

Return to:  
9310 So. 370 W. Bldg 5  
Sandy, UT 84070  
Parcel No.: 21-36-377-008-4001  
21-36-377-008-4002

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3/19/2015 9:06:00 AM \$65.00  
Book - 10306 Pg - 3340-3367  
Gary W. Ott  
Recorder, Salt Lake County, UT  
METRO NATIONAL TITLE  
BY: eCASH, DEPUTY - EF 28 P.

## SUBLEASE AGREEMENT

THIS SUBLEASE is entered into as of the 10 day of June 2014, by and between **Standard Plumbing Supply Co., Inc.** (hereinafter referred to as "Sublandlord"), and **Hartman Heating and Air, Inc.** (hereinafter referred to as "Subtenant" or "Subleasee").

### RECITALS:

Sublandlord is the tenant of certain premises located at 8451 South Sandy Parkway, City of Midvale, Utah (the "Leased Premises") under a lease currently between Sublandlord and Grass Valley Holdings, a Utah Limited Partnership (the "Prime Landlord"), dated January 9<sup>th</sup>, 2013, (the "Original Lease"). Copies of the Original Lease attached hereto as Exhibit B.

Subtenant has agreed to sublease from Sublandlord that portion of the Leased Premises consisting of approximately 12,300 square feet (subject to verification).

NOW, THEREFORE, in consideration of the terms, covenants, conditions and agreements contained herein, the parties hereto agree as follows:

### 1. Premises.

Sublandlord hereby subleases to Subtenant, and Subtenant subleases from Sublandlord, the Premises, together with the non-exclusive right to use, the land, together with the building and improvements thereon, located at 8451 S. Sandy Pkwy, Midvale, Utah. More particularly described as: the land; building; and improvements being referred to in this Lease include approximately 12,300 square feet of building space, including approximately 1,500 square feet of mezzanine office space, and 1.67 acres of land (hereinafter, the "Premises"). This Lease is subject to an accurate survey and disclosure of easements, rights of way and restrictions of record etc.

In addition, in no event shall Subtenant have the right to receive any payments due from Prime Landlord under the Lease. Sublandlord shall have all of the rights of Prime Landlord under their Lease. As between the parties hereto only, in the event of a conflict between the terms of the Lease and terms of this Sublease, the terms of this Sublease shall control.

### 2. Term.

(a) The term of this Sublease shall be for the period beginning June 10, 2014 (the "Commencement Date") and ending on January 31, 2018 (the "Term"), thus being coterminous with the Original Lease. Notwithstanding any provision herein to the contrary, this Sublease shall automatically terminate upon the expiration or termination of the Original Lease. In this event, the Subtenant shall be permitted to lease the Premise on a first right basis directly with Landlord.

(b) All parties clearly understand that there is an option to purchase said Premise (Exhibit C) between Sublessee (Hartman Heating and Air) and the property owner (Grass Valley Holdings). Upon the release of the current Lis Pendens, and/or any other encumbrances, from the Premise's title, the Landlord agrees to release Standard Plumbing Supply Co. Inc. (Sublandlord) from its direct lease agreement (Exhibit B) and initiate the Lease with Purchase Option with Hartman Heating and Air.

### COURTESY RECORDING

This Document is being recorded solely as a courtesy and an accommodation to the parties named herein. METRO NATIONAL TITLE hereby expressly disclaims any responsibility or liability for the accuracy of the content thereof.

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### 3. Rent.

(a) Commencing on June 10, 2014, Subtenant shall pay to Sublandlord as Net Rent for the Premises the sum of six thousand six hundred ninety-nine dollars (\$6,699.00) per month. Rent shall increase by 1.5% annually each anniversary year of this sublease commencement.

(b) Rent shall be payable in advance, without demand, offset or deduction, on the first day of each month during the Term. A partial month's payment shall be due on the Commencement Date if the Commencement Date is other than the first day of a month.

(d) Net Lease. It is the intention of the parties that this Lease is a "triple net lease" (NNN) and Sublandlord shall receive the monthly rent payments and any additional rent and other sums required of Subtenant under the Lease.

(e) Additional Rent Other Sums. As additional rent, upon demand and demonstration of documents or other evidence pertaining to said assessment or other sums due, Subtenant shall pay Sublandlord all assessments for public improvements assessed and levied against the Premises. Please refer to Exhibit B, section 5.e.

(f) Services and Utilities. Subtenant shall, at Subtenant's own expense, obtain all utility services supplying the Premises, including but not limited to electricity, water, sewer, standby water for sprinkler, gas, telephone and all other utilities and other communication services, in its own name, effective as of the commencement of the Sublease, and shall pay the cost directly to the applicable utility, including any fine, penalty, interest or cost that may be added thereto for non-payment thereof.

(g) Payment of Property Taxes. In addition to payment of Fixed Monthly Rent Payments Utilities and Additional Rent, if any, Subtenant shall be solely responsible to pay all property taxes assessed for the years 2014 through 2018. Sublandlord covenants and agrees that it has or will pay all property taxes for the tax year 2013.

(h) Premise is currently encumbered by a Lis Pendens for occupancy. If Subtenant is required to vacate the premises as a result of an order of the court, Standard Plumbing Supply Co., Inc., will refund all rents and security deposits paid through date of eviction. Operational expenses, CAMS, etc., incurred by Sublessee, are not refundable.

### 4. Security Deposit.

Subtenant shall deposit with Sublandlord upon execution of this Sublease the sum of ten thousand dollars (\$10,000) as security for Subtenant's faithful performance of Subtenant's obligations hereunder ("Security Deposit"). Security Deposit, or so much thereof as had not theretofore been applied by Sublandlord, shall be returned to Subtenant on the expiration of this sublease.

### 5. Assumption Agreement and Covenants.

(a) Subtenant hereby assumes and shall faithfully and promptly perform all obligations and duties imposed on Sublandlord as lessee under the Lease (Exhibit B).

(b) Condition of the Premises. Subtenant acknowledges examining the Premises prior to the commencement of the Lease term, Subtenant is fully familiar with the condition of the Premises and that Subtenant accepts the Premises "As-Is." Subtenant enters into the Lease

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without any representations or warranties on the part of SubLandlord, express or implied, as to the condition of the Premises, including, but not limited to, the cost of operations and the condition of its fixtures, improvements and systems.

## **6. Default.**

Default by Subtenant and Sublandlord's Remedies.

(a) Event of Default. If any one or more of the following events shall occur and be continuing beyond the period set forth in any default notice provided to be given, an Event or Events of Default shall have occurred under this Lease:

(i) Non-Payment. If Subtenant shall fail to pay any sums due and owing under this Lease and such failure shall continue for thirty (30) days after delivery of notice from SubLandlord to Subtenant; or

(ii) Non-Performance. If Subtenant shall fail to comply with any of the other terms, covenants, conditions or obligations of this Lease and such failure in compliance shall continue for thirty (30) days after delivery of notice from SubLandlord to Subtenant specifying the failure, or, if such failure cannot with due diligence be remedied within thirty (30) days, Subtenant shall not, in good faith have commenced within said thirty (30) day period to remedy such failure and continued diligently and continuously thereafter to prosecute the same to completion; or

(iii) Vacation or Abandonment. If Subtenant shall vacate or abandon the Premises.

(b) Right to Terminate Lease and Re-Enter. SubLandlord may, at Landlord's option, on 10 days' notice to Subtenant after the expiration of the thirty (30) day cure period provided, declare this Lease terminated at the expiration of such 10 day period and Subtenant shall quit and surrender possession of the Premises.

(c) In the event of a breach, SubLandlord shall not be entitled or allowed to retain the Option Payment provided hereinafter, but shall return said payment upon declaration of breach. SubLandlord shall not be allowed or entitled to retain the Option Payment as security or offset reserves to offset or cover any breach of the Lease Agreement by Subtenant.

## **7. Insurance; Waiver of Subrogation.**

(a) Insurance Coverage. Subtenant shall, during the lease term, at Subtenant's own expense, obtain and keep in force, the following insurance:

(i) Fire Insurance. An All-Risk Insurance policy covering the Premises and all improvements located therein in an amount of one hundred (100%) percent of the replacement value of the building and all improvements on the Premises other than foundations, and with such deductible as SubLandlord considers appropriate in SubLandlord's sole discretion. This insurance shall (A) name only Landlord Sublandlord and Landlord's mortgagees, if any, as their respective interests may appear; (B) provide that no act of Subtenant shall impede the right of Landlord or Landlord's mortgagees, if any, to receive and collect the insurance proceeds; and (C) provide that the right of Landlord and Landlord's mortgagees, if any, to the insurance proceeds shall not be diminished because of any insurance carried by Subtenant for Subtenant's own account. Subtenant acknowledges that it has no right to receive any proceeds from such insurance policy. Landlord shall not have to carry insurance of any kind on the Premises or on Subtenant's furniture or furnishings, or on any of Subtenant's fixtures, equipment,

improvements, or appurtenances under this Lease; and Landlord shall not be obligated to repair any damage thereto or replace the same.

(ii) Liability Insurance. Comprehensive general liability insurance coverage (either primary and/or umbrella policies), which shall include personal injury, bodily injury, broad form property damage, operations hazard, owner's protective coverage, contractual liability and products and completed operations liability, in limits not less than two million (\$2,000,000) Dollars inclusive. This insurance shall insure Landlord and "Landlord's Indemnitees" (as defined below) and Subtenant, and such other parties as Landlord may designate, naming each as the insured. The term "Landlord's Indemnitees" shall mean Landlord's affiliates, mortgagees, if any, and their respective officers, shareholders, directors, employees, agents and representatives, as well as the officers, shareholders, directors, employees, agents and representatives of Landlord.

(b) Waiver of Subrogation. To the extent that the parties may legally so agree, neither SubLandlord nor Subtenant shall be liable by way of subrogation or otherwise to the other party, or to any insurance company insuring the other party for any loss or damage to any of the property of Landlord or Subtenant, as the case may be, which loss or damage is covered by any insurance policies carried by the parties and in force at the time of any such damage, even though such loss or damage might have been occasioned by the negligence of Landlord or Subtenant, and the party hereto sustaining such loss or damage so protected by insurance waives its rights, if any, of recovery against the other party hereto to the extent and amount that such loss is covered by such insurance. This release shall be in effect only so long as the applicable insurance policies shall contain a clause or endorsement to the effect that the aforementioned waiver shall not affect the right of the insured to recover under such policies; Subtenant shall use its best efforts (including payment of any additional premium) to have its insurance policies contain the standard waiver of subrogation clause. In the event Subtenant's insurance carrier declines to include in such carrier's policy the standard waiver of subrogation clause, Subtenant shall promptly notify Landlord in writing.

#### **8. Use; Compliance with Law.**

(a) The Premises shall be continuously occupied and used by Subtenant only for general business offices and for handling, storing and distributing products for clients that they serve and for no other purpose.

(b) Subtenant shall obey, observe and promptly comply with all rules, regulations, ordinances and laws, which shall be applicable, now or at any time during the Term. Subtenant shall not store, use, discharge or dispose of any hazardous or toxic substances, pollutants, contaminants or any other substances regulated by any state or federal statute (collectively "Contaminants") on the Premises other than in the ordinary course of its business. Subtenant shall be solely responsible for the costs of removing or cleaning any Contaminants found on the Premises and caused by Subtenant.

#### **9. Assignment and Subletting.**

Subtenant shall not assign its interest in the Sublease voluntarily or by operation of law and shall not sublet or license all or any portion of the Premises without the prior written consent of Sublandlord (and Prime Landlord if such consent is required by the Lease). Sublandlord's consent or approval may be granted or withheld in Sublandlord's sole discretion, but such permission shall not be unreasonably withheld or delayed.

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**10. Termination.**

Notwithstanding anything contained herein to the contrary, the existence of this Sublease is dependent and conditioned upon the existence of the Lease, and in the event of the cancellation or termination of the Lease this Sublease shall thereupon be terminated and a direct lease between the Subtenant and the Prime Landlord shall be pursued.

**11. Sublandlord's Obligations.**

Sublandlord shall have no duty to perform any obligations of the Prime Landlord under the Lease and shall not be responsible for or liable to Subtenant for any default, failure or delay on the part of Prime Landlord in the performance of the Lease (Exhibit B). In the event of such default or failure, Sublandlord agrees, upon notice from Subtenant, to make demand upon Prime Landlord to perform its obligations under the Lease.

**12. Signs.**

Subtenant shall be allowed to construct or place any reasonable signs at or on the Premises as necessary for Subtenant to carry out its business purposes at the Premises. Subtenant shall alone be responsible to maintain any signs erected.

Reagan Billboard Sign. Subtenant has expressed an interest to both Landlord and Sublandlord to arrange for advertizing on the billboard throughout the sublease term. Also, see attached purchase option exhibit for rights to Reagan Billboard sign on the Premise.

**13. Notices.**

Notices. All notices, consents, demands, communications or approvals required or permitted by this Lease shall be in writing and shall be delivered personally or delivered by certified or registered mail, return receipt requested, addressed as follows:

- If to Landlord: Grass Valley Holdings, LP  
Randall Harward  
PO Box 847  
Spanish Fork, UT 84660
- If to Sublandlord: Standard Plumbing Supply Co., Inc.  
Richard Reese  
9310 South 370 West  
Sandy, UT 84070
- If to Subtenant: Hartman Heating and Air, Inc.  
Paul Hartman and or Dustin Hartman  
120 E Vine Street  
Murray, UT 84107

Landlord, Sublandlord and Subtenant may, by notice given in the same manner set forth above, designate a different address to which subsequent notices shall be sent. Notice shall be deemed given when delivered, if delivered personally or by reputable overnight delivery service that provides proof of delivery, or when mailed if sent by certified or registered mail, return receipt requested.

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**14. Subordination and Creation of New Mortgages or Encumbrances.**

(a) Subordination. This Lease shall be subject and subordinate to that certain General Electric Capital Corporation mortgage (hereinafter the "GE Mortgage"), in which Landlord is the Trustor. Landlord represents and covenants that there are no other encumbrances, mortgages, liens, or other servitudes against the Premises besides afore mentioned Lis Pendens.

(b) Restriction of Landlord's Right to Sell, Encumber or Alienate the Premises. In light of the Option and purchase rights of Subtenant (Hartman Heating and Air), Landlord covenants and agrees that it shall not enter into any additional or new agreement with any party which could create any encumbrance, lien, security interest, mortgage, or otherwise affect title to the Premises, without first obtaining written permission of Subtenant.

**15. Authority.**

The individual executing this Sublease on behalf of Subtenant represents and warrants to Sublandlord that Subtenant is a corporation in good standing under the laws of the state in which the Premises are located and has full right and authority to enter into the Sublease and perform its obligations hereunder.

**16. Structural / Utilities.**

At all times, Prime Landlord and/or Sublandlord shall be responsible for any maintenance, repairs, and/or replacement that is required to maintain the structural integrity of the foundation, slab, building structure, walls, roof and lead-in lines for utilities.

**17. Agency / Commission.**

Sublandlord acknowledges that Jeff Heaton and Eric J. Larson of Newmark Grubb Acres represent the Subtenant and Doug Scheel of Coldwell Banker Commercial represents the Sublandlord. A fee of 6% of the total gross rents shall be due. Sublandlord shall pay \$10,000.00 upon the execution of this Sublease and the remaining shall be due on October 31, 2014. Said commission shall be split equally between the Subtenants and Sublandlord's representatives.

**IN WITNESS WHEREOF,**

Sublandlord and Subtenant have agreed to the foregoing Sublease in its entirety as of the day and year first set forth above, and have executed the same on the day and year first set forth above.

**SUBLANDLORD:**

By: *Richard A. Jones*  
Its: President  
Date: 6-10-14

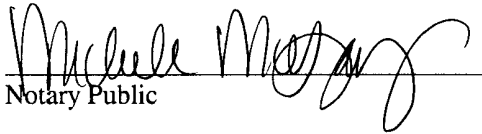
**SUBTENANT:**

By: *Paul A. [Signature]*  
Its: President  
By: *[Signature]*  
Its: Sec TREASURES  
Date: 6.10.14



State of Utah County of Salt Lake )ss:

On this date March 17, 2015, personally appeared before me Richard N. Reese, who being by me duly sworn did say, that he/she is the President of Standard Plumbing Supply Co., Inc., the corporation that executed the above and foregoing instrument and that said instrument was signed on behalf of said corporation by authority of its by-laws (or by authority of a resolution of its board of directors) and said Richard N. Reese acknowledged to me that said corporation executed the same.

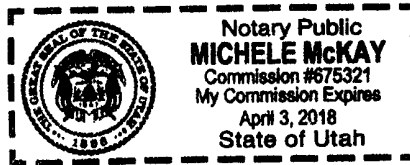
  
Notary Public



State of Utah County of Salt Lake )ss:

On this date March 17, 2015, personally appeared before me Dustin Hartman, who being by me duly sworn did say, that he/she is the Secretary Treasurer of Hartman Heating and Air, Inc., the corporation that executed the above and foregoing instrument and that said instrument was signed on behalf of said corporation by authority of its by-laws (or by authority of a resolution of its board of directors) and said Dustin Hartman acknowledged to me that said corporation executed the same.

  
Notary Public



State of Utah County of Salt Lake )ss:

On this date March 17, 2015, personally appeared before me Paul Hartman, who being by me duly sworn did say, that he/she is the President of Hartman Heating and Air, Inc., the corporation that executed the above and foregoing instrument and that said instrument was signed on behalf of said corporation by authority of its by-laws (or by authority of a resolution of its board of directors) and said Paul Hartman acknowledged to me that said corporation executed the same.

  
Notary Public



**EXHIBIT A**  
**Agreement Regarding Consent to Sublease**

THIS AGREEMENT ("Agreement") is made effective June 10, 2014, by and among the following parties:

Grass Valley Holdings, LP  
Randall Howard  
PO Box 847  
Spanish Fork, UT 84660  
("Prime Landlord")

and

Standard Plumbing Supply Co., Inc.  
Richard Reese  
9310 South 370 West  
Sandy, UT 84070  
("Sublandlord")

**RECITALS:**

A. Sublandlord is the tenant of certain premises located at 8451 South Sandy Parkway, Midvale, Utah (the "Premises") under a lease currently between Sublandlord and Prime Landlord dated January 9, 3013, (the "Lease");

B. Pursuant to the Lease, Sublandlord has no right to assign or grant a sublease under the Lease, except with the written consent of Prime Landlord;

C. Sublandlord desires to sublease the Leased Premises to Hartman Heating and Air ("Subtenant"), pursuant to a Sublease Agreement (the "Sublease"); and

D. Prime Landlord is willing to consent to the Sublease as provided in this Agreement.

NOW, THEREFORE, in consideration of the terms, covenants, conditions, and agreements contained herein, the parties agree as follows:

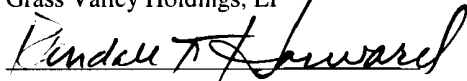
1. Subject to the covenants, terms, and conditions set forth herein, Prime Landlord hereby consents to the Sublease.

2. The Sublease shall not alter or diminish in any way Sublandlord's obligations under the Lease. Sublandlord shall continue to be bound to Prime Landlord for all covenants, obligations, and liabilities of Sublandlord in the Lease. By way of example and without limitation, the payment of all rental provided for in the Lease shall continue to be paid timely and fully by Sublandlord to Prime Landlord, regardless of the rental arrangements provided for in the Sublease.

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

PRIME LANDLORD:

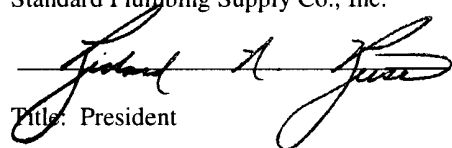
Randall ~~Howard~~ *Harward*  
Grass Valley Holdings, LP



Title: General Partner

SUBLANDLORD:

Richard Reese  
Standard Plumbing Supply Co., Inc.

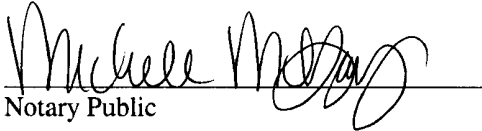


Title: President



State of Utah County of Salt Lake )ss:

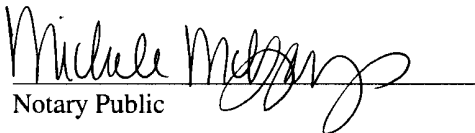
On this date March 17, 2015, personally appeared before me Richard N. Reese, who being by me duly sworn did say, that he/she is the President of Standard Plumbing Supply Co., Inc., the corporation that executed the above and foregoing instrument and that said instrument was signed on behalf of said corporation by authority of its by-laws (or by authority of a resolution of its board of directors) and said Richard N. Reese acknowledged to me that said corporation executed the same.

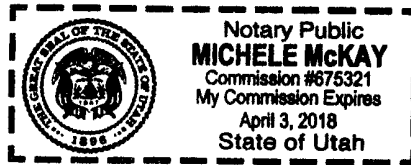
  
Notary Public



State of Utah County of Salt Lake )ss:

On this date March 17, 2015, personally appeared before me, Randall T. Harward, who being by me duly sworn did say that he/she is a Manager of Grass Valley Holdings, LP the limited partnership that executed the above and foregoing instrument and that said instrument was signed on behalf of said company by authority of its Articles or Organization and/or Operating Agreement and said Randall T. Harward acknowledged to me that said limited partnership executed same.

  
Notary Public



**EXHIBIT B  
LEASE**

Direct Lease from Prime Landlord, Grass Valley Holdings LP, to Tenant Standard Plumbing Supply

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**COMMERCIAL AND INDUSTRIAL LEASE  
(SINGLE TENANT NET)**

THIS COMMERCIAL AND INDUSTRIAL LEASE is made and entered into this 9 day of JANUARY, 2013, by and between Grass Valley Holdings LP ("**Landlord**") and STANWOOD TURNERS LLC ("**Tenant**").

WITNESSETH:

In consideration of the mutual covenants and promises contained herein and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, it is agreed by the parties hereto as follows:

1. **PREMISES:** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord an area containing approximately 12,300 square feet, attached hereto and incorporated herein by this reference (the "**Premises**") of that certain building (the "**Building**"), commonly referred to as the Sandy Building, attached hereto and incorporated herein by this reference (the "**Property**").

Tenant shall have the right to use the common areas and parking areas appurtenant to the building in which the Premises are located. Landlord reserves to itself the use of the roof, exterior walls and the area above and below the Premises, together with the right to install, maintain, use, repair and replace pipes, ducts, conduits, wires and structural elements now or in the future leading through the Premises and which serve other parts of the structure in which the Premises are located.

2. **LEASE TERM:**

(a) The initial term of this Lease shall be five years beginning on February 1, 2013 (the "**Commencement Date**") and ending on January 31, 2018 (the "**Initial Term**").

3. **RENT:**

(a) **Base Rent:** Tenant agrees to pay to Landlord as rent ("**Base Rent**") during the Initial Term, at the address specified in this Lease or at such other place Landlord may from time to time designate in writing, the sum of six thousand and six hundred dollars (\$6,600.00). Base Rent to increase by ~~3%~~ 1.5% annually on ~~February~~ MARCH 1 of each subsequent year of the lease. Said sum to be payable as follows: 12/22 RT

(b) In the event Tenant fails to pay Base Rent (including any Additional Rent due hereunder) by the tenth (10th) day of each calendar month a late charge of five percent (5%) shall be charged to Tenant and paid to Landlord as Additional Rent.

(c) Tenant contemporaneously with the execution of this Lease, has deposited with Landlord the sum of ~~six thousand six hundred dollars (\$6,600.00)~~ (the "Security Deposit") receipt of which is hereby acknowledged by Landlord, to secure the faithful performance by Tenant of all of the terms, covenants and conditions of this Lease. If Tenant fails to pay the Base Rent as provided herein, promptly when due, said deposit may, at the option of the Landlord (but Landlord shall not be required to), be applied to any rent due and unpaid, and if Tenant violates any of the other terms, covenants and conditions of this Lease, said deposit shall be applied to any damages suffered by Landlord as a result of Tenant's default to the extent of the amount of the damages suffered.

*No SECURITY DEPOSIT* *RTA*

(d) Nothing contained in this Section shall in any way diminish or be construed as the waiver by Landlord of any other rights or remedies provided elsewhere herein, or by law. If the security deposit is applied by Landlord for the payment of overdue Base Rent or other sums due and payable to Landlord by Tenant hereunder, then Tenant shall, upon receipt of a written demand by Landlord, forthwith remit to Landlord a sufficient amount in cash to restore the Security Deposit to its original amount, and Tenant's failure to do so within ten (10) days after receipt of such demand shall constitute a breach of this Lease. Should Tenant comply with all of the terms, covenants and conditions of this Lease and promptly pay Base Rent and all other sums payable by Tenant to Landlord hereunder, the Security Deposit shall be returned in full without interest to Tenant according to applicable Utah law at the end of the Lease Term, or upon the earlier termination of this Lease pursuant to the provisions hereof.

4. **AUTHORIZED USE.** Tenant shall use the Premises for distribution of products, and for no other purpose whatsoever, without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. Tenant shall not commit or knowingly permit any waste of the Premises or use the same for any unlawful purpose. Tenant will comply with all applicable federal, state and local laws, ordinances and regulations relating to the Premises and its use and operation by Tenant. Tenant agrees not to keep, use or permit to be kept or used on the Premises any flammable fluids, explosives or any "hazardous substance," "solid waste," or "hazardous waste" which would be a violation of any federal, state, or local law or ordinance.

5. **ADDITIONAL RENT.** In addition to the Basic Rent, in each applicable year the Tenant shall pay the Landlord "Additional Rent" on a monthly basis with Basic Rent payments, its "proportionate share" of the Building's Operating Costs. Such costs shall be computed as follows:

(a) Tenant's Proportionate Share (based on the rentable square feet in the Premises divided by the rentable square feet in the Building) is **100% percent (100%)**. Tenant's estimated share of property taxes for the first calendar year of the lease shall be ~~\$1,166.00~~ *per BILLED* *MONTHLY* month. Tenant shall be solely responsible for all other operating costs as defined below. *RTA*

(b) Landlord will furnish Tenant within 60 days of the end of the calendar year a statement indicating the prior year's actual Property Taxes and a comparison to the estimated payments made by Tenant.

(c) In the event the above comparison yields a shortfall, Tenant will be given an invoice requiring a lump sum payment within 60 days for Tenant's share of the increase prorated for the number of months Tenant's lease year coincides with the comparison year. In addition, the Tenant's monthly rent shall be adjusted to reflect Landlord's estimate of Operating Costs for the following year.

(d) In the event the above comparison shows an overpayment by Tenant, Landlord shall, at its option, credit the overpayment to subsequent rent payments, or refund such excess in a lump sum within 60 days after having determined the overpayment by Tenant. Notwithstanding this paragraph, in no case shall the total rent paid in any year be reduced by such refund or otherwise below the Basic Rent.

(e) "Operating Costs" shall mean all actual costs and expenses incurred by Landlord in connection with the ownership, operation, management and maintenance of the Building, including, but not limited to, all real and personal property taxes and assessments, except those to be paid by Tenant on its own personal property and leasehold improvements, and any tax or assessment levied or charged in lieu thereof; snow removal, trash removal, utilities, supplies, insurance, license, permit and inspection fees, cost of services of independent contractors, property management fees, cost of compensation (including employment taxes and fringe benefits) connected with the day-to-day operation and maintenance of the Building (including janitorial services, gardening, security, parking, elevator, painting, plumbing, electrical, carpentry, heating, ventilation, air conditioning, window washing and signing), but excluding persons performing services not uniformly available to or performed for substantially all building tenants; and rental expense or a reasonable allowance for depreciation of personal property used in the maintenance, operation and repair of the Building. The foregoing notwithstanding, Operating Costs shall not include depreciation on the Building or amounts paid toward principal or interest of liens of Landlord. Operating Costs shall be based upon <sup>ACTUAL</sup> competitive charges for similar services and/or materials that are available in the general vicinity of the Property. Additionally, any management fees paid by Landlord with respect to the Property shall not exceed reasonable and customary fees paid to unrelated parties for management services with respect to comparable industrial properties in the metropolitan area where the Property is situated. Notwithstanding anything contained in this Lease to the contrary, Landlord shall not be permitted to recover from tenants and other occupants of the Property and any other parties more than the actual out-of-pocket cost incurred by Landlord for Operating Costs, plus an administrative surcharge of ten percent (10%); provided, however, that no administrative surcharge shall be applied against real estate or other taxes, insurance premiums or management fees. Landlord warrants that there shall be no duplications of any Operating Costs. *ETA*  
*BILLED MONTHLY*

6. AUDIT BY TENANT:

(a) Tenant, or its designated employees or agents, shall have the right, upon ten (10) days prior written notice to Landlord, and within sixty (60) days of Tenant's receipt of the year-end statement described in Section 5(a) above, to call for an audit of the Operating Costs, and any and all other costs, charges or expenses (collectively, the "charges") for which Tenant is

responsible to pay or reimburse Landlord pursuant to this Lease, and shall have the right to inspect the books and records of Landlord (including without limitation, Landlord's general ledger) with respect thereto. Landlord agrees to cooperate with any such audit and shall maintain complete books and records in accordance with generally accepted accounting principles, consistently applied, for the same period as required for federal income tax reporting purposes. Such audit(s) shall take place within thirty (30) days of Tenant's request. If it shall be determined as a result of such audit(s) that Tenant has overpaid any of such charges, Landlord shall promptly refund to Tenant the amount of such overpayment. If the amount of Tenant's overpayment exceeds three percent (3%) of said charges, Landlord shall promptly pay to Tenant's auditor or reimburse to Tenant the cost of said audit(s) upon Tenant's submission of an invoice for same; if the amount of Tenant's overpayment does not exceed three percent (3%) of such charges, Tenant shall be solely responsible for the cost of the audit. If Landlord fails to refund any such overpayment and/or pay or reimburse such audit costs within thirty (30) days after Tenant provides Landlord with a copy of such audit or invoice (as the case may be) Tenant may, at its option and in addition to any other rights or remedies available to Tenant elect to offset the amounts owing to Tenant against the next due installments of Rent payable by Tenant under this Lease. Tenant agrees to keep the results of such audit confidential provided that Tenant shall have the right to disclose same to its officers, directors, employees, accountants, attorneys and consultants, and those of its affiliates and any actual or prospective assignee, purchaser or lender, or as may otherwise be required by law.

7. **INSURANCE:**

(a) Liability Insurance and Indemnity. Tenant shall, during all terms hereof, keep in full force and effect a policy of public bodily injury and property damage liability insurance with respect to the Premises, with a combined single limit of not less than Two Million Dollars (\$2,000,000.00) per occurrence. The policy shall name Landlord and any other persons, firms or corporations designated by Landlord and Tenant as insured, and shall contain a clause that the insurer will not cancel or change the insurance without first giving Landlord ten (10) days prior written notice. Such insurance shall include an endorsement permitting Landlord to recover damage suffered due to act or omission of Tenant, notwithstanding being named as an additional "Insured Party" in such policies. Such insurance may be furnished by Tenant under any blanket policy carried by it or under a separate policy therefore. The insurance shall be with an insurance company approved by Landlord and a copy of the paid-up policy evidencing such insurance or a certificate of insurer certifying to the issuance of such policy shall be delivered to Landlord. If Tenant fails to provide such insurance, Landlord may do so and charge the same to Tenant, which invoice shall be paid by Tenant within ten (10) days of receipt.

(b) Fire and Casualty Insurance.

(i) Subject to the provisions of this Section 8(b), Landlord shall secure, pay for, and at all times during the terms hereof maintain, insurance providing coverage upon the Building improvements in an amount equal to the full insurable value thereof (as determined by Landlord) and insuring against the perils of fire, extended coverage, vandalism, and malicious mischief. All insurance required hereunder shall be written by

reputable, responsible companies licensed in the State of Utah. Tenant shall have the right, at its request at any reasonable time, to be furnished with copies of the insurance policies then in force pursuant to this Section, together with evidence that the premiums therefore have been paid. Tenant shall pay its Proportionate Share of such policies as part of Operating Costs.

(ii) Tenant agrees to maintain at its own expense such fire and casualty insurance coverage as Tenant may desire or require in respect to Tenant's personal property, equipment, furniture, fixtures or inventory, and losses due to business interruption, and Landlord shall have no obligation in respect to such insurance or losses. All property kept or stored on the Premises by Tenant or with Tenant's permission shall be so done at Tenant's sole risk and Tenant shall indemnify Landlord against and hold it harmless from any claims arising out of loss or damage to same.

(iii) Tenant will not permit said Premises to be used for any purpose which would render the insurance thereon void or cause cancellation thereof or increase the insurance risk or increase the insurance premiums in effect just prior to the commencement of this Lease. Tenant agrees to pay as Additional Rent the total amount of any increase in the insurance premium of Landlord over that in effect prior to the commencement of this lease resulting from Tenant use of the Premises. If Tenant installs any electrical or other equipment which overloads the lines in the Premises, Tenant shall at its own expense make whatever changes are necessary to comply with the requirements of Landlord's insurance.

(c) Waiver of Subrogation. Each party hereto does hereby release and discharge the other party hereto and any officer, agent, employee or representative of such party, of and from any liability whatsoever hereafter arising from loss, damage or injury caused by fire or other casualty for which insurance (permitting waiver of liability and containing a waiver of subrogation) is carried by the injured party at the time of such loss, damage or injury to the extent of any recovery by the injured party under such insurance.

8. **REPAIR AND CARE OF BUILDING AND PAYMENT OF UTILITIES BY TENANT:** Tenant agrees to keep the Premises in good condition and repair and agrees to pay for all labor, materials and other repairs conducted on the Premises. Tenant's responsibility includes, but is not limited to, the electrical wiring, plumbing, heating and air conditioning systems (including spring and fall servicing and replacement of filters as recommended by the manufacturers) and to clean the interior of the Premises as the same may or might be necessary in order to maintain the Premises in a clean, attractive and sanitary condition. Tenant shall keep the sidewalks reasonably free from ice and snow. Tenant shall pay all utility charges, including but not limited to charges for water, sewer, heat, gas, electricity and other public utilities used on the Premises, including all replacements of light bulbs, tubes, ballasts and starters within a reasonable time after they burn out.

9. **LANDLORD'S GENERAL MAINTENANCE OBLIGATIONS:** Landlord covenants and agrees, at its sole cost and expense and without reimbursement or contribution by Tenant, to

keep and maintain in good condition and repair, and replace, if necessary, the foundations, structural systems (both interior and exterior) including, without limitation, the roof, roof membrane, roof drains, roof covering (including interior ceiling if damaged by leakage), load-bearing walls, columns, lintels, beams, footings, floor slabs, masonry walls and painting the exterior of the Building. Additionally, Landlord shall keep, maintain and replace, if necessary, as part of Operating Costs, all utility lines outside of the Premises (including, but not limited to, water, sanitary sewer, storm sewer, and telephone) and associated equipment and such pipes, wires, conduits, sewers and drains, in, or around the Premises as are or may be installed by or under the control of Landlord and which serve not only the Premises but also other portions of the Property in which the Premises are located. Landlord shall not be obligated to repair any such damage until written notice of the need of repair shall have been given to Landlord by Tenant, and Landlord and Tenant determine in their reasonable judgment that repairs are necessary. Landlord shall have a reasonable time in which to make such repairs as are required. Except in the event of any emergency, Landlord shall not be liable to Tenant for failure to make repairs as herein specifically required unless Tenant has previously notified Landlord in writing of the need for such repairs and Landlord has failed to commence and complete said repairs within ten (10) business days following receipt of such notification.

10. **CONDITION OF THE PREMISES:** Tenant accepts the Premises in the condition they are in at the time of its taking possession of the Premises. Tenant acknowledges that except as specifically stated in this Lease, neither Landlord nor any agent of Landlord has made any representation as to the condition of the Premises or the suitability of the Premises for Tenant's intended use. Tenant represents and warrants that Tenant has made its own inspection of and inquiry regarding the condition of the Premises as well as zoning and is not relying on any representations of Landlord or Brokers with respect thereto. Tenant agrees, if, during the Lease Term, Tenant shall change the usual method of conducting Tenant's business on the Premises, or should Tenant install therein any new facilities, or should new laws and regulations be imposed, Tenant will, at the sole cost and expense of Tenant, make alterations or improvements in or to the Premises which may be required by reason of any federal or state law, or by any municipal ordinance, or regulation applicable thereto.

11. **ALTERATIONS OF BUILDING AND INSTALLATION OF FIXTURES AND OTHER APPURTENANCES:** Tenant may, with written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed, but at Tenant's sole cost and expense in a good and workmanlike manner, make such alterations and repairs to the Premises as Tenant may require for the conduct of its business without, however, materially altering the basic character of the Building or improvements, or weakening any structure on the Premises. Tenant shall also have the right, with the written permission of Landlord, which shall not be unreasonably withheld, conditioned or delayed, to erect, at Tenant's sole cost and expense, such temporary partitions, including office partitions, as may be necessary to facilitate the handling of Tenant's business and to install telephone and telephone equipment and wiring, and electrical fixtures, additional lights and wiring and other trade appliances. Any alterations or improvements to the Premises (excluding Tenant's personal property and trade fixtures), including partitions, all electrical fixtures, lights and wiring shall, at the option of Landlord, become the property of Landlord, at the expiration or sooner termination of this Lease. Should Landlord request Tenant



to remove all or any part of the above mentioned items, Tenant shall do so prior to the expiration of this Lease and repair the Premises as described below. Temporary shelves, bins, and machinery installed by Tenant shall remain the property of Tenant and may be removed by Tenant at any time; provided, however, that all covenants, including rent due hereunder to Landlord shall have been complied with and paid. At the expiration or sooner termination of this Lease, or any extension thereof, Tenant shall remove said shelves, bins and machinery and repair in a good workmanlike manner, all damage done to the Premises by such removal and restore Premises to the condition as existed on the Commencement Date. In the event that Tenant does not remove any items requested to be removed by Landlord, or fails to repair and restore the Premises as required herein, Landlord may expend any sums necessary for removal and repair, and may apply the Security Deposit to cover such expenses. If the Security Deposit is insufficient to cover such expenses, Landlord will submit invoices to Tenant and Tenant shall pay such invoices within thirty (30) days of receipt. The obligations stated herein shall survive the termination or expiration of this Lease.

12. **ERECTION AND REMOVAL OF SIGNS:** Tenant may, with prior written consent of Landlord, which approval not to be unreasonably withheld, conditioned or delayed, place suitable signs on the Premises for the purpose of indicating the nature of the business carried on by Tenant in the Premises; provided, however, all such signs shall be in keeping with other signs on the subject Property and compliance with local ordinances; and provided, further, that the location and size of such signs shall be approved by Landlord in writing, said approval not to be unreasonably withheld, prior to their erection. Signs shall be removed prior to the expiration of this Lease and any damage to the Premises caused by installation or removal of signs shall be repaired at Tenant's expense. All such work shall be completed in a good workmanlike manner.

13. **GLASS:** Tenant agrees to replace within three (3) business days all glass in the Premises if broken or damaged during the Lease Term with glass of the same quality as that broken or damaged.

14. **RIGHT OF ENTRY BY LANDLORD:** Tenant, shall permit inspection of the Premises during reasonable business hours by Landlord or Landlord's agents or representatives for the purpose of ascertaining the condition of the Premises and in order that Landlord may comply with the terms of this Lease. Six (6) months prior to the expiration of this Lease, Landlord may post suitable notice on the Premises that the same are "For Rent" and may show the Premises to prospective tenants at reasonable times, and upon advance notice to Tenant. Landlord may post "For Sale" signs at any time on the outside of the Building in locations reasonably acceptable to Tenant. Landlord may not, however, thereby unreasonably interfere with the use of Premises by Tenant. Nothing herein withstanding to the contrary, Landlord shall have the right to enter the Premises without prior notice in emergency conditions.

15. **ASSIGNMENT AND SUBLETTING:** Neither this Lease nor any interest herein may be assigned by Tenant voluntarily or involuntarily, by operation of law, and neither all nor any part of the Premises shall be sublet by Tenant without prior written consent of Landlord which consent shall not be unreasonably withheld conditioned or delayed. In the event of a Sublease of the Premises as herein provided at an increased rental, fifty percent (50%) of said increase shall

be paid to Landlord by Tenant as Additional Rent. Tenant shall remain responsible for all duties as defined herein, notwithstanding any actions on the part of the Subtenant.

16. **DAMAGE OR DESTRUCTION:** In the event the Premises are damaged by fire or other perils covered by extended coverage insurance, then Landlord agrees to promptly repair the same at Landlord's cost, and this Lease shall remain in full force and effect, except that Base Rent and Additional Rent shall be reduced in proportion to the reduction in the floor area of the Premises. Tenant shall be entitled to a proportionate reduction of the rent while such repairs are being made, such proportionate reduction to be based upon the extent to which the making of such repairs materially interferes with the business carried on by Tenant in the Premises. If the damage is due to the fault or neglect of Tenant or its employees, agents, contractors, subcontractors, or any other party operating by, through or under Tenant, there shall be no abatement of rent. Notwithstanding anything to the contrary contained herein, Landlord shall not have any obligation whatsoever to repair, reconstruct or restore the Premises when the damage resulting from any casualty covered under this Section either destroys twenty-five (25%) of the building or occurs during the last twelve (12) months of the Lease Term or any extension thereof, and under either of such circumstances, Landlord shall have the right to terminate this Lease without liability; provided however, notwithstanding the foregoing, if Tenant has exercised its option to extend the Lease Term as provided in Section 2 above, then Landlord shall have the affirmative obligation to repair, reconstruct or restore the Premises unless the damage resulting from any casualty covered under this Section destroys more than fifty percent (50%) of the Premises and occurs during the last twelve (12) months of the Initial Term. In any event, Landlord will notify Tenant within sixty (60) days of the date of the casualty whether Landlord intends to repair the building. If, however, Landlord reasonably anticipates that the repairs will not be completed within six (6) months of the date of the casualty, it shall inform Tenant in writing, and Tenant shall have the right to terminate this Lease by written notice within thirty (30) days of receipt of Landlord's notice. Landlord shall not be required to repair any damage by fire or other cause, or to make any repairs or replacements of any panels, decoration, office fixtures, railings, floor covering, partitions, or any other property installed in the Premises by Tenant. Tenant shall not be entitled to any compensation or damages from Landlord for loss of the use of the whole or any part of the Premises, Tenant's personal property or any inconvenience or annoyance occasioned by such damages from Landlord for loss or any inconvenience or annoyance occasioned by such damage, repair, reconstruction or restoration.

17. **SURRENDER OF PREMISES:** Tenant agrees to surrender the Premises at the expiration, or sooner termination, of the Lease Term, or any extension thereof, in the same condition as when the Premises were delivered to Tenant, or as altered, pursuant to the provisions of this Lease, ordinary wear, tear and damage by the elements excepted, and Tenant shall remove all of its personal property therefrom. Tenant agrees to pay a reasonable cleaning charge should it be necessary for Landlord to restore or cause to be restored the Premises to the same broom clean condition as when said Premises were delivered to Tenant.

18. **HOLDOVER:** Should the Landlord permit Tenant to holdover the Premises or any part thereof, after the expiration of the Lease Term, then and unless otherwise agreed in writing, such holding over shall constitute a tenancy from month-to-month only, and shall in no event be

construed as a renewal of this Lease and all provisions of this Lease not inconsistent with a tenancy from month-to-month shall remain in full force and effect. During the month to month tenancy, Tenant agrees to give Landlord thirty (30) days prior written notice of its intent to vacate the Premises, provided that Tenant may only vacate at the end of a calendar month unless Landlord otherwise agrees in writing. Landlord shall have the right to give notice of the termination of the month-to-month tenancy as provided under Utah law. Tenant agrees to vacate the Premises upon thirty (30) days prior written notice from Landlord. The rental for the month-to-month tenancy shall be equal to 150% of the Base Rent then in effect for the last month of the immediately preceding Lease Term, plus any other charges payable under the Lease.

19. **QUIET ENJOYMENT:** If and so long as Tenant pays the rents reserved by this Lease and performs and observes all the covenants and provisions hereof, Tenant shall quietly enjoy the Premises, subject, however, to the terms of this Lease, and Landlord will warrant and defend Tenant in the enjoyment and peaceful possession of the Premises throughout the terms of this Lease.

20. **WAIVER OF COVENANTS:** The failure of any party to enforce the provisions of this Lease shall not constitute a waiver unless specifically stated in writing, signed by the party whose rights are deemed waived, regardless of a party's knowledge of a breach hereunder.

21. **DEFAULT:** Tenant shall be in default under this Lease:

(a) If Tenant abandons the Premises or if Tenant's vacation of the Premises results in the cancellation of any insurance required to be carried by Tenant;

(b) If Tenant fails to pay rent or any other charge within ten (10) days of receipt of written notice from Landlord that such amount is past due;

(c) If Tenant fails to perform any of Tenant's non-monetary obligations under this Lease for a period of thirty (30) days after receipt of written notice from Landlord; provided that if more than thirty (30) days are required to complete such performance, Tenant shall not be in default if Tenant commences such performance within the thirty (30)-day period and thereafter diligently pursues its completion. However, Landlord shall not be required to give such notice if Tenant's failure to perform constitutes a non-curable breach of this Lease. The notice required by this Section is intended to satisfy any and all notice requirements imposed by law on Landlord and is not in addition to any such requirement.

(d) (i) If Tenant makes a general assignment or general arrangement for the benefit of creditors; (ii) if a petition for adjudication of bankruptcy or for reorganization or rearrangement is filed by or against Tenant and is not dismissed within thirty (30) days; (iii) if a trustee or receiver is appointed to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease and possession is not restored to Tenant within thirty (30) days; or (iv) if substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease is subjected to attachment, execution or other judicial seizure which is not discharged within thirty (30) days. If a court of competent jurisdiction determines

that any of the acts described in this subparagraph (d) is not a default under this Lease, and a trustee is appointed to take possession (or if Tenant remains a debtor in possession) and such trustee or Tenant transfers Tenant's interest hereunder, then Landlord shall receive, as Additional Rent, the excess, if any, of the rent (or any other consideration) paid in connection with such assignment or sublease over the rent payable by Tenant under this Lease.

(e) If any guarantor of the Lease revokes or otherwise terminates, or purports to revoke or otherwise terminate, any guaranty of all or any portion of Tenant's obligations under the Lease. Unless otherwise expressly provided, no guaranty of the Lease is revocable.

22. **REMEDIES:** On the occurrence of any material default by Tenant, and subject to Landlord's commercially reasonable efforts to mitigate its damages, Landlord may, at any time thereafter, with or without notice or demand and without limiting Landlord in the exercise of any right or remedy which Landlord may have:

(a) Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event, Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including (i) the worth at the time of the award of the unpaid Base Rent, Additional Rent and other charges which Landlord had earned at the time of the termination; (ii) the worth at the time of the award of the amount by which the unpaid Base Rent, Additional Rent and other charges which Landlord would have earned after termination until the time of the award exceeds the amount of such rental loss that Tenant proves Landlord could have reasonably avoided; (iii) the worth at the time of the award of the amount by which the unpaid Base Rent, and other charges which Tenant would have paid for the balance of the Lease Term after the time of award exceeds the amount of such rental loss that Tenant proves Landlord could have reasonably avoided; and (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under the Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, any costs or expenses Landlord incurs in maintaining or preserving the Premises after such default, the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation or alteration of the Premises, Landlord's reasonable attorneys' fee incurred in connection therewith, and any real estate commission paid or payable. As used in subpart (iii) above, the "worth at the time of the award" is computed by discounting such amount at the discount rate of ten percent (10%).

(b) Without terminating this Lease, re-enter the Premises and remove all persons and property from the Premises, and make such alterations and repairs as may be necessary in order to relet the Premises and relet said Premises or any part thereof for such term or terms (which may be for a term extending beyond the Lease Term) and at such rental or rentals and upon such other terms and conditions as Landlord, in its sole discretion, may deem advisable. Upon each such reletting, all rentals received by Landlord from such reletting shall be applied, first, to the payment of any indebtedness other than rent due hereunder from Tenant to Landlord; second, to the payment of any costs and expenses of such reletting, including brokerage fees and attorney's fees, and to costs of such alterations and repair; third, to the payment of rent due and unpaid

hereunder, and the residue, if any, shall be held by Landlord and applied in payment of further rent as the same may become due and payable hereunder. If rentals received from such reletting during any month are less than that to be paid during that month by Tenant hereunder, Tenant shall pay such deficiency to Landlord. Such deficiency shall be calculated and paid monthly or at such greater intervals as Landlord may see fit. No such re-entry or taking possession of said Premises by Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention is given to Tenant, or unless the termination thereof is decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach. Should Landlord at any time terminate this Lease for any breach, in addition to any other remedies it may have, it may recover from Tenant all damages it may incur by reason of such breach, including the costs of recovering the Premises and reasonable attorney's fees, and including the worth at the time of such termination of the excess, if any, of the amount of rent and charges equivalent to rent reserved in this Lease for the remainder of the Lease Term over the then reasonable rental value of the Premises for the remainder of the Lease Term, all of which amount shall be immediately due and payable by Tenant.

(c) Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the state in which the Premises is located.

23. **LANDLORD'S DEFAULT:** Landlord shall be in default of this lease upon failure by Landlord to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Landlord where such failure shall continue for a period of thirty (30) days after Landlord's receipt of written notice thereof from Tenant; provided, however, that if the nature of Landlord's default is such that more than thirty (30) days are reasonably required for its cure, then Landlord shall not be deemed to be in default if Landlord commences such cure within thirty (30) days after Tenant's notice and thereafter diligently prosecutes such cure to completion as soon as possible after such thirty (30) day period. If prior to its giving such notice, Tenant has been notified in writing of the address of a lender which has furnished any financing to Landlord, concurrently with giving the notice to Landlord, Tenant shall also provide a copy thereof to the lender by registered mail.

24. **ATTORNEY FEES:** If Tenant or Landlord shall be in breach or default under this Lease, such party (the "**Defaulting Party**") shall reimburse the other party (the "**Nondefaulting Party**") upon demand for any costs or expenses that the Nondefaulting Party incurs in connection with any breach or default of the Defaulting Party under this Lease, whether or not suit is commenced or judgment entered. Such costs shall include legal fees and costs incurred for the negotiation of a settlement, enforcement of rights or otherwise. Furthermore, if any legal proceeding for breach of or to enforce the provisions of this Lease is commenced, in bankruptcy or otherwise, the court in such action shall award to the party in whose favor a judgment is entered, a reasonable sum as attorneys' fees and costs at trial, upon appeal. The losing party in such action shall pay such attorneys' fees and costs.

25. **MEDIATION AND ARBITRATION.** If any dispute or claim in law or equity arises out of this Lease, Tenant and Landlord agree in good faith to attempt to settle such dispute or claim

by mediation under the Commercial Mediation rules of the American Arbitration Association. If such mediation is not successful in resolving such dispute or claim, then such dispute or claim shall be decided by neutral binding arbitration before a single arbitrator in accordance with the Commercial Arbitration rules of the American Arbitration Association. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. However, this Section does not apply to disputes or claims arising under Section 78B, Chapter 6, of the Utah Code or any other common law rights of eviction in favor of the Landlord.

26. **FAILURE TO PERFORM COVENANT:** Any failure on the part of either party to this Lease to perform any obligations hereunder, other than Tenant's obligation to pay rent, and any delay in doing any act required hereby shall be excused if such failure or delay is caused by any strike, lockout, governmental restriction or any similar cause beyond the control of the party so failing to perform, to the extent and for the period that such continues.

27. **RIGHTS OF SUCCESSORS AND ASSIGNS:** The covenants and agreements contained in this Lease will apply to, inure to the benefit of, and be binding upon the parties hereto, their heirs, distributees, executors, administrators, legal representatives, assigns, and upon their respective successors in interest except as expressly otherwise hereinabove provided. In the event of any sale of, or transfer of title to, the Premises by Landlord, Landlord shall be entirely relieved of all liability under any and all of its covenants and obligations under this Lease arising out of any act, occurrence or omission occurring after the completion of such sale.

28. **TIME:** Time is of the essence of this Lease and every term, covenant and condition herein contained.

29. **LIENS:** Tenant agrees not to permit any lien for monies owing by Tenant to remain against the Premises for a period of more than thirty (30) days following discovery of the same by Tenant. Should any such lien be filed and not released or discharged within thirty (30) days after discovery of the same by Tenant, Landlord may at Landlord's option (but without any obligation so to do) pay and discharge such lien and may likewise pay and discharge any taxes, assessments or other charges against the Premises which Tenant is obligated hereunder to pay and which may or might become a lien on the Premises. Tenant agrees to repay any sum so paid by Landlord upon demand therefore.

30. **CONSTRUCTION OF LEASE:** Words of any gender used in this Lease shall be held to include any other gender, and words in the singular number shall be held to include the plural when the sense requires.

31. **SUBORDINATION:** Landlord shall have the right to subordinate this Lease to any ground lease, deed of trust or mortgage encumbering the Property, any advances made on the security thereof and any renewals, modifications, consolidations, replacements or extensions thereof, whenever made or recorded. However, Tenant's right to quiet possession of the Property during the Lease Term shall not be disturbed if Tenant pays the rent and performs all of Tenant's obligations under this Lease and is not otherwise in default.

32. **ATTORNMEN**T: In the event of any sale or exchange of the Premises or the Building, Landlord shall be and is hereby relieved of all liability under any and all of its covenants and obligations contained in or derived from this Lease, or arising out of any act, occurrence, or omission related to the Premises or the Building occurring after the consummation of such sale or exchange. If Landlord's interest in the Property is acquired by any ground Landlord, beneficiary under a deed of trust, mortgagee, or purchaser at a foreclosure sale, Tenant shall attorn to the transferee of or successor to Landlord's interest in the Property and recognize such transferee or successor as Landlord under this Lease; provided however, that such transferee or successor agrees in writing not to disturb Tenant's tenancy hereunder. Tenant waives the protection of any statute or rule of law which gives or purports to give Tenant any right to terminate this Lease or surrender possession of the Property upon the transfer of Landlord's interest.

33. **SIGNING OF DOCUMENTS**: Tenant shall sign and deliver any instrument or documents necessary or appropriate to evidence any such attornment or subordination or agreement to do so, provided that such documents also provide that so long as Tenant is not in default hereunder, its tenancy shall not be disturbed and this Lease shall be recognized by any purchaser at a foreclosure sale or its equivalent. Such subordination and attornment documents may contain such provisions as are customarily required by any ground Landlord, beneficiary under a deed of trust or mortgage. If Tenant fails to do so within ten (10) days after written request, Tenant hereby makes, constitutes and irrevocably appoints Landlord, or any transferee or successor of Landlord, the attorney-in-fact of Tenant to execute and deliver any such instrument or document.

34. **ESTOPPEL CERTIFICATE**: Upon Landlord's written request, Tenant shall execute, acknowledge and deliver to Landlord a written statement certifying: (i) that none of the terms or provisions of this Lease have changed (or if they have been changed, stating how they have been changed); (ii) that this Lease has not been canceled or terminated; (iii) that the last date of payment of the Base Rent and other charges and the time period covered by; such payment; (iv) that Landlord is not in default under this Lease (or, if Landlord or the holder of a mortgage, deed of trust or lien to which the Property is or becomes subject. Tenant shall deliver such statement to Landlord within ten (10) days after Landlord's request. Failure to do so shall conclusively determine that: (a) the Lease is in full force and effect without modification except as may be represented by Landlord; (b) there are no uncured defaults in Landlord's performance; and (c) no more than one month's rent has been paid in advance. Any such statement by Tenant may be given by Landlord to any prospective purchaser or encumbrances of the Property. Such purchaser or encumbrancer may rely conclusively upon such statement as true and correct.

35. **TENANT'S FINANCIAL CONDITION**: Within ten (10) days after written request from Landlord, which shall not be more than twice in any calendar year, Tenant shall deliver to Landlord such financial statements as Tenant regularly prepares internally in the normal course of business so Landlord may verify the net worth of Tenant, or any assignee, subtenant, or guarantor of Tenant. In addition, Tenant shall deliver to any lender designated by Landlord any financial statements required by such lender to facilitate the financing or refinancing of the Property. Tenant represents and warrants to Landlord that each such financial statement is a true

and accurate statement as of the date of such statement. All financial statements shall be confidential and shall be used only for the purposes set forth herein.

36. **SECTION HEADINGS:** The Section headings as to the contents of particular Sections herein, are inserted only for convenience and are in no way to be construed as part of such Section or as a limitation on the scope of the particular Section to which they refer.

37. **NOTICES:** It is agreed that all notices required or permitted to be given hereunder, or for purposes of billing process, correspondence, and any other legal purposes whatsoever, shall be deemed sufficient if given by a communication in writing by United States mail, postage prepaid and certified and addressed as follows:

If to Landlord:            Grass Valley Holdings LP  
                                    940 South 2000 West  
                                    Springville, UT 84663

If to Tenant:

38. **GOVERNING LAW:** The terms of this Agreement shall be governed by and construed in accordance with Utah law.

39. **DOCUMENTATION:** The parties hereto agree to execute such additional documentation as may be necessary or desirable to carry out the intent of this Agreement.

40. **INDEMNIFICATION OF LANDLORD:** Tenant, as a material part of the consideration to be rendered to Landlord under this Lease, shall defend, indemnify and hold Landlord exempt and harmless from any claims, suits, actions, demands, causes of action, liabilities, losses or expenses, including reasonable attorneys' fees, arising in connection with any damage or injury to any person, or the goods, wares and merchandise of any person, arising from the use of the Premises by Tenant, or from the failure of Tenant to keep the Premises in good condition and repair, as herein provided. Also, Tenant warrants that it will make no use of the Premises which may cause contamination of the Building, improvements and the soil and ground water. Accordingly, Tenant indemnifies and agrees to hold the Landlord harmless with regard to any claim for, but not limited to, damage to the Landlord's property or any other property or person. This indemnification shall survive the termination of this Lease.

41. **INDEMNIFICATION OF TENANT:** Landlord shall defend, indemnify and hold harmless Tenant, its agents, employees, licensees, invitees and assigns, from and against any claims, suits, actions, demands, causes of action, liabilities and losses arising in connection with any personal injury, loss of life, or property damage occurring in, from or in connection with the Premises, or occurring elsewhere on the Property, as a result of the negligence, breach of this Lease, or a violation of any duty by Landlord or its employees, agents or licensees, and from and against all costs and expenses, including reasonable attorneys' fees, incurred in defending any such claims or actions, the investigation thereof, or the defense of any action or proceeding



thereon, and from and against any judgments, orders, decrees, or liens resultant therefrom, and any fines levied by any authority by virtue of any law, regulation or ordinance applicable to the use of the Premises; provided, however, that the foregoing shall not apply to instances of personal injury, loss of life or property damage, caused in whole or in part by the negligence or willful misconduct of Tenant.

42. **LANDLORD WARRANTIES:** Notwithstanding anything to the contrary contained in this Lease, Landlord represents, covenants and warrants that (i) Landlord has lawful title to the Property legally described on Exhibit B and has full right, power and authority to enter into this Lease; (ii) in the construction of the Premises, Landlord shall comply with all applicable laws, ordinances, regulations and requirements of governmental authorities having jurisdiction thereof; (iii) to Landlord's actual knowledge, the roof and all other portions of the Premises, including, without limitation, all electrical, lighting, plumbing, mechanical, heating, ventilating and air conditioning systems within or servicing the Premises, are in good condition and working order and free of defects.

43. **LANDLORD'S LIEN:** Tenant hereby grants to Landlord a lien upon the improvements, trade fixtures and furnishings of Tenant to secure full and faithful performance of all of the terms of this Lease. Provided Tenant is not in default hereunder, Landlord agrees to subordinate its Landlord's lien on Tenant's personal property and equipment to that of any bona fide third party who is loaning funds to Tenant which directly benefit Tenant's operations at the Premises.

44. **EMINENT DOMAIN:** If at any time during the Lease Term the entire Premises or any part thereof shall be taken as a result of the exercise of the power of eminent domain or by an agreement in lieu thereof, this Lease shall terminate as to the part so taken as of the date possession is taken by the condemning authority. If all or any substantial portion of the Premises shall be taken, Landlord may terminate this Lease at its option, by giving Tenant written notice of such termination within thirty (30) days of such taking. If all or a portion of the Premises taken are so substantial that Tenant's use of the Premises is substantially impaired, Tenant may terminate this Lease pursuant to this Article by providing written notice of Tenant's intent to terminate within thirty (30) of the taking. Unless terminated as herein provided for, this Lease shall remain in full force and effect, except that the rent payable by Tenant hereunder shall be reduced in the proportion that the area of the Premises so taken bears to the total Premises. Landlord shall be entitled to and Tenant hereby assigns to Landlord the entire amount of any award in connection with such taking. Nothing in this Article shall give Landlord any interest in or preclude Tenant from seeking, on its own account, any award attributable to the taking of personal property or trade fixtures belonging to Tenant, or for the interruption of Tenant's business.

45. **REPRESENTATION REGARDING AUTHORITY:** The persons who have executed this Lease represent and warrant that they are duly authorized to execute this Lease in their individual or representative capacity as indicated.

46. **ENTIRE AGREEMENT:** This Lease constitutes the entire agreement and understanding between the parties hereto and supersedes all prior discussions, understandings and agreements.

This Lease may not be altered or amended except by a subsequent written agreement executed by all of the parties hereto.

47. REVIEW OF DOCUMENTS: The parties hereto represent that they have read and understand this Lease, and that they have sought legal counsel to the extent deemed necessary in order to protect their respective interests. This Lease is a product of arms length negotiation by the parties hereto and it is expressly agreed that this Lease shall not be construed in favor of or against either party.

48. KEYS & LOCKS: Tenant, upon the termination of the Tenancy, shall deliver to the Landlord all the keys to the offices, rooms and rest rooms which have been furnished to Tenant.

49. AUCTION, FIRE OR BANKRUPTCY SALE: Tenant shall not conduct any auction nor permit any fire or bankruptcy sale to be held on the Premises.

50. CARPETING DAMAGE AND CHAIR MATS: Tenant agrees to be responsible for the replacement of carpeting in the Premises if same shall be damaged by burning, or stains resulting from spilling anything on said carpet, reasonable wear and tear excepted. Tenant further agrees to use "chair mat" under all chairs used with desks.

51. MEMORANDUM OF LEASE: Neither Landlord and Tenant shall record a "short form" memorandum of this Lease without the prior written consent of the other party. The party requesting such memorandum shall pay all recording fees.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed as of the day and year first above written.

LANDLORD:

TENANT:

Randall T. Howard

[Signature]

By: GRASS VALLEY HOLDING LP

By: RICHARD N. REESE STANDARD PLUMBING SUPPLY

Printed Name: RANDALL T. HARWARD

Printed Name: \_\_\_\_\_

Title: PARTNER

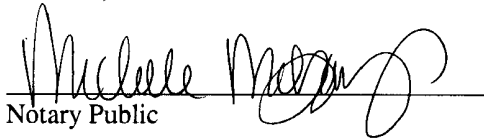
Title: PRESIDENT

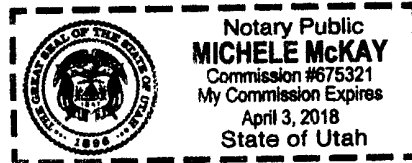
Date: JANUARY 9, 2013

Date: JANUARY 9, 2013

State of Utah County of Salt Lake )ss:

On this date March 17, 2015, personally appeared before me Richard N. Reese, who being by me duly sworn did say, that he/she is the President of Standard Plumbing Supply Co., Inc., the corporation that executed the above and foregoing instrument and that said instrument was signed on behalf of said corporation by authority of its by-laws (or by authority of a resolution of its board of directors) and said Richard N. Reese acknowledged to me that said corporation executed the same.

  
Notary Public



State of Utah County of Salt Lake )ss:

On this date March 17, 2015, personally appeared before me, Randall T. Harward, who being by me duly sworn did say that he/she is a Manager of Grass Valley Holdings, LP the limited partnership that executed the above and foregoing instrument and that said instrument was signed on behalf of said company by authority of its Articles or Organization and/or Operating Agreement and said Randall T. Harward acknowledged to me that said limited partnership executed same.

  
Notary Public



## Exhibit "A"

### Parcel 1:

BEGINNING at a point which is North 1608.362 feet and East 1424.385 feet from the Northwest Corner of Section 1, Township 3 South, Range 1 West, Salt Lake Base and Meridian, and running thence South 01°00'00" East 281.994 feet; to a point of tangency with a 80.0 foot radius curve to the left; thence along said curve for an arc distance of 60.505 feet (chord bears South 22°40'00" East 59.073 feet); thence South 44°20'00" East 234.704, feet; thence North 81°56'39" East 30.00 feet to the West right of way line of the D.&R.G.W. Railroad right of way; thence along said right of way North 08°03'21" West 171.000 feet; thence North 08°20'37" West 337.000 feet; thence South 89°01'27" West 148.567 feet to the point of BEGINNING.

### Parcel 1A:

TOGETHER WITH a non-exclusive Right of Way as disclosed by that certain Special Warranty Deed recorded June 22, 1990 as Entry No. 4932400 in Book 6231 at Page 44, being 30 feet in width and more particularly described as follows:

BEGIN on the Easterly line of Sandy Boulevard at a point which is North 00°02'25" East 326.883 feet and East 1350.455 feet from the Northwest Corner of Section 1, Township 3 South, Range 1 West, Salt Lake Base and Meridian and running thence North 72°05'59" East 350.000 feet to a point of tangency with a 64.976 foot radius curve to the left, thence along said curve for an arc distance of 90.900 feet (chord bears North 32°01'19" East 83.667 feet) to the Westerly right of way line of the D.&R.G. W. Railroad thence North 08°03'21" West 517.185 feet along said right of way to a point of tangency with a 154.758 foot radius curve to the left, thence along said curve for an arc distance of 97.993 feet (chord bears North 26°11'40" West 96.365 feet), thence North 44°20'00" West 234.704 feet to a point of tangency with an 80.000 foot radius curve to the right, thence along said curve for an arc distance of 60.505 feet (chord bears North 22°40'00" East 59.073 feet); thence North 01°00'00" West 257.017 feet to a point of tangency with a 55.000 foot radius curve to the left, thence along said curve for an arc distance of 86.370 feet (chord bears North 45°59'16" West 77.765 feet), thence South 89°01'27" West 663.540 feet; thence South 00°28'40" East 30.001 feet, thence North 89°01'27" East 663.801 feet to a point of tangency with a 25.000 foot radius curve to the right, thence along said curve for an arc distance of 39.259 feet (chord bears South 45°59'17" East 35.348 feet), thence South 01°00'00" East 257.017 feet to a point of tangency with a 110.000 foot radius curve to the left, thence along said curve for an arc distance of 83.194 feet (chord bears South 22°40'00" East 81.225 feet), thence South 44°20'00" East 234.704 feet to a point of tangency with a 124.768 foot radius curve to the right, thence along said curve for an arc distance of 78.999 feet (chord bears South 26°11'40" East 77.686 feet), thence South 08°03'21" East 517.185, feet to a point of tangency with a 34.976 foot radius curve to the right, thence along said curve for an arc distance of 48.931 feet (chord bears South 32°01'18" West 45.037 feet), thence South 72°05'59" West 347.407 feet to the Easterly line of Sandy Boulevard, thence South 12°57'35" East 30.112 feet along said Easterly line to the point of BEGINNING.