the first day of each month during

the lease term. The annual Rental shall be due and payable in Twelve (12) equal installments on the first day of each calendar month during the term of this Lease. Tenant hereby agrees to pay the monthly Rental installments to Landlord as provided in Item K, Section 1.02 of this Lease or at such other location as Landlord may designate from time to time, in advance without demand and without any deduction, abatement, counterclaim or set off. In the event of a partial month at the beginning or end of the term of this Lease, the Rental and any other charges or costs, payable by Tenant shall be prorated on the basis of a Thirty (30) day month. Any portion of the monthly Rental installments not paid when due bears a delinquency charge equal to One and One-Half Percent (1.5%) of the amount of the rental due and unpaid, during which time such rental amounts remain overdue. All Rental and other charges payable by Tenant pursuant to the terms of this Lease shall be payable without relief from valuation and appraisal laws, and without attorney's fees and costs of collection.

Section 4.02. Security Deposit. Tenant has herewith deposited with the Landlord the sum specified in Item H, of Section 1.02 of this Lease. Said deposit shall be held by Landlord, without liability for interest, as security for the faithful performance by Tenant of all of the terms, covenants, and conditions of this Lease, and may be applied by Landlord, in whole or in part for the payment of any past due rent or other money damage or loss which may be sustained by Landlord because of a breach of this Lease by Tenant. In the event of any such application by Landlord, Tenant shall, upon the written demand of Landlord, forthwith remit to Landlord sufficient funds to restore the security to the original sum deposited. Said deposit shall be returned to Tenant upon termination of Tenant's occupancy hereunder, provided Tenant has complied with all of the terms, covenants and conditions of this Lease, including those relating to the condition in which the Leased Premises shall be left by Tenant. Landlord may deliver such deposit to any purchaser of other transferee of Landlord's interest in the Real Estate, and thereupon Landlord shall be discharged from any further liability with respect to such deposit. Landlord shall not be required to hold such security deposit in a separate account, but may commingle it with Landlord's other funds.

**ARTICLE 5.
Utility and Other Building Services**

Section 5.01. Utility Reimbursement. Tenant shall pay all utilities. Any new development fees for development such as utility relocation will be the responsibility of the Landlord.

Section 5.02. Other Building Services. Tenant shall pay all charges for garbage collection services, will be responsible for all snow removal and common area maintenance, and for all other sanitary services rendered to Leased Premises or used by Tenant in connection therewith. If Tenant fails to pay any of said charges for garbage collection, or other sanitary services, Landlord shall have the right but not the obligation to pay the same, and such payment may be added to the rental of Leased Premises next due as additional rental. Tenant shall strictly comply with all regulations, codes and regulations of all applicable governmental authorities relative to the storage and collection of garbage and refuse. Tenant shall also provide pest control service to Leased Premises at Tenant's expense or otherwise keep Leased Premises free from pests. In addition, Tenant shall be responsible for cleaning and janitorial services of the Leased Premises, including carpet cleaning, and washing of windows at reasonable intervals.

Section 5.03. Interruption of Services. Tenant understands, acknowledges and agrees that any one or more of the utilities or other Premises services identified in Section 5.01 may be interrupted by reason of accident, emergency or other causes beyond Landlord's control, or may be discontinued or diminished temporarily by Landlord or other persons until certain repairs, alterations or improvements can be made; that Landlord does not represent or warrant the uninterrupted availability of such utilities or Premises services, and that any such interruption shall not be deemed an eviction or disturbance of Tenant's right to possession, occupancy and use of the Leased Premises or any part thereof, or render Landlord liable to Tenant for damages by abatement of rent or otherwise, or relieve Tenant from the obligation to perform its covenants under this Lease.

**ARTICLE 6.
Repairs, Maintenance, Alterations,
Improvements and Fixtures**

Section 6.01. Repair and Maintenance of Leased Premises. Subject to Section 6.02 and except for any repairs made necessary by the negligence, misuse, or default of Tenant, its employees, agents, customers and invitees, Landlord shall make all necessary repairs to the exterior walls, roofs and foundations and keep such in good condition and repair. Except as provided in Article 7 hereof, there shall be no abatement of rent and no liability of Landlord by reason of any injury to or interference with Tenant's business arising from the making of any repairs, alterations or improvements in or to any portion of the Premises or the Leased Premises or in or to any fixtures, appurtenances and equipment therein or thereon.

Section 6.02. Tenant Maintenance. Tenant shall repair and maintain as necessary all portions of the Leased Premises and all equipment, fixtures and systems therein which are not specifically set forth as the responsibility of Landlord of this Lease. Tenant's repairs shall include without limitation all electrical, plumbing, heating and air-conditioning systems, parts, components and fixtures; Tenant will have an HVAC company inspect the premise within the first Thirty (30) days of the lease and shall pay a Five Hundred Dollars (\$500) deductible on all HVAC repairs. Tenant shall give a report to the Landlord outlining necessary repairs. Tenant shall also promptly repair all doors and floor covering, partitions and all glass and plate glass, whether interior or exterior, within Leased Premises immediately when cracked, broken, or damaged, and Tenant shall be liable for and shall hold Landlord harmless against any damage or injury to the Leased Premises or to any person or property caused or contributed to by any act of neglect of Tenant, any invitee, agent, affiliate, customer or client of Tenant or anyone in Tenant's control or employ. Tenant shall at once report in writing to Landlord any defective condition known to Tenant which Landlord is required to repair, and failure to promptly report such defects shall make Tenant liable to Landlord for any liability incurred by Landlord by reason of such defects. All personal property of Tenant or Tenant's employees, agents, affiliates or invitees located in or brought upon Leased Premises or any part of the Premises shall be at the risk of Tenant only, and Landlord shall not be liable to Tenant or any other party for any damage thereto or theft thereof resulting from any cause.

Without limiting the generality of the foregoing, Tenant shall conduct a program of preventive maintenance and repair of all electrical, heating, ventilating, air conditioning, plumbing, sewage and other mechanical and utility equipment and systems servicing the Leased Premises and shall be responsible for any and all maintenance, replacement, or repairs to such equipment and systems. In addition, Tenant shall provide Landlord annually with a seasonal inspection report prepared by a certified heating and air conditioning specialist acceptable to Landlord. In the event Tenant shall fail, in Landlord's opinion, to provide the necessary preventive maintenance required herein, Landlord may accomplish such maintenance and all costs incurred thereby shall be paid by Tenant upon demand by Landlord. Tenant shall replace any glass and windows and doors (including any frames, retaining members and appurtenances thereto) in the Leased Premises which may be broken or damaged. Notwithstanding any provision herein to the contrary, Tenant shall not be responsible for making any repairs occasioned by any act or negligence of Landlord or its agents, which repairs shall be promptly made by Landlord at its sole cost and expense.

Section 6.03. Alterations or Improvements. Upon prior written consent from Landlord, alterations or improvements may be made to the Leased Premises; provided however, such alterations or improvements shall be made by Tenant and contractor approved by Landlord. All costs attributable to said alterations or improvements shall be borne by Tenant, including, but not limited to all construction costs, fees, architectural costs, permit fees and attorney fees. Any alterations or improvements to the Leased Premises, except movable office furniture, equipment and trade fixtures, shall become a part of the realty, and be the property of Landlord, and shall not be removed by Tenant.

Section 6.04. Trade Fixtures. Any trade fixtures installed on the Leased Premises by Tenant at its own expense, such as movable partitions, counters, shelving, showcases, mirrors and the like, may, and, at the

request of the Landlord, shall be removed on the expiration or earlier termination of this Lease, provided that Tenant is not then in default, that Tenant bears the cost of such removal, and further that Tenant repairs at its own expense any and all damages to the Leased Premises resulting from such removal. If Tenant fails to remove any and all such trade fixtures from the Leased Premises on the expiration or earlier termination of this Lease, all such trade fixtures shall become the property of Landlord unless Landlord elects to require their removal, in which case Tenant shall, at its expense, promptly remove the same and restore the Leased Premises to their prior condition.

Section 6.05. Floor and Structural Loading. Tenant shall not place a load upon any floor, or suspend a load from any structural member of the Leased Premises which exceeds either the floor load per square foot which such floor was designed to carry or that which is allowed by law; or which exceeds the engineering specifications for structural members. Landlord reserves the right to prescribe the weight and position of all safes, heavy machinery, or other heavy equipment, whether it is to be positioned on the floor, or suspended from structural members of the Leased Premises. Machine and mechanical equipment used by Tenant which cause vibrations or noise that may be transmitted to the Leased Premises structure, or to any leased space to such a degree as to be reasonably objectionable to Landlord or to any other Tenant shall be placed and maintained by Tenant, at its expense, in settings of cork, rubber or spring vibration eliminators sufficient to eliminate such vibrations or noise.

ARTICLE 7.

Fire or Other Casualty; Eminent Domain

Section 7.01. Substantial Destruction of the Leased Premises. If the Leased Premises should be substantially destroyed or damaged (which as used herein, means destruction or material damage to at least 50% of the Leased Premises) by fire or other casualty, then Landlord or Tenant may, at its option, terminate this Lease by giving written notice of such termination to the other party within Thirty (30) days after the date of such casualty. In such event, rent shall be apportioned to and shall cease as of the date of such casualty. If neither party exercises this option, then the Leased Premises shall be reconstructed and restored, at Landlord's expense, to substantially the same condition as they were prior to the casualty; provided however, that Landlord's obligation hereunder shall be limited to the reconstruction of such of the tenant finish improvements as were originally required to be made by Landlord in accordance with **Exhibit C**; and further provided that if Tenant has made any additional improvements pursuant to Section 6.03, Tenant shall reimburse Landlord for the cost of reconstructing the same. In the event of such reconstruction, rent shall be abated from the date of the casualty until substantial completion of the reconstruction repairs; and this Lease shall continue in full force and effect for the balance of the Term.

Section 7.02. Partial Destruction of the Leased Premises. If the Leased Premises should be damaged by fire or other casualty, but not substantially destroyed or damaged to the extent provided in Section 7.01, then, so long as sufficient insurance proceeds are available for Landlord's use in reconstruction and repair, then such damaged part of the Leased Premises shall be reconstructed and restored, at Landlord's expense, to substantially the same condition as it was prior to the casualty; provided however, that Landlord's obligation hereunder shall be limited to the reconstruction of such of the tenant finish improvements as were originally required to be made by Landlord in accordance with **Exhibit C**; and further provided that if Tenant has made any additional improvements pursuant to Section 6.03, Tenant shall reimburse Landlord for the cost of reconstructing the same. In such event, if the damage is expected to prevent Tenant from carrying on its business in the Leased Premises to an extent exceeding Thirty Percent (30%) of its normal business activity, rent shall be abated in the proportion which the approximate area of the damaged part bears to the total area in the Leased Premises from the date of the casualty until substantial completion of the reconstruction repairs; and this Lease shall continue in full force and effect for the balance of the Term. Landlord shall use reasonable diligence in completing such reconstruction repairs, but in the event Landlord fails to complete the same within One Hundred Eighty (180) days from the date of the casualty, Tenant may, at its option, terminate this Lease by giving Landlord written notice of such termination, whereupon both parties shall be released from all further obligations and liability hereunder.

Section 7.03. Eminent Domain. If the whole or any part of the Leased Premises shall be taken for public or quasi-public use by a governmental or other authority having the power of eminent domain or shall be conveyed to such authority in lieu of such taking, and if such taking or conveyance shall cause the remaining part of the Leased Premises to be untenable and inadequate for use by Tenant for the purpose for which they were leased, then either Landlord or Tenant may, at their respective option, terminate this Lease as of the date Tenant is required to surrender possession of the Leased Premises by giving written notice of such termination to the other party. If a part of the Leased Premises shall be taken or conveyed but the remaining part is tenantable and adequate for Tenant's use, then this Lease shall be terminated as to the part taken or conveyed as of the date Tenant surrenders possession; Landlord shall make such repairs, alterations and improvements as may be necessary to render the part not taken or conveyed tenantable; and the rent shall be reduced in proportion to the part of the Leased Premises so taken or conveyed. However, if the compensation awarded (reduced by any application thereof by Landlord's mortgage to its mortgage) is insufficient to restore the Leased Premises, Landlord shall have the option to terminate this Lease as of the date Tenant is required to surrender possession of the Leased Premises by giving Tenant written notice of such termination. All compensation awarded for such taking or conveyance shall be the property of Landlord without any deduction therefrom for any present or future estate of Tenant, and Tenant hereby assigns to Landlord all its right, title and interest in and to any such award. However, Tenant shall have the right to recover from such authority, but not from Landlord, such compensation as may be awarded to Tenant on account of moving and relocation expenses and depreciation to and removal of Tenant's property.

Landlord is responsible for assisting Tenant with recovering costs associated from having to move or relocate if eminent domain were to be enforced.

ARTICLE 8. Insurance

Section 8.01. Tenant's Casualty Insurance. Tenant shall at all times during the Lease Term carry, at its expense, a policy of insurance which insures the Leased Premises against loss or damage by fire or other casualty (namely, the perils against which insurance is afforded by a standard fire insurance policy and extended coverage endorsement). Tenant shall be responsible for, and shall be obligated to insure against, any loss of or damage to any personal property of Tenant or which Tenant may have in the Leased Premises or any trade fixtures installed by or paid for by the Tenant on the Leased Premises or any additional improvements which Tenant may construct on the Leased Premises, and Tenant shall be liable for any loss or damage to such property, regardless of cause.

Such insurance policy or policies shall name Landlord and Landlord's management agent as additional insureds and shall provide that they may not be cancelled on less than Thirty (30) days prior written notice to Landlord. Tenant shall furnish Landlord with Certificates of Insurance evidencing such coverage. Should Tenant fail to carry such insurance and furnish Landlord with such Certificates of Insurance after a request to do so, Landlord shall have the right to obtain such insurance and collect the cost thereof from Tenant as additional rent.

Section 8.02. Tenant's Liability Insurance. Tenant, in order to enable it to meet its obligation to insure against the liabilities specified in this Lease, shall at all times during the Lease Term carry, at its own expense, for the protection of Tenant, Landlord and Landlord's management agent, as their interest may appear, one or more policies of general public liability and property damage insurance, issued by one or more insurance companies acceptable to Landlord, with the following minimum coverages:

- (A) Worker's Compensation - minimum statutory amount.
- (B) Not less than \$1,000,000 Comprehensive General Liability Insurance including, Personal Injury, both bodily & property damage, Completed Operations, Products Liability
- (C) Fire and Extended Coverage, Vandalism and Malicious Mischief, and Sprinkler Leakage insurance, for the full cost of replacement of Tenant's property.

Such insurance policy or policies shall name Landlord and Landlord's management agent as additional insureds and shall provide that they may not be cancelled on less than Thirty (30) days prior written notice to Landlord. Tenant shall furnish Landlord with Certificates of Insurance evidencing such coverage. Should Tenant fail to carry such insurance and furnish Landlord with such Certificates of Insurance after a request to do so, Landlord shall have the right to obtain such insurance and collect the cost thereof from Tenant as additional rent.

Section 8.03. Tenant's Responsibility. Tenant shall assume the risk of, be responsible for, have the obligation to insure against, and indemnify Landlord and hold it harmless from any and all liability for any loss of or damage or injury to any person (including death resulting therefrom) or property occurring in, or about the Leased Premises, regardless of cause, except for any loss or damage from fire or other casualty as provided in Section 8.01 and except for that caused by the sole negligence of Landlord and its employees, agents, customers and invitees; and Tenant hereby releases Landlord from any and all liability for the same. Tenant's obligation to indemnify Landlord hereunder shall include the duty to defend against any claims asserted by reason of such loss, damage or injury and to pay and judgment, settlements, costs, fees and expenses, including attorneys' fees, incurred in connection therewith. Notwithstanding anything herein to the contrary, Tenant shall bear the risk of any loss or damage to its property as provided in Section 8.01.

Section 8.04. Waiver of Subrogation. Tenant hereby releases Landlord and Landlord's employees, agents, customers and invitees from any and all liability for any loss of or damage or injury to person or property occurring in, on or about or to the Leased Premises or personal property within the Leased Premises by reason of fire or other casualty which could be insured against under a standard fire and extended coverage insurance policy, regardless of cause, including negligence of Landlord and Landlord's respective employees, agents, customers and invitees, and agree that such insurance carried by either of them shall contain a clause whereby the insurer waives its right of subrogation against the other party. Because the provisions of this Section 8.04 are intended to preclude the assignment of any claim mentioned herein by way of subrogation or otherwise to an insurer or any other person, Tenant shall give to each insurance company which has issued to it one or more policies of fire and extended coverage insurance notice of the provisions of this Section 8.04 and have such insurance policies properly endorsed, if necessary, to prevent the invalidation of such insurance by reason of the provisions of this Section 8.04.

ARTICLE 9. Liens

Section 9.01. Liens. If, because of any act or omission of Tenant or any person claiming by, through, or under Tenant, any mechanic's lien or other lien shall be filed against the Leased Premises or against other property of Landlord (whether or not such lien is valid or enforceable as such), Tenant shall, at its own expense, cause the same to be discharged of record within Thirty-Five (35) days after the date of filing thereof, and shall also indemnify Landlord and hold it harmless from any and all claims, losses, damages, judgments, settlements, costs and expenses, including attorneys' fees, resulting therefrom or by reason thereof. Landlord may, but shall not be obligated to, pay the claim upon which such lien is based so as to have such lien released of record; and, if Landlord does so, then Tenant shall pay to Landlord, as additional rent, upon demand, the amount of such claim, plus all other costs and expenses incurred in connection therewith, plus interest thereon at the rate of Eighteen Percent (18%) per annum until paid.

ARTICLE 10. Rental, Personal Property and Other Taxes

Section 10.01. Taxes. Tenant shall pay before delinquency any and all taxes, assessments, fees or charges, including any sales, gross income, rental, business occupation or other taxes, levied or imposed upon Tenant's business operations in the Leased Premises and any personal property or similar taxes levied or imposed upon Tenant's trade fixtures, leasehold improvements or personal property located within the Leased Premises. In the event any such taxes, assessments, fees or charges are charged to the account of or are levied or imposed upon the property of Landlord, Tenant shall reimburse Landlord for the same as

additional rent. Notwithstanding the foregoing, Tenant shall have the right to contest in good faith any such item and to defer payment until after Tenant's liability therefore is finally determined.

If any tenants finish improvements, trade fixtures, alterations or improvements or business machines and equipment located in, or about the Leased Premises, regardless of whether they are installed or paid for by Landlord or Tenant and whether or not they are affixed to and become a part of the realty and the property of Landlord, are assessed for real property tax purposes at a valuation higher than that at which other such property in other leased space is assessed, then Tenant shall reimburse Landlord as additional rent for the amount of real property taxes shown on the appropriate county official's records as having been levied upon the Leased Premises or other property of Landlord by reason of such excess assessed valuation.

ARTICLE 11. Assignment and Subletting

Section 11.01. Assignment and Subletting by Tenant. Tenant may assign this Lease or sublet the Leased Premises or any part thereof, with the prior written consent of Landlord. If Tenant defaults or cannot fulfill the terms of this Lease and a new tenant is found, the amount due to Landlord will be offset by subletting to minimize damages.

Landlord may, in its sole discretion, refuse to give its consent to any proposed assignment or subletting for any reason, including, but not limited to Landlord's determination that its interest in the Lease or the Leased Premises would be adversely affected by (i) the financial condition, creditworthiness or business reputation of the proposed assignee or subtenant, (ii) the prevailing market or quoted rental rates for space in other comparable Buildings or (iii) the proposed use of the Leased Premises by, or business of, the proposed assignee or subtenant. If Landlord refuses to give its consent to any proposed assignment or subletting, Landlord may, at its option, within Thirty (30) days after receiving notice of the proposal, terminate this Lease by giving Tenant Thirty (30) days prior written notice of such termination, whereupon each party shall be released from all further obligations and liability hereunder.

ARTICLE 12. Transfer by Landlord

Section 12.01. Sale and Conveyance of the Leased Premises. Landlord shall have the right to sell and convey the Leased Premises at any time during the Lease Term, subject only to the rights of Tenant hereunder; and such sale and conveyance shall operate to release Landlord from liability hereunder after the date of such conveyance as provided in Section 13.08. Except for eminent domain or taking by a public/government entity, any offer will be presented to Tenant and Tenant will have the right to purchase the property at the identical price and terms. If Tenant intends to pursue the purchase, a definitive Purchase Agreement shall be executed between Landlord and Tenant within Three (3) business days.

Section 12.02. Subordination. Landlord shall have the right to subordinate this Lease to any mortgage presently existing or hereafter placed upon the Leased Premises by so declaring in such mortgage; and the recording of any such mortgage shall make it prior and superior to this Lease regardless of the date of execution or recording of either document. Tenant shall, at Landlord's request, execute and deliver to Landlord, without cost, any instrument which may be deemed necessary or desirable by Landlord to confirm the subordination of this Lease and an Estoppel Certificate in the form required by Landlord, and as provided in Section 15.12 of this Lease; and, if Tenant fails or refuses to do so, Landlord may execute such instrument in the name and as the act of Tenant. Notwithstanding the foregoing, no default by Landlord under any such mortgage shall affect Tenant's rights hereunder so long as Tenant is not in default under this Lease. Tenant shall, in the event any proceedings are brought for the foreclosure of any such mortgage, attend to the purchaser upon any such foreclosure and recognize such purchaser as the Landlord under this Lease.

ARTICLE 13.
Defaults and Remedies

Section 13.01. Defaults by Tenant. Each of the following events shall be an "Event of Default" hereunder:

- (A) Failure of Tenant to pay any installment (within Thirty (30) days of the due date) of rent or any part thereof (including but not limited to failure to make any deposit required under the terms of this Lease) or any other payments of money, costs, or expenses herein agreed to be paid by Tenant when due.
- (B) Failure to observe or perform one or more of the other terms, conditions, covenants, or agreements of this Lease and the continuance of such failure for a period of Ten (10) days, or other such period provided in this Lease, after written notice by Landlord specifying such failure (unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature reasonably be performed, done, or removed, as the case may be, within such Ten (10) day period or other such period required in this Lease, in which case no default shall be deemed to exist so long as Tenant shall have commenced doing the same within such Ten (10) day or other such period required in this Lease and shall diligently and continuously prosecute the same to completion);
- (C) The filing of an application by Tenant for, or the consent to the appointment of, a receiver, trustee, or liquidator of itself or of all its assets;
- (D) The filing by Tenant of voluntary petition in bankruptcy, or the filing of a pleading in any court of record admitting in writing its inability to pay its debts as they become due;
- (E) The making by Tenant of a general assignment for the benefit of creditors;
- (F) The filing by Tenant of an answer admitting material allegations of or consenting to or defaulting in answering in petition filed against it in any bankruptcy proceedings;
- (G) The entry of an order, judgment, or decree by any Court of competent jurisdiction adjudging Tenant a bankrupt or appointing a receiver, trustee, or liquidator of it, or all of its assets, and such order, judgment, or decree continuing unstayed and in effect for any period of Sixty (60) consecutive days;
- (H) Abandonment of the Lease Premises by Tenant;
- (I) If this Lease or the estate of Tenant hereunder shall be transferred to or assigned to or subleased to or shall pass to or devolve upon any person or party, except in a manner herein expressly permitted; or
- (J) If a levy under execution or attachment shall be made against Tenant or its property and such execution or attachment shall not be vacated or removed by court order, bonding, or otherwise within a period of Thirty (30) days.

Section 13.02. Remedies of Landlord. Upon the occurrence of any event of default set forth in Section 13.01, Landlord shall have the following rights and remedies, in addition to those allowed by law, any, or all of which may be exercised without additional notice or demand upon Tenant.

- (A) Landlord may apply the security deposit, or any other prepaid funds or reenter the Leased Premises and cure any default of Tenant. In such event Tenant shall immediately reimburse Landlord as additional rental for any such costs, and shall restore the security deposit, or other prepaid funds used by Landlord to cure Tenant's default; and Landlord shall not be liable to Tenant for any loss or damage which Tenant may sustain by reason of Landlord's actions, whether or not caused by Landlord's negligence.

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- (B) Landlord, at any time thereafter, may at its option give written notice thereof to Tenant stating that this Lease and the term hereby demised shall expire and terminate on the date specified in such notice, and upon the date specified in such notice, this Lease and the term hereby demised, and all rights of Tenant under this Lease shall expire and terminate as if the date were the date herein definitely fixed for the termination of the term of this Lease, in which event (i) Tenant shall thereupon quit and surrender the Leased Premises but shall remain liable as hereinafter provided. (ii) Landlord may without notice, reenter and repossess the Leased Premises using such force for that purpose as may be necessary without being liable to indictment, prosecution, or damages therefore, and Tenant shall nevertheless remain liable as hereinafter provided for the remainder of the term hereof (iii) Notwithstanding the termination of this Lease, Landlord may declare all rental which would have been due under the Lease for the balance of the term to be immediately due and payable, and Tenant shall then be liable for the same to Landlord, together with all loss or damage Landlord may sustain by reason of such default and termination, it being expressly agreed and understood that such liabilities and remedies herein specified shall survive the termination of this Lease.
- (C) Landlord may, without terminating this Lease, reenter the Leased Premises and at its option, repair and alter the Leased Premises in such manner as Landlord may deem necessary or advisable, and/or let or relet the premises or any parts thereof for the whole or any part of the remainder of the term hereof or for a long period, in Landlord's name or as agent of Tenant, and out of any rental collected or received as a result of such letting or reletting Landlord shall first, pay to itself the cost and expense of retaking, repossessing, repairing and/or altering the Leased Premises, and the cost and expense of removing all personal property therefrom; second, pay to itself the cost and expense sustained in securing any new tenants, and if Landlord shall maintain and operate the Leased Premises, the cost and expense of operating and maintaining the Leased Premises; and, third, pay to itself any balance remaining on account of the liability of Tenant to Landlord. No reentry by Landlord shall absolve or discharge Tenant from liability hereunder. Landlord shall in no way be responsible or liable for any failure to relet the Leased Premises or any part thereof, or for any failure to collect any rental due on any such reletting.
- (D) Landlord may sue for injunctive relief or to recover damages for any loss resulting from the breach.

Section 13.03. Suit Prior to Expiration. Suit or suits for the recovery of any deficiency or damages, or for a sum equal to any installment or installments of rental and other charges hereunder, may be brought by Landlord, from time to time at Landlord's election, and nothing herein contained shall be deemed to require Landlord to await the date whereon this Lease or the term hereof would have expired by its term had there been no such default by Tenant or termination.

Section 13.04. Reinstatement. No receipt of moneys by Landlord from Tenant after termination of this Lease, or after the giving of any notice of termination of this Lease, shall reinstate, continue, or extend the term of this Lease or affect any notice theretofore given to Tenant, or operate as a waiver of the right of the Landlord to enforce the payment of Rental and other sum or sums of money and other charges herein reserved and agreed to be paid by Tenant then due or thereafter falling due, or operate as a waiver of the right of Landlord to recover possession of the Leased Premises by proper remedy, except as herein otherwise expressly provided, it being agreed that after the service of notice to terminate this Lease or the commencement of suit or summary proceedings, or after final order or judgment for the possession of the Leased Premises, Landlord may demand, receive, and collect any moneys due or thereafter falling due without in any matter affecting such money collected being deemed payments on account of the use and occupation of said Leased Premises, or at the election of Landlord, on account of Tenant's liability hereunder.

Section 13.05. Non-Waiver of Defaults. The Failure or delay by either party hereto to exercise or enforce at any time any of the rights or remedies or other provisions of this Lease shall not be construed to be a waiver thereof, nor affect the validity of any part of this Lease or the right of either party thereafter to exercise or enforce each and every such right or remedy or other provision. No waiver of any default and

breach of the Lease shall be deemed to be a waiver of any other default and breach. The receipt by Landlord of less than the full rent due shall not be construed to be other than a payment on account of rent then due, nor shall any statement on Tenant's check or any letter accompanying Tenant's check be deemed an accord and satisfaction, and Landlord may accept such payment without prejudice to Landlord's right to recover the balance of the rent due or to pursue any other remedies provided in this Lease. No act or omission by Landlord or its employees or agents during the Lease Term shall be deemed an acceptance of a surrender of the Leased Premises, and no agreement to accept such surrender shall be valid unless in writing and signed by Landlord.

Section 13.06. Cumulative Remedies. Each right and remedy of Landlord provided for in this Lease shall be cumulative and shall be in addition to every other right and remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Landlord of any one or more of the right or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

Section 13.07. Default by Landlord and Remedies of Tenant. It shall be a default and a breach of this Lease by Landlord if any covenant or obligation required to be performed or observed by it under this Lease for a period of Thirty (30) days after written notice thereof from Tenant; provided, however, that if the term, condition, covenant or obligation to be performed by Landlord is of such nature that the same cannot reasonably be performed within such thirty day period, such default shall be deemed to have been cured if Landlord commences such performance within said thirty day period and thereafter diligently undertakes to complete the same. Upon the occurrence of any such default, Tenant may sue for injunctive relief or to recover damages for any loss resulting from the breach, but Tenant shall not be entitled to terminate this Lease or withhold or abate any rent due hereunder.

Section 13.08. Limitation of Landlord's Liability. If Landlord shall fail to perform or observe any term, condition, covenant or obligation required to be performed or observed by it under this Lease as provided in Section 13.07 and if Tenant shall, as a consequence thereof, recover a money judgment against Landlord, Tenant agrees that it shall look solely to Landlord's right, title and interest in and to the Leased Premises for the collection of such judgment; and Tenant further agrees that no other assets of Landlord shall be subject to levy, execution or other process for the satisfaction of Tenant's judgment and that Landlord shall not be liable for any deficiency.

The references to "Landlord" in this Lease shall be limited to mean and include only the owner or owners, at the time, of the fee simple interest in the Leased Premises. In the event of a sale or transfer of such interest (except a mortgage or other transfer as security for a debt), the "Landlord" named herein, or, in the case of a subsequent transfer, the transferor, shall, after the date of such transfer, be automatically released from all personal liability for the performance or observance of any term, condition, covenant or obligation required to be performed or observed by Landlord hereunder; and the transferee shall be deemed to have assumed all of such terms, conditions, covenants and obligations.

Section 13.09. Transfer upon Termination. In the event of a termination of this Lease by reason of default or breach by Tenant hereunder: (i) all unexpired insurance premiums, all deposits theretofore made by Tenant with utility companies, all rights of Tenant under all insurance policies, and all fuel in the Leased Premises shall be deemed to be assigned to and transferred to Landlord; and (ii) Tenant shall deliver and assign to Landlord all leases of subtenants, and concession, license, and occupancy agreements and all security deposits and advance rents then held by Tenant with respect to any and all subleases upon the assumption by Landlord of the obligation to apply all such security deposits and advance rents held by Landlord in accordance with such subleases, and concession, license, and occupancy agreements.

Section 13.10. Landlord's Lien. The rent hereunder and each and every installment thereof, and all costs, reasonable attorneys' or solicitors' fees, or other expenses which may be incurred by Landlord in enforcing the provisions of this Lease, or on account of any delinquency of Tenant in carrying out the provisions of this

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Lease, shall be and they hereby are declared to constitute a valid lien upon the interest of Tenant in this Lease.

Section 13.11. Personalty of Tenant. Tenant shall not remove any personal property, fixtures or equipment from Leased Premises at any time at which Tenant is in default under this Lease. Upon any termination of this Lease at a time of which Tenant shall be liable in any amount to Landlord under this Lease, Landlord shall have a lien upon the personal property and effects of Tenant within the Leased Premises, and Landlord shall have the right, at Landlord's election, without notice to Tenant, to sell at a commercially reasonable sale all or part of said property and effects for such price as Landlord may deem best and to apply the proceeds of such sale against any amounts due under this Lease from Tenant to Landlord, including the expense of such sale. If Tenant shall not remove all of Tenant's effects from the Leased Premises at any expiration or other termination of this Lease, Landlord shall have the right, at Landlord's election, to remove all or part of said effects in any manner that Landlord shall choose and store the same without liability to Tenant for loss thereof, and Tenant shall be liable to Landlord for all expenses incurred in such removal and also for the cost of storage of said effects.

Section 13.12. Attorney's Fees and Costs. In the event the Tenant defaults in the performance or observance of any of the terms, conditions, covenants or obligations contained in this Lease and Landlord employs attorneys to enforce all or part of this Lease, to collect any rent due or to become due or recover possession of the Leased Premises, the Tenant agrees to reimburse Landlord for all attorneys' fees incurred thereby, whether or not suit has actually been filed. Tenant shall also pay the Landlord all costs and expenses, other than attorneys' fees, incurred in the enforcement of any of the terms, conditions, covenants or obligations contained in this Lease. All the sums paid or obligations incurred by Landlord as aforesaid with interest and costs shall be paid by Tenant to Landlord Five (5) days after the rendition of Landlord to Tenant of any bill or statement therefore.

ARTICLE 14.

Notices

Section 14.01. Notices. All notices and demands which may or are required to be given by either party to the other hereunder shall be in writing and shall be sent by United States certified or registered mail, postage prepaid, addressed as specified in Item L, Section 1.02 of this Lease or to such other firm or to such other place as Landlord or Agent may from time to time designate in writing.

Section 14.02. Place of Payment. All rent and other payment required to be made by Tenant to Landlord shall be delivered, or mailed to Landlord at as specified in Item K, Section 1.02 of this Lease, and such payments shall be deemed made when received by Landlord.

ARTICLE 15.

Miscellaneous Provisions

Section 15.01. Condition of Leased Premises. Landlord acknowledges there are issues with the mechanicals of this building. Tenant and Landlord will work together to resolve any issues unknown and Landlord will pay for any repair to mechanicals or capital expenses of the building.

Section 15.02. Choice of Law. This Lease shall be governed by and construed pursuant to the laws of the State of Indiana.

Section 15.03. Venue. Tenant agrees that the venue of any action arising between the parties to this Lease shall be in the County wherein the Leased Premises are located, and that the federal jurisdiction shall be in the district wherein the Leased Premises are located, and the Tenant hereby waives any claims of preferred venue under the Indiana Trial Rules, or any claim of a more convenient forum.

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Section 15.04. Successors and Assigns. Except as otherwise provided in this Lease, all of the covenants, conditions and provisions of this Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

Section 15.05. Examination of Lease. Submission of this instrument for examination or signature to Tenant does not constitute a reservation of or option for Lease, and it is not effective as a Lease or otherwise until execution by and delivery to both Landlord and Tenant.

Section 15.08. Time. Time is of the essence of this Lease and each and all of its provisions.

Section 15.07. Defined Terms and Marginal Headings. The words "Landlord" and "Tenant" as used herein shall include the plural as well as the singular. If more than one person is named as Tenant, the obligations of such persons are joint and several. The marginal headings and titles to the articles of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation any part hereof.

Section 15.08. Entire Agreement; Amendments. This Lease and the Acceptance Letter executed pursuant to Section 2.03 hereof contained all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreement, understanding or representation pertaining to any such matter shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest.

Section 15.09. Payment of and Indemnification for Leasing Commissions. The parties hereby acknowledge, represent and warrant that the only real estate broker or brokers involved in the negotiation and execution of this Lease is Levi Investment Realty, Inc., that Landlord is obligated to pay to it or them or for their benefit a leasing commission under its Leasing Agreement with ALLCAR, LLC and that no other broker or person is entitled to any leasing commission or compensation as a result of the negotiation or execution of this Lease. Each party shall indemnify the other party and hold it harmless from any and all liability for the breach of any such representation and warranty on its part and shall pay any compensation to any other broker or person who may be deemed or held to be entitled thereto.

Section 15.10. Severability of Invalid Provisions. If any provisions of this Lease shall be held to be invalid, void or unenforceable, the remaining provisions hereof shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.

Section 15.11. Definition of the Relationship between the Parties. Landlord shall not, by virtue of the execution of this Lease or the leasing of the Leased Premises to Tenant, become or be deemed a partner or joint venturer with Tenant in the conduct of Tenant's business on the Leased Premises or otherwise.

Section 15.12. Estoppel Certificate. Tenant shall, within Ten (10) days following receipt of a written request from Landlord, execute, acknowledge and deliver to Landlord or to any lender, purchaser or prospective lender or purchaser designated by Landlord, a statement in such form as the Landlord may reasonably request, certifying (i) that this Lease is in full force and effect and unmodified (or, if modified, stating the nature of such modification), (ii) the date to which rent has been paid, and (iii) that there are not, to Tenant's knowledge, any uncured defaults (or specifying such defaults if any are claimed). Any such statement may be relied upon by any prospective purchaser or mortgagee of all or any part of the Leased Premises. Tenant's failure to deliver such statement within such period shall be conclusive upon Tenant that this Lease is in full force and effect and unmodified, and that there are no uncured defaults in Landlord's performance hereunder.

Section 15.13. Force Majeure. Landlord shall be excused for the period of any delay in the performance of any obligation hereunder when such delay is occasioned by causes beyond its control, including, but not limited to, war, invasion or hostility; work stoppages, boycotts, slowdowns or strikes; shortages of materials, equipment, labor or energy; man-made or natural casualties; unusual weather conditions; acts or omissions of governmental or political bodies; or civil disturbances or riots.

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Section 15.14. Corporate Tenant. If the tenant is a corporation, partnership, or limited liability company, the individual, or individuals executing this Lease warrant their capacity and authority to execute this Lease on behalf of said corporation, partnership, or limited liability company.

Section 15.15. Memorandum of Lease. The parties hereto shall not record this Lease, but each party shall execute upon the request of the other a "memorandum of lease" suitable for recording.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first written above.

TENANT:

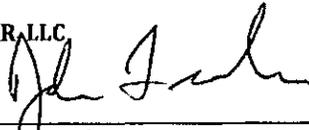
Practical Property Group, LLC

BY:  General Manager
Practical Property Group, LLC

PRINTED: Christopher J. Woodard

LANDLORD:

ALLCAR, LLC

BY:  -member

PRINTED: JOHN LEVINSOHN

CSW

**EXHIBIT A
LEGAL DESCRIPTION**

PARCEL I

PART OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 19 NORTH, RANGE 3 EAST, IN HAMILTON COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 19 NORTH, RANGE 3 EAST; THENCE NORTH 88 DEGREES 16 MINUTES 30 SECONDS EAST {ASSUMED BEARING} ON AND ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER 111.20 FEET TO THE EAST RIGHT OF WAY LINE OF THE MONON RAILROAD; THENCE NORTH 01 DEGREE 07 MINUTES 30 SECONDS WEST ON AND ALONG SAID EAST RIGHT OF WAY LINE 1737.47 FEET TO THE PLACE OF BEGINNING OF THIS TRACT; THENCE NORTH 01 DEGREE 07 MINUTES 30 SECONDS WEST ON AND ALONG SAID EAST RIGHT OF WAY LINE 201.03 FEET; THENCE NORTH 86 DEGREES 33 MINUTES EAST 534.99 FEET TO THE EAST RIGHT OF WAY LINE OF U. S. HIGHWAY #31; THENCE SOUTHWESTERLY ON AND ALONG SAID RIGHT OF WAY LINE 215.64 FEET TO A POINT WHICH IS 500.46 FEET EAST OF THE PLACE OF BEGINNING; THENCE SOUTH 87 DEGREES 45 MINUTES 30 SECONDS WEST PARALLEL WITH THE NORTH LINE OF SAID SOUTHEAST QUARTER 500.56 FEET TO THE PLACE OF BEGINNING, CONTAINING 2.45 ACRES, MORE OR LESS.

PARCEL II

PART OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 19 NORTH, RANGE 3 EAST, IN HAMILTON COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 19 NORTH, RANGE 3 EAST; THENCE NORTH 88 DEGREES 16 MINUTES 30 SECONDS EAST (ASSUMED BEARING) ON AND ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER 111.20 FEET TO THE EAST RIGHT OF WAY LINE OF THE MONON RAILROAD; THENCE NORTH 01 DEGREE 07 MINUTES 30 SECONDS WEST ON AND ALONG SAID EAST RIGHT OF WAY LINE 1,938.80 FEET TO THE PLACE OF BEGINNING OF THIS TRACT; THENCE NORTH 01 DEGREES 07 MINUTES 30 SECONDS WEST ON AND ALONG SAID EAST RIGHT OF WAY LINE 83.75 FEET; THENCE NORTH 88 DEGREES 52 MINUTES 30 SECONDS EAST ON AND ALONG SAID RIGHT OF WAY LINE 2.00 FEET; THENCE NORTH 01 DEGREES 03 MINUTES WEST ON AND ALONG SAID RIGHT OF WAY LINE 81.25 FEET; THENCE NORTH 86 DEGREES 33 MINUTES EAST 566.39 FEET TO THE EAST RIGHT OF WAY ONE OF U.S. HIGHWAY #31; THENCE SOUTH 13 DEGREES 01 MINUTES 15 SECONDS WEST ON AND ALONG SAID RIGHT OF WAY LINE 23.42 FEET; THENCE SOUTHERLY ON AND ALONG SAID RIGHT OF WAY ONE ON A CURVE TO THE LEFT WITH A RADIUS OF 5,642,578 FEET, 146.22 FEET TO A POINT ON SAID RIGHT OF WAY LINE SUBTENDED BY A CHORD OF 146.21 FEET BEARING SOUTH 09 DEGREES 49 MINUTES 32 SECONDS WEST FROM THE LAST DESCRIBED POINT; THENCE SOUTH 86 DEGREES 33 MINUTES 00 SECONDS WEST 534.99 FEET TO THE PLACE OF BEGINNING, CONTAINING 2.08 ACRES, MORE OR LESS.

EXCEPT ANY PORTION OF THE FOLLOWING DESCRIBED REAL ESTATE INCLUDED IN THE ABOVE PART OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 19 NORTH, RANGE 3 EAST IN HAMILTON COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID QUARTER SECTION; THENCE ALONG THE SOUTH LINE OF SAID QUARTER SECTION NORTH 88 DEGREES 16 MINUTES 30 SECONDS EAST (BEARING FROM PREVIOUS DESCRIPTION) 204.80 FEET; THENCE NORTH 01 DEGREES 15 MINUTES 05 SECONDS WEST 40.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD 32 AS PER INDIANA STATE HIGHWAY PLANS F-243 (3) DATED 1954 AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH 01 DEGREES 15 MINUTES 05 SECONDS WEST 105.00 FEET; THENCE NORTH 08 DEGREES 22 MINUTES 25 SECONDS EAST 86.6594 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 176.9377 FEET, THE RADIUS POINT OF WHICH BEARS SOUTH 81 DEGREES 37 MINUTES 35 SECONDS EAST FROM SAID POINT; THENCE ALONG SAID CURVE 90.2854 FEET TO THE POINT OF TANGENCY OF SAID CURVE, WHICH POINT BEARS NORTH 52 DEGREES 23 MINUTES 25 SECONDS WEST FROM THE RADIUS POINT; THENCE NORTH 37 DEGREES 36 MINUTES 35 SECONDS EAST 100.00 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 160.00 FEET, THE RADIUS POINT OF WHICH BEARS NORTH 52 DEGREES 23 MINUTES

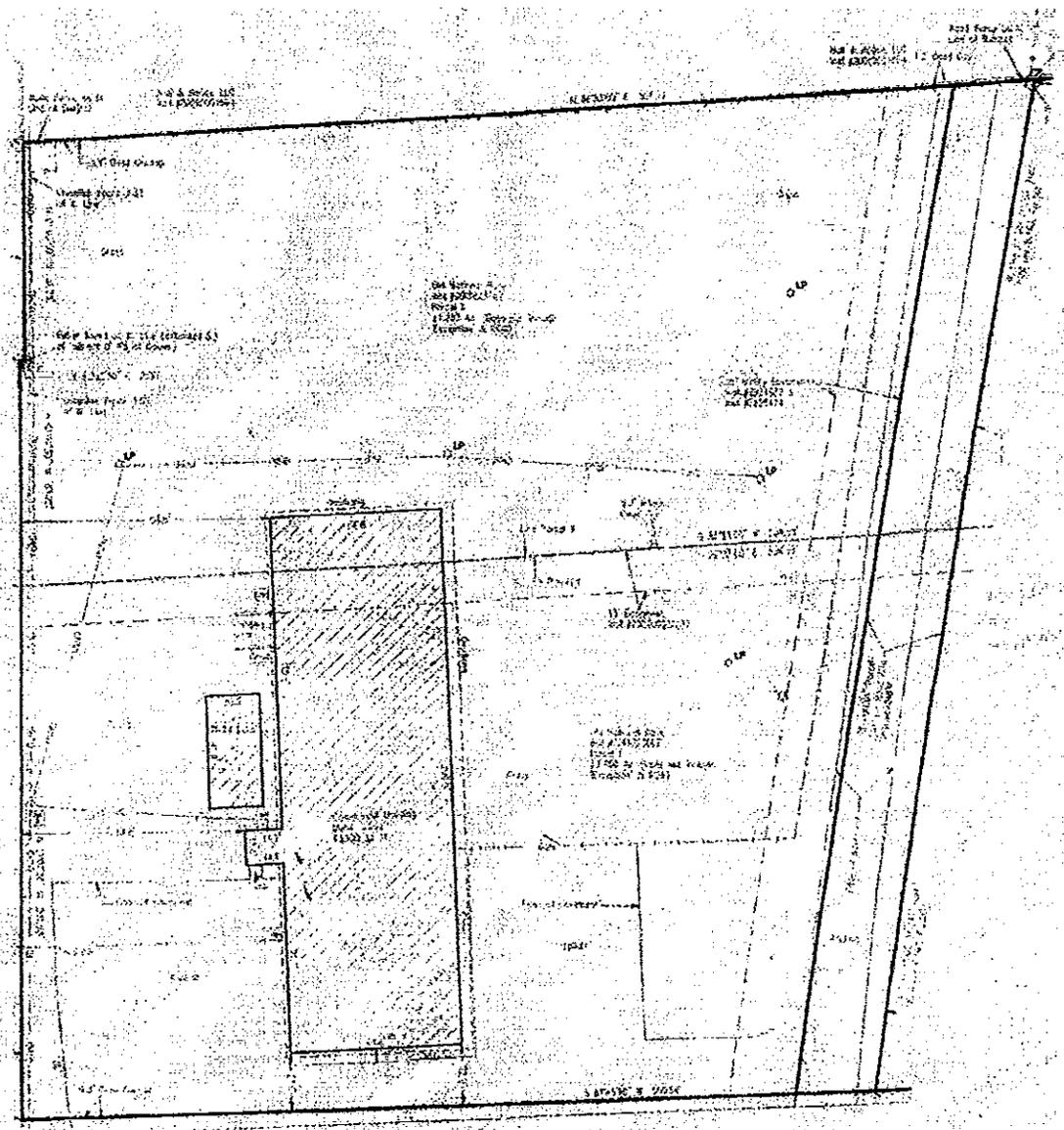
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25 SECONDS WEST FROM SAID POINT; THENCE ALONG SAID CURVE 108.3539 FEET TO THE POINT OF TANGENCY OF SAID CURVE, WHICH POINT BEARS NORTH 88 DEGREES 48 MINUTES 30 SECONDS EAST FROM THE RADIUS POINT; THENCE NORTH 01 DEGREES 11 MINUTES 30 SECONDS WEST 462.68 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 5,846.578 FEET, THE RADIUS POINT OF WHICH BEARS NORTH 88 DEGREES 48 MINUTES 30 SECONDS EAST FROM SAID POINT, THENCE ALONG SAID CURVE 1,171.9528 FEET TO A POINT BEARING NORTH 79 DEGREES 42 MINUTES 24 SECONDS WEST FROM THE RADIUS POINT; THENCE NORTH 86 DEGREES 33 MINUTES 00 SECONDS EAST, 30.8890 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF U.S. HIGHWAY 31 AS PER INDIANA STATE HIGHWAY PLANS F-24 (3) DATED 1954, SAID POINT BEING ON A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 5,816.578 FEET AND BEARING NORTH 79 DEGREES 38 MINUTES 04 SECONDS WEST FROM THE RADIUS POINT; THENCE SOUTHWESTERLY ALONG SAID CURVE AND RIGHT-OF-WAY LINE 1,173.2711 FEET TO THE POINT OF TERMINATION OF SAID CURVE, WHICH POINT BEARS SOUTH 88 DEGREES 48 MINUTES 30 SECONDS WEST FROM THE RADIUS POINT; THENCE SOUTH 01 DEGREES 11 MINUTES 30 SECONDS EAST, ALONG SAID RIGHT-OF-WAY LINE 462.68 FEET TO THE POINT OF CURVATURE OF A CURVE HAVING A RADIUS OF 190.00 FEET AND BEARING NORTH 88 DEGREES 48 MINUTES 30 SECONDS EAST FROM SAID RADIUS POINT; THENCE SOUTHWESTERLY ALONG SAID CURVE 128.6703 FEET TO THE POINT OF TERMINATION OF SAID CURVE, SAID POINT BEING SOUTH 52 DEGREES 23 MINUTES 25 SECONDS EAST FROM THE RADIUS POINT; THENCE SOUTH 37 DEGREES 36 MINUTES 35 SECONDS WEST 100.00 FEET TO THE POINT OF CURVATURE OF A CURVE HAVING A RADIUS OF 146.9379 FEET AND BEARING NORTH 52 DEGREES 23 MINUTES 25 SECONDS WEST FROM SAID RADIUS POINT; THENCE ALONG SAID CURVE 99.6613 FEET TO THE POINT OF TERMINATION OF SAID CURVE WHICH POINT BEARS SOUTH 88 DEGREES 44 MINUTES 55 SECONDS WEST FROM THE RADIUS POINT; THENCE SOUTH 01 DEGREES 15 MINUTES 05 SECONDS EAST 160.5085 FEET TO THE NORTH RIGHT-OF-WAY OF STATE HIGHWAY #32; THENCE SOUTH 88 DEGREES 16 MINUTES 30 SECONDS WEST ALONG SAID RIGHT-OF-WAY LINE 42.00 FEET TO THE POINT OF BEGINNING CONTAINING 1.502 ACRES MORE OR LESS.

End of Legal Description

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EXHIBIT B BUILDING



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**EXHIBIT C
LANDLORD'S WORK**

Tenant accepts Premises in "AS IS" condition, except Landlord shall replace any item defective during an inspection during the first Thirty (30) days that is reasonable to the functioning of the property over Five Hundred Dollars (\$500). Tenant agrees to handle all cosmetic items and keep the property in a clean fashion. The air conditioning unit for the office area is missing and shall be replaced in the spring of 2013. The building is water tight and showed no signs of roof leaks.

CJH

**EXHIBIT D
RULES AND REGULATIONS**

1. The sidewalks, entrances, passages, courts, elevators, vestibules, stairways, corridors or halls shall not be obstructed or used for any purpose other than ingress and egress. It is prohibited to smoke in elevators and restrooms.
2. No awnings or other projections shall be attached to the outside walls of the Leased Premises. All electric ceiling fixtures hung in offices or spaces along the perimeter of the Leased Premises must be fluorescent, of a quality, type, design, and bulb color approved by Landlord. Neither the interior nor the exterior of any windows shall be coated or otherwise sun screened without written consent of Landlord.
3. The sashes, sash doors, windows, and doors that reflect or admit light and air into halls, passageways or other public places in the Leased Premises shall not be covered or obstructed, nor shall any bottles, parcels or other articles be placed on the window sills.
4. The water and wash closets and other plumbing fixtures shall not be used for any purpose other than those for which they were constructed, and no sweepings, rubbish, rags, or other substances shall be thrown therein. All damages resulting from any misuse of the fixtures shall be borne by the Tenant who, or whose subtenants, assignees or any of their servants, employees, agents, visitors or licensees shall have caused the same.
5. Tenant shall not mark, paint, drill into, or in any way deface any part of the Leased Premise. No boring, cutting or stringing of wires or laying of linoleum or other similar floor coverings shall be permitted, except with the prior written consent of the Landlord and as the Landlord may direct.
6. Not applicable to this lease.
7. Tenant shall not make, or permit to be made any unseemly or disturbing noises or disturb or interfere with occupants of this or neighboring buildings or premises or those having business with them, whether by the use of any musical instrument, radio, phonograph, unusual noise, or in any other way. Tenant shall not throw anything out of doors, windows or down the passageways.
8. Tenant will be allowed to store according to code chemicals necessary to the landscape industry, fuel, petroleum products and other materials necessary to a landscaper.
9. No additional locks or bolts of any kind shall be placed upon any of the doors or windows by Tenant, nor shall any changes be made in existing locks or the mechanism thereof. Tenant must, upon the termination of his tenancy, restore to the Landlord all keys of stores, offices, and toilet rooms, either furnished to, or otherwise procured by, such Tenant and in the event of the loss of keys so furnished, such Tenant shall pay to the Landlord the cost of replacing the same or of changing the lock or locks opened by such lost key if Landlord shall deem it necessary to make such changes.
10. Not applicable to this lease.
11. Landlord shall have the right to prohibit any advertising by Tenant which, in Landlord's opinion tends to impair the reputation of the Leased Premises or its desirability as an office location, and upon written notice from Landlord Tenant shall refrain from or discontinue such advertising.
12. Any persons employed by Tenant to do work shall, while in the Leased Premises and outside of the Leased Premises, be subject to and under the control and direction of Tenant (but not as an agent or servant of the Landlord), and Tenant shall be responsible for all acts of such persons.

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13. All office equipment of any electrical or mechanical nature shall be placed by Tenant in the Leased Premises in settings approved by landlord to absorb or prevent any vibration, noise and annoyance.

14. No air conditioning unit or other similar apparatus shall be installed or used by Tenant without the written consent of Landlord.

**EXHIBIT E
GUARANTY**

In consideration of the making of that certain Industrial Lease dated the 15th day of October 2012, by and between ALLCAR, LLC ("Landlord") and Practical Property Group, LLC ("Tenant"), the undersigned unconditionally guarantees the payment of Rent to be paid by Tenant and the performance by Tenant of all the terms, conditions, covenants and agreements of the Lease, and the undersigned promises to pay all Landlord's expenses, including reasonable attorney's fees, incurred by Landlord in enforcing all obligations of Tenant under the Lease or incurred by Landlord in enforcing this Guaranty. Guarantor acknowledges that but for the execution of and delivery of this Guaranty, Landlord would not have entered into the Lease. The obligations of this Guaranty shall be construed in accordance with the laws of the State of Indiana. Landlord's consent to any assignment or assignments of the Lease by Tenant and Tenant's assigns shall not release the undersigned from liability as guarantor.

Practical Property Group, LLC

BY:  General Manager
Practical Property Group, LLC

PRINTED: Christopher J. Woodard

DATE: 9/25/12