

TRIPLE NET REAL PROPERTY LEASE

THIS TRIPLE NET REAL PROPERTY LEASE (the "**Lease**") is made and entered into by and between 213 Kelly, LLC, a California limited liability company (hereinafter referred to as the "**Landlord**"), and Excel Storage Products, L.P., a Pennsylvania limited partnership (hereinafter referred to as the "**Tenant**"), who, intending to be legally bound, do hereby agree as follows:

1. **LEASED PREMISES.** The Landlord hereby leases to the Tenant, and the Tenant hereby leases from the Landlord, the office building located at 213-214 Kelly Street, Lodi, California (the "**Building**"), together with the land, parking areas, landscaping, driveways and metal-frame steel structures associated with the Building, consisting of approximately 10.1 acres (the "**Premises**") in the City of Lodi, State of California. The Premises are accepted "as is" by the Tenant, after the Tenant's inspection, without any express or implied warranties by the Landlord, and the Tenant is responsible for all changes of whatever nature necessary for the Tenant's intended use of the Premises. The Tenant agrees that notwithstanding any other provisions in this Lease, the Landlord and its brokers may enter the Premises to show the Premises upon at least forty-eight (48) hours notice to: (i) inspect the Premises and/or (ii) show the Premises to prospective purchasers, tenants or lenders.

2. **TERM; RENEWAL TERMS.** The term ("**Term**") of this Lease shall be for a period of three (3) years, commencing on July __, 2009 (the "**Commencement Date**"). So long as no event of default has occurred and is continuing under the terms of this Lease, the Tenant may, at its option extend the Term of this Lease for two (2) renewal terms of three (3) years each (each, a "**Renewal Term**"), by giving written notice to the Landlord not later than one hundred twenty (120) days prior to the expiration of the Term or the Renewal Term, as the case may be. The terms and conditions for the Renewal Terms shall be the same as the terms and conditions of this Lease, except that the monthly Base Rent during the Renewal Terms shall be as set forth in Paragraph 4.

3. **INTENTION OF THE PARTIES.**

3.1 **Negation of Joint Venture.** Nothing in this Lease shall cause the Landlord in any way to be construed as an employer, employee, fiduciary, a partner, a joint venturer, or otherwise associated in any way with the Tenant in the operation of the Premises, or to subject the Landlord to any obligation, loss, charge or expense connected with or arising from the Tenant's operation or use of the Premises.

3.2 **Triple Net Lease.** It is understood and agreed that the general intent and purpose of this Lease is that this Lease shall be an absolute triple net lease with respect to the Landlord. The Tenant shall pay all of the actual Real Property Taxes, assessments, insurance, utilities and all normal maintenance and operating costs for the entire Premises, as further described in Section 8.1 below.

4. RENT.

4.1 Minimum Monthly Rent. The Base Rent during the initial Term will be Twenty-six Thousand Five Hundred Fifty Dollars (\$26,550.00) (the "**Base Rent**"), per month, payable in advance, commencing on July 1, 2009. Base Rent is due on the first day of each month, without reduction or set off. The Base Rent during the first Renewal Term, if any, will be the fair market monthly rent as of the date of commencement of the first Renewal Term and the Base Rent during the second Renewal Term, if any, will be the fair market monthly rent as of the commencement date of the second Renewal Term. The Tenant will pay all triple net items commencing as of the Commencement Date. Rent shall be prorated for any partial month. For purposes hereof, "fair market monthly rent" shall be determined by the mutual agreement of the parties. In the event that the parties are unable to agree on such amount, then the amount shall be established by arbitration in Lodi, California, such arbitration to be conducted by a commercial real estate broker employed by a nationally or regionally recognized commercial real estate firm having offices in or near Lodi, California, that is mutually agreed upon by the parties.

4.2 Additional Rent. All amounts and sums payable by Tenant to Landlord pursuant to this Lease shall be deemed additional rent.

4.3 Late Payment Charges.

A. Should the Tenant fail to make any payment of rent or any other amount payable to the Landlord by the Tenant hereunder within ten (10) days of the date when such payment first becomes due, or should any check tendered to the Landlord by the Tenant be returned to the Landlord by the Tenant's bank for insufficient funds, then the Tenant shall pay to the Landlord, in addition to such payment, a late charge in the amount of five percent (5%) of the rent or other payment due which the parties agree is a reasonable estimate of the amount necessary to reimburse damages and additional costs not contemplated by this Lease that the Landlord will incur as a result of the delinquent payment or returned check, including processing and accounting charges and late charges that may be imposed on the Landlord by its lender. Upon notice of non-payment given by the Landlord to the Tenant, the entire amount then due, including such late charge, shall thereafter bear interest at the three percent (3%) above the Wall Street Journal prime rate on the due date for said payment, until paid in full.

B. Acceptance of any payment by the Landlord shall not constitute waiver of any late charges or interest which may be due.

4.4 Security Deposit. Tenant shall deposit a security deposit of Twenty-Six Thousand Five Hundred Fifty Dollars (\$26,550.00) (the "**Security Deposit**") with Landlord upon the execution of this Lease. Said sum shall be held by Landlord as security for the faithful performance by Tenant of all the terms, covenants and conditions of this Lease to be kept and performed by Tenant and not as an advance rental deposit or as a measure of Landlord's damage in case of Tenant's default. If Tenant defaults with respect to any provision of this Lease, Landlord may use any part of the Security Deposit for the payment of any rent or any other sum in default, or for the payment of any amount which Landlord may spend or become obligated to spend by reason of Tenant's default, or to compensate Landlord for any other loss or damage

which Landlord may suffer by reason of Tenant's default. If any portion is so used, Tenant shall within five (5) days after written demand therefor, deposit with Landlord an amount sufficient to restore the Security Deposit to its original amount and Tenant's failure to do so shall be a material breach of this Lease. Except to such extent, if any, as shall be required by law, Landlord shall not be required to keep the Security Deposit separate from its general funds, and Tenant shall not be entitled to interest on such deposit. If Tenant shall fully and faithfully perform every provision of this Lease to be performed by it, the Security Deposit or any balance thereof shall be returned to Tenant at such time after termination of this Lease when Landlord shall have determined that all of Tenant's obligations under this Lease have been fulfilled. Notwithstanding anything to the contrary contained in this Lease, Tenant hereby waives the provisions of Section 1950.7 of the California Civil Code, or any similar or successor Regulations or other laws now or hereinafter in effect.

5. PROPERTY TAXES AND ASSESSMENTS.

5.1 Personal Property Taxes. The Tenant shall pay at least ten (10) days before delinquency all taxes assessed against any personal property of the Tenant installed or located in or upon the Premises and that are attributable to the term of this Lease, whether or not they are actually payable during the term of this Lease.

5.2 Taxes Defined; Special Assessments. The term "**Real Property Taxes**," as used in this paragraph shall mean and include all taxes, assessments and other governmental charges, general and special, ordinary and extraordinary, of any kind and nature whatsoever, levied or assessed against the Premises and other improvements and the Building and land upon which the Building is located, including but not limited to, assessment for public improvements or benefits which shall be levied or assessed against the Premises, or any part thereof, but excluding franchise, estate, inheritance, succession, capital levy, transfer, income or excess profits tax imposed upon the Landlord. If at any time during the term of this Lease, under the laws of California, or any political subdivision thereof in which the Premises are situated, a tax or excise on rents or other tax, however described, is levied or assessed against the Landlord on account of the rent expressly reserved hereunder, in addition to or as a substitute in whole or in part for taxes assessed or imposed by California or such political subdivision on land and/or buildings, such tax or excise shall be included within the definition of "Real Property Taxes," but only to the extent of the amount thereof which is lawfully assessed or imposed as a direct result of the Landlord's ownership of this Lease, or of the rental accruing under this Lease. With respect to any assessment which may be levied against or upon the Premises, Building, land or improvements of which the Premises are a part and which, under the laws then in force, may be evidenced by improvement or other bonds, or may be paid in installments, the Tenant shall be required to pay each year only the amount of such installments in a manner specified by the Landlord, or portion thereof as the Landlord shall be required to pay during such year (with appropriate proration for any partial year) and shall have no obligation to continue such payments after the termination of this Lease.

6. UTILITIES. Tenant shall pay for all water, gas, heat, light, power, telephone, sewer, sprinkler system charges, trash removal, janitorial services and other utilities and services used on or from the Premises, together with any taxes, penalties, and surcharges or the like pertaining thereto and any maintenance charges for utilities. Tenant shall furnish all electric light bulbs, tubes and ballasts, battery packs for emergency lighting and fire extinguishers. Landlord shall in no event be liable for any interruption or failure of utility services on or to the Premises.

7. USE OF THE PREMISES; RULES; COMPLIANCE WITH LAWS.

7.1 Tenant's Use of Premises. The Tenant agrees that the Premises shall be used and occupied only for the design, manufacturing and sale of industrial and commercial racking and related components and accessories and subject to all applicable zoning requirements, and for no other purpose or purposes without the Landlord's prior written consent. The Tenant, at its expense, agrees that it shall meet all applicable requirements imposed by the City of Lodi (the "City") on the Building including, but not limited to, the restrictions on the number of employees on the Premises or the number of parking spaces.

7.2 Intentionally omitted.

7.3 Insurance Hazards. The Tenant shall neither engage in nor permit others to engage in any activity or conduct that will cause the cancellation of or an increase in the premium for any fire or other insurance maintained by the Landlord. The Tenant shall, at the Tenant's sole cost, comply promptly and at all times with all laws, statutes, ordinances, regulations, covenants, servitudes, conditions, encumbrances, restrictions and other rights or obligations affecting or applicable to the Premises or the Tenant's business, and all fire and other insurance rating requirements for obtaining and maintaining regular or preferential insurance rates required by the Landlord.

7.4 Compliance with Law. In its contemplated and actual use of the Premises for the design, manufacturing and sale of industrial and commercial racking and related components and accessories, the Tenant shall, at the Tenant's sole cost and expense, comply promptly and at all times with all laws, requirements, ordinances, statutes, and regulations of all municipal, state or federal authorities and, specifically, all requirements of the City, or any board of fire insurance underwriters, or other similar bodies, now in force, or which may hereafter be in force, pertaining to the Building and the Premises and the occupancy thereof, including any law that requires alteration, maintenance or restoration of the Premises as the result of the Tenant's particular use thereof. The Tenant shall timely file the Annual Report to the City as required by the City regarding occupants and the number of employees of occupants of the Building, and comply with any other requirements of the City. The judgment of any court of competent jurisdiction, or the admission of the Tenant in any action or proceeding against the Tenant, whether the Landlord be a party thereto or not, that the Tenant violated any such ordinances or statutes in the use of the Premises be conclusive of that fact as between the Landlord and the Tenant. The Tenant, at its sole expense, shall also comply with all requirements for fire extinguishers or fire extinguisher systems required in the Premises.

7.5 Waste, Nuisance. The Tenant shall not commit, or suffer to be committed, any waste of the Premises, or any nuisance, annoyance or other unreasonable annoyance which may disturb the quiet enjoyment of adjoining Premises or of the Building by the owners or occupants thereof.

8. CARE AND MAINTENANCE.

8.1 Maintenance.

A. Except as otherwise provided in this Lease, the Landlord agrees to maintain, at its expense, in good condition and repair all structural and mechanical components of the Premises, including without limitation the foundation, roof, interior and exterior walls, any heating, ventilating and air conditioning systems for the Premises, plumbing, electrical, mechanical systems, ceiling, floors, wiring, sprinklers and sewers.

B. Tenant, at its own cost and expense, agrees to:

(1) maintain throughout the Lease term in good condition and repair, the nonstructural components of the Premises, including without limitation, the exterior of the Premises, windows, glass, landscaping, driveways, walkways, fences, doors, signs, and other markers, car stops and lighting of the Premises, ordinary wear and tear excepted, and all personal property of Tenant situated in or upon the Premises;

(2) notify the Landlord promptly of any damage to the Premises resulting from or attributable to the acts or omissions of the Tenant, its invitees or its authorized representatives, or any other party and thereafter to promptly repair all such damage; and

(3) keep the Premises clean and neat at all times.

9. ALTERATIONS AND IMPROVEMENTS. Tenant shall not make any alterations or improvements to the Premises without Landlord's prior written consent. Landlord's consent to interior non-structural alterations shall not be unreasonably withheld; Landlord's consent to any other alterations may be withheld in Landlord's sole and absolute discretion. Any alterations or improvements to be constructed by the Tenant, or its designated agent, in the manner hereinafter set forth shall be at the cost and expense of the Tenant.

9.1 Conditions to Commencement of Construction. Before construction of any alterations or improvements is commenced on the Premises, and before any building materials have been delivered thereto by or pursuant to the authority or request of the Tenant, the Tenant shall comply with the following conditions, or obtain the Landlord's written waiver thereof:

A. Plans and Specifications.

(1) The Tenant shall prepare and deliver to the Landlord for approval a complete set of all preliminary and final plans and specifications to be utilized by the Tenant for the purpose of constructing the new improvements.

(2) The Landlord may disapprove of the plans and specifications by written notice given within fifteen (15) days following delivery thereof. The Landlord shall not unreasonably withhold approval of the plans and specifications, and the same shall be deemed approved if notice of disapproval is not given within said fifteen (15) day period.

(3) No review, inspection or approval by the Landlord, or its architect, shall relieve the Tenant of any liability or create any obligation or responsibility for the Landlord.

B. Notice of Non-Responsibility. The Tenant shall give the Landlord at least fifteen (15) days' written notice prior to (a) the commencement of construction of any Tenant improvements or (b) the delivery of any building materials to the site. Landlord may post on and affix to the Premises a "Notice of Non-Responsibility" as provided in Sections 3094 and 3129 of the California Civil Code, and may cause such Notice to be recorded promptly following posting in the Office of the County Recorder of the County in which the Premises are located.

C. Evidence of Construction Insurance.

(1) The Tenant shall purchase and maintain in effect, until a Notice of Completion is filed and recorded, insurance coverage for all-risk "Builders' Risk" insurance and "Worker's Compensation" insurance covering all persons employed in connection with the construction of the improvements and with respect to whom claims could be asserted against the Landlord or the Premises.

(2) The Tenant shall furnish to the Landlord certificates of such insurance, and evidence of the payment of premiums therefor, and for any other insurance required by the provisions of this Lease to be furnished by the Tenant.

D. No Liens. The Tenant shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for the Tenant, and promptly shall cause the elimination and removal of any mechanic's, materialmen's or other liens arising out of any improvements performed, materials furnished or obligations incurred by or on behalf of the Tenant in connection with any Tenant improvements.

9.2 Construction of Improvements. The Tenant warrants and covenants to the Landlord that:

A. The aforesaid improvements shall be of good quality and the development and construction work shall be performed in a good and workmanlike manner, consistent with and comparable to standards of practice in the City of Lodi for similar office space of first-class construction;

B. The Tenant shall secure or cause to be secured all permits and licenses necessary for the proper construction and completion of the aforesaid improvements, and shall

assume full responsibility for compliance with all governmental laws, codes, ordinances, regulations and standards pertaining thereto; and

C. The aforesaid improvements shall be constructed in accordance with the plans and specifications and shall be completed by the Tenant in a diligent and workmanlike manner.

9.3 Inspection and Notices. The Landlord or its representative shall have the right to go upon and inspect the Premises, including the improvements being constructed thereon, at all reasonable times, and shall have the right to post and keep posted thereon notices such as those provided for by Section 3094 of the California Civil Code, or which the Landlord may deem to be proper for the protection of the Landlord's interest in the Premises.

9.4 Notice of Completion. The Tenant shall give notice to the Landlord of the imminent completion of the improvements not less than ten (10) days prior to their expected completion, and shall cause a "Notice of Completion," as described in Section 3093 of the California Civil Code, to be filed and recorded in the manner provided by said Section. Upon such completion, the Tenant shall deliver to the Landlord one complete set of "as built" plans and specifications for the improvements constructed by the Tenant.

9.5 Ownership of Improvements. Except as set forth below, all of the Tenant's improvements hereunder, and all subsequent additions and alterations thereto and replacements thereof, shall be deemed affixed to, become and remain a part of the Premises and shall not be removed, encumbered, transferred or materially altered, except as provided by this Lease. Upon the expiration of the Lease term, or any renewal thereof, or upon the sooner termination of this Lease, all of the improvements, other than the Tenant's removable trade fixtures and equipment, shall become the property of the Landlord without further obligation to the Tenant and shall be surrendered to the Landlord upon the expiration or sooner termination of this Lease. Alternatively, at any time prior to ten (10) days following the expiration or sooner termination of this Lease, the Landlord may elect to have the Tenant remove any such alterations, additions, improvements or changes made by the Tenant. In such case, the Tenant shall so remove such items within ten (10) days following the Tenant's receipt of the Landlord's notice of election, and shall restore the Premises to their condition at the commencement of this Lease.

10. LIENS. The Tenant agrees to keep the Premises, and any improvements thereon, at all times free of mechanic's liens and other liens for labor, services, supplies, and equipment or material purchased by or directly or indirectly furnished to the Tenant. The Tenant, however, shall have the right to contest the validity or amount of any such lien as filed upon posting a bond in an amount sufficient to discharge the lien, and upon the final determination of such contest, shall immediately pay and discharge any judgment rendered, together with all costs and charges incidental thereto, and shall cause the lien thereof to be released from the Premises. Should the Tenant fail, within thirty (30) days after notice of the filing of any such lien, to discharge or cause the release of such liens or charges or to contest the same and post bond as above provided for, then the Landlord, at the Landlord's option, may satisfy said liens by payment thereof, and in such event, the amount of such payment, together with interest thereon at three percent (3%) above the Wall Street Journal Prime Rate, from the time the payment is so

made until repayment thereof, shall be payable by the Tenant at the time installment of rental shall be due and payable.

11. TENANT'S PERSONAL PROPERTY.

11.1 Installation of Property. The Landlord shall have no interest in any removable equipment, furniture or trade fixtures owned by the Tenant or installed in or upon the Premises solely at the cost and expense of the Tenant. Prior to creating or permitting the creation of any lien or security or reversionary interest in any removable personal property to be placed in or upon the Premises, the Tenant shall obtain the written agreement of the party holding such interest to make such repairs necessitated by the removal of such property and any damage resulting therefrom as may be necessary to restore the Premises to good condition and repair, excepting only reasonable wear and tear, in the event said property is thereafter removed from the Premises by said party, or by any agent or representative thereof or purchaser therefrom, pursuant to the exercise or enforcement of any rights incident to the interest so created, without any cost or expense to the Landlord.

11.2 Removal of Personal Property. The Tenant shall have the right to remove, at its own cost and expense, upon the expiration of this Lease all removable equipment, furniture or trade fixtures owned by or installed at the expense of the Tenant on the Premises during the term of this Lease (and not owed by the predecessor to Tenant). All such personal property shall be removed prior to the close of business on the last day of the Lease term, and the Tenant shall make such repairs necessitated by the removal of said property and any damage resulting therefrom as may be necessary to restore the Premises to good condition and repair, excepting only reasonable wear and tear since the inception of the Lease. Any such property not so removed shall be deemed to have been abandoned or, at the option of the Landlord, shall be removed and placed in storage for the account and at the cost and expense of the Tenant.

12. WAIVER AND INDEMNITY. This Lease is made upon the express condition that the Landlord is to be free from all liability and claims for damages by reason of any injury to any person and damage to any property (including the Tenant's), resulting from any cause whatsoever while in, upon, about, or in any way connected with the Premises or the Building, during the term of this Lease. The Tenant hereby waives all claims against the Landlord for, and agrees to defend with counsel acceptable to Landlord, and to indemnify and hold the Landlord harmless from, any actual loss, claims, suits, damages or liability, and from all costs or expenses, including attorneys' fees and costs of defense, arising from or attributable to any such injury or damage from any cause at any time, other than those caused solely by the fault or neglect of the Landlord.

13. INSURANCE AND PROPERTY DAMAGE.

13.1. Insurance Coverage. The Tenant agrees to maintain in force throughout the term hereof, at the Tenant's sole cost and expense: (i) commercial general liability insurance insuring against any liability to the public for any claim for damages due to death, bodily injury or property damage incident to the use of or resulting from any accident occurring in or about the Premises, with single limit coverage of not less than Two Million Dollars (\$2,000,000.00) per

occurrence for any loss and Five Million Dollars (\$5,000,000.00) aggregate for any policy period; (ii) business auto liability insurance covering owned, non-owned and hired vehicles with a limit of not less than \$1,000,000.00 per accident; (iii) worker's compensation insurance with limits at least as required by statute; (iv) employers liability insurance with limits of \$1,000,000.00 each accident, \$1,000,000.00 disease policy limit, \$1,000,000.00 disease—each employee; and (v) business interruption insurance for 100% of the 12 months actual loss sustained. The general liability insurance policy shall name the landlord as an additional insured.

13.2 Tenant's Property Insurance. Tenant, at its own cost, shall maintain insurance on its personal property and removable fixtures and equipment situated in, on or about the Premises, a policy of standard fire and extended coverage insurance, to the extent of at least One Hundred Percent (100%) of their actual cash value. The proceeds of any such policy that become payable due to damage or loss shall be used by the Tenant for the repair or replacement thereof.

13.3 Miscellaneous Insurance Provisions.

A. Proof of Insurance. Each policy of insurance required of the Tenant by this Lease shall be a primary policy, issued by an insurance company and with a deductible reasonably satisfactory to the Landlord, with the real property insurance containing an endorsement requiring thirty (30) days' written notice from the insurer to the Landlord before cancellation. Certificates evidencing coverage shall be deposited with the Landlord at the Commencement Date, and at the commencement of any renewal term.

B. Waiver of Subrogation. The Landlord and the Tenant each release the other, and their respective agents and representatives, from any claims for damage to any person or to the Premises and to the fixtures and personal property situated therein, resulting from or attributable to any risk insured under the property insurance policies carried by the parties and in force at the time of the damage. Each party shall cause any insurer providing insurance to it pursuant to this Lease to waive all rights or recovery by way of subrogation against either party by virtue of the payment of any loss under such insurance, such waiver to be effective as long as such insurance is required under the provisions of this Lease.

13.4 Property Insurance. The Landlord shall, at all times during the term of this Lease, keep the Building and improvements in which the Premises is situated insured against loss or damage by fire and the perils covered by an extended coverage or "all risk" insurance, vandalism and malicious mischief endorsements, building ordinance coverage, and any other endorsements selected by the Landlord, and the Landlord, at its discretion, may purchase an earthquake policy of insurance and zoning ordinance coverage, in an amount not less than One Hundred Percent (100%) of the actual costs of replacement or restoration of the Building and other improvements in which the Premises is situated. All such insurance shall be payable jointly to the Tenant and to the Landlord and the holder of any trust deed on the Premises as their interests may appear. The reasonable cost of such insurance shall be chargeable to the Tenant as Additional Rent hereunder.

13.5 Insurable Casualty Loss.

A. Landlord to Restore. Except as provided in Subparagraph B, below, in the event the Premises or the Building is damaged or destroyed as the result of any risk actually insured against by this Paragraph 13, then the Landlord shall forthwith restore the Premises or the Building to substantially the same condition as existed immediately prior to such damage or destruction, and any insurance proceeds remaining after the completion of said work shall belong to the Landlord.

B. Option to Terminate. In the event that, at any time during the term of this Lease, the Building or the Premises are totally destroyed, or are sufficiently damaged to render them unusable without substantial repair or reconstruction, or should then applicable laws or zoning ordinances preclude the restoration or repair of the Building or the Premises, or should the costs of restoration exceed the amount of the insurance proceeds, then the Landlord or the Tenant shall have the option, exercisable by giving at least ten (10) days' prior written notice to the other party within sixty (60) days after the occurrence of any such casualty, to terminate this Lease.

13.6 Intentionally omitted.

13.7 Termination; Abatement of Rent.

A. This Lease shall not be terminated by any damage to or destruction of the Premises or other improvements of which the Premises are a part, except as expressly provided by this Paragraph 13.5, and the Tenant hereby waives the provisions of Section 1932(2) and 1933(4) of the California Civil Code with respect to any such damage or destruction.

B. Should the Premises or the Building be damaged or destroyed at any time during the term of this Lease, rent shall be abated during any period in excess of thirty (30) days that Tenant is unable to conduct its normal business operations at the Premises.

14. CONDEMNATION.

14.1 Entire Premises. Should title or possession of the whole of the Premises or the Building be taken by duly constituted authority in condemnation proceedings under the exercise of the right of eminent domain, then this Lease shall terminate upon the vesting of title or taking of possession.

14.2 Partial Taking.

A. The Landlord shall have the right to terminate this Lease upon such thirty (30) days' notice if any such partial taking is such as to prevent the Tenant from using the Premises, or the remaining portion thereof, in substantially the same manner as they were used prior to such taking. If the Landlord does not terminate this Lease as provided herein, then this Lease shall remain in full force and effect. In such event, the Landlord shall promptly make any necessary repairs or restoration at the cost and expense of the Landlord, and the Base Rent from

and after the date of the taking shall be reduced in the proportion that the value of the area of the portion of the Premises taken bears to the total value of the Premises immediately prior to the date of such taking or conveyance.

B. Each party waives the provisions of Code of Civil Procedure Section 1265.130 allowing either party to petition the Superior Court to terminate this Lease in the event of a partial taking of the Premises. Any dispute between the parties concerning the extent to which a partial taking by eminent domain interferes with the use and occupancy of the Premises by the Tenant shall be settled by arbitration in Lodi, California, in accordance with the rules of the American Arbitration Association then in effect.

14.3 Conveyance Under Threat of Condemnation. Any sale or conveyance by the Landlord to any person or entity having the power of eminent domain, either under threat of condemnation or while condemnation proceedings are pending, shall be deemed to be a taking by eminent domain under this Paragraph 14.

14.4 Awards and Damages. All payments made on account of any taking by eminent domain shall be made to the Landlord, except that the Tenant shall be entitled to any payment or award made for or attributable to the reasonable removal and relocation costs of any removable property that the Tenant has the right to remove, or for loss and damage to any such property that the Tenant elects or is required not to remove.

15. ASSIGNING, MORTGAGING, SUBLETTING OR CHANGE IN OWNERSHIP.

15.1 Limitation. The Tenant shall not transfer, assign, sublet, mortgage, hypothecate, share rights in this Lease or the Tenant's interest in the Premises, or permit any other person or entity, other than an affiliated or controlled entity, to utilize the Premises, without first procuring the written consent of the Landlord, which consent shall not be unreasonably withheld. The Tenant shall pay to the Landlord the sum of Seven Hundred Fifty Dollars (\$750.00) with each such request for consent to cover the Landlord's expenses in connection with processing each such request. Any attempted transfer, assignment, subletting, mortgage, hypothecation or sharing of rights, other than an affiliated or controlled entity, without the Landlord's written consent shall be void and confer no rights upon any third person. Any such event shall constitute a material default under this Lease, and the Landlord reserves the right of immediate re-entry in the event of any such attempted transfer. The Tenant also agrees to reimburse the Landlord for the Landlord's reasonable attorneys' fees and costs incurred in connection with the documentation of any transfer by the Tenant of the Tenant's rights hereunder, which reimbursement shall be in addition to, and not a part of, the processing fee referred to above.

15.2 Conditions. Each transfer, assignment, subletting, mortgage, hypothecation or sharing of rights to which there has been consent shall be by an instrument in writing, in a form satisfactory to the Landlord, and in each instance shall be executed by the transferor, assignor, sublessor, hypothecator or mortgagor and the transferee, assignee, sublessee, mortgagee or other person or entity, as the case may be. Each transferee, assignee, sublessee, mortgagee or other person or entity shall agree in writing for the benefit of the Landlord to assume, to be bound by, and to perform the terms, covenants and conditions of this lease to be done, kept and performed

by the Tenant, including the payment of all amounts due, or to become due, under this Lease. In addition, as conditions precedent to the Landlord's consent to any transfer, assignment, subletting, mortgage or hypothecation of this Lease, or the Tenant's interest in the Premises, the Landlord may require any or all of the following:

15.2.1 The Tenant shall remain fully liable under this Lease during the unexpired term thereof;

15.2.2 The Tenant shall provide the Landlord with evidence reasonably satisfactory to the Landlord that the value of the Landlord's interest under this Lease will not thereby be diminished or reduced. Such evidence shall include, but not need be limited to, evidence respecting the relevant business experience and financial responsibility and status of the third party concerned;

15.2.3 If the Tenant's transfer of rights or sharing of the Premises provides for the receipt by, on behalf of, or on account of the Tenant of any consideration or any kind whatsoever (including, but not by way of limitation, a premium rental for the sublease or lump sum payment for an assignment) in excess of the rental and other sums due the Landlord under this Lease, the Tenant shall pay said excess, less the Tenant's reasonable costs (not to exceed Five Percent (5%) of said excess) to the Landlord. If said consideration consists of cash paid to the Tenant, payment to the Landlord shall be made upon receipt by the Tenant of the cash payment;

15.2.4 Written agreement from any third party concerned that, in the event the Landlord gives such third party notice that the Tenant is in default under this Lease, such third party shall thereafter make all payments otherwise due the Tenant directly to the Landlord, which payments will be received by the Landlord without any liability on the Landlord, except to credit such payments against those due under the Lease, and any such third party shall agree to attorn to the Landlord, or its successors and assigns, should this Lease be terminated for any reason; provided, however, that in no event shall the Landlord, or its successors or assigns, be obligated to accept such attornment;

15.2.5 The Tenant shall not be then in default hereunder in any respect;

15.2.6 Such third party's proposed use of the Premises shall be similar to, and consistent with, the Tenant's permitted use; and

15.2.7 The Tenant shall deliver to the Landlord one (1) executed copy of any and all written instruments evidencing or relating to the Tenant's assignment, transfer or sharing of the Premises.

The Tenant hereby agrees and acknowledges that the conditions permitted to be imposed upon the granting of the Landlord's consent hereunder are reasonable and the Landlord's imposition of such conditions shall under no circumstances impair or limit the Landlord's rights and remedies under California Civil Code Section 1951.4, or any related successor similar provision of law.

15.3 Limitation on Consent. The Landlord's consent to the Tenant's transfer of rights, or sharing of the Premises on any one occasion, shall apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of the Tenant, or any transferee, to obtain the Landlord's consent to any other or subsequent transfer of rights or sharing of the Premises, or as modifying or limiting the Landlord's rights hereunder in any way. The Landlord's acceptance of rent, or any other payment directly from any third party, shall not be construed as a waiver of any of the Landlord's rights or as the Landlord's agreement to accept the attornment of any third party, in the event of a termination of this Lease. In no event shall the Landlord's enforcement of any provision of this Lease against any third party be deemed a waiver of the Landlord's right to enforce any term of this Lease against the Tenant or any other person.

15.4 Applicability to Successors. In the event that the Landlord gives consent to a transfer of rights or sharing of the Premises, such third party in respect of which said consent was given may in turn apply to the Landlord for its consent to subsequent transfers of rights or sharing of the Premises, in which case the provisions of this Paragraph 15 shall apply as fully as possible to such third party (including this Paragraph 15.4 in the case of more remote transfers); provided, however, that as an additional condition of the granting of the Landlord's consent, the Premises will not, in the Landlord's opinion, thereby become unduly fractionalized.

Any such transfer shall be subject to all the terms and conditions of this Lease, and each such successive transfer shall be made only upon like conditions. Tenant agrees to remain fully responsible to Landlord for the performance of all of the Tenant's obligations under this Lease. Tenant shall pay Landlord's reasonable legal fees and costs incurred in reviewing any request of Tenant pursuant to Paragraph 15.1 above.

16. DEFAULT BY TENANT; LANDLORD'S REMEDIES.

16.1 Insolvency by the Tenant. In the event all, or substantially all, of the Tenant's assets are placed in the hands of a receiver or trustee, and such receivership or trusteeship continues for a period of thirty (30) days, or should the Tenant make an assignment for the benefit of creditors, or be finally adjudicated as bankrupt, or should the Tenant institute any proceedings under the Bankruptcy Act, as the same now exists, or under any amendment thereof which may hereinafter be enacted, or under any other act relating to the subject of bankruptcy wherein the Tenant seeks to be adjudicated as a bankrupt, or to be discharged of its debts, or to effect a plan of liquidation, composition or reorganization, or should any involuntary proceeding be filed against the Tenant under any such bankruptcy laws and such proceeding not be dismissed or vacated within thirty (30) days thereafter, then this Lease, or any interest of the Tenant in and to the Premises, shall not become an asset in any of such proceedings and, in any such events and in addition to any and all rights or remedies of the Landlord hereunder, or by law provided, it shall be lawful for the Landlord to declare the terms hereof ended and to re-enter the Premises, and take possession thereof, and remove all persons therefrom, and the Tenant shall have no further claim thereon or hereunder.

16.2 Bankruptcy. Notwithstanding the foregoing, a debtor-in-possession, or a Trustee in bankruptcy, shall have the right to assume or assign this Lease, but only if any default hereunder is cured promptly and adequate assurance of future performance of the terms of this Lease is concurrently therewith provided to the Landlord. Adequate assurance of such performance is hereby defined as requiring (a) that the source of rent and other consideration due and owing to the Landlord under the Lease will be assured; (b) that the assumption or assignment of the Lease will not substantially breach any provisions of any agreement relating to the Premises, whether the Landlord is a party thereto or not (including, but not limited to, any other lease, financing agreement, master agreement or lease relating to the Premises, or underlying property); and (c) that an assumption or assignment of the Lease will not disrupt substantially any Tenant mix or balance of occupants in the Building.

16.3 Breach of Covenant; Abandonment, Etc. If, during the term of this Lease, the Tenant (i) shall default in fulfilling any of the covenants or conditions of this Lease (other than the covenants for the payment of rent or other charges payable by the Tenant hereunder); or (ii) shall abandon the Premises for a period of thirty (30) consecutive days, and if at the expiration of thirty (30) days after the service of such notice the default or contingency upon which said notice was based shall continue to exist, or in the case of a default or contingency which cannot with due diligence be cured within a period of thirty (30) days, if the Tenant fails to proceed promptly after the service of such notice to prosecute the curing of such default with all due diligence, and to actually cure such default within a reasonable period of time, the Landlord may terminate this Lease and, upon such termination, the Tenant shall quit and surrender the Premises and the improvements thereon to the Landlord, but the Tenant shall remain liable as hereinafter provided.

16.4 Failure to Pay Rent, Etc. If the Tenant shall make default in the payment of the rent expressly reserved hereunder, or any part of the same, or shall make default in the payment of any other rent or charge required to be paid by the Tenant hereunder, or any part of the same, and such default shall continue for five (5) days after written notice thereof, which will also serve as notice by the Landlord under California Code of Civil Procedure Section 1161(2) and shall not be in addition to such notice, the Landlord may terminate this Lease and upon such termination, the Tenant shall quit and surrender the Premises and the improvements thereon to the Landlord, but the Tenant shall remain liable as hereinafter provided.

16.5 Termination of Lease. It is understood and agreed that all the covenants and conditions of this Lease herein contained are covenants by the Tenant and the conditions of the Tenant's occupancy of the Premises. In default of the Tenant's fulfillment of any of the same, the Landlord may, at any time thereafter, unilaterally terminate this Lease. Any holding over thereafter by the Tenant shall be construed to be a tenancy from month to month only, for the rental payable pursuant to Paragraph 23.2, below. It is further agreed that in the event of any breach of this Lease by the Tenant, then the Landlord, besides other rights or remedies the Landlord may have, shall have the immediate right of re-entry and may remove all persons and property from the Premises.

16.6 Landlord's Damages. If the Tenant breaches this Lease and abandons the Premises before the end of the term, or if the Tenant's rights of possession is terminated by the

Landlord because of breach of this Lease pursuant to any of the foregoing provisions of this paragraph, or otherwise, then in any such case, the Landlord may recover from the Tenant all damages suffered by the Landlord as a result of the Tenant's failure to perform the Tenant's obligations hereunder, including, but not limited to, the worth at the time of the award (computed in accordance with paragraph (b) of Section 1951.2 of the California Civil Code) of the amount by which the rent then unpaid hereunder for the balance of this Lease term exceeds the amount of such rental loss for the same period which the Tenant proves could be reasonably avoided by the Landlord. It is further agreed that even though the Tenant has breached this Lease and abandoned the property, this Lease may continue in effect for as long as the Landlord does not terminate the Tenant's right to possession, and the Landlord may enforce all of the rights and remedies under this Lease, including the right to recover the rent as it becomes due under the lease (in accordance with paragraph (b) of Section 1951.4 of the California Civil Code). Nothing contained herein shall diminish the right of the Landlord to obtain such equitable relief against the Tenant as may be appropriate.

16.7 Remedies Not Exclusive. The Landlord, in addition to the rights hereinbefore given in case of the Tenant's breach or default, may pursue any other remedy available to the Landlord at law or in equity.

17. POWER OF RECEIVER. If a receiver be appointed at the instance of the Landlord in any action against the Tenant to take possession of the Premises and/or to collect the rents or profits derived therefrom, the Tenant irrevocably agrees that said receiver may, if it be necessary or convenient in order to collect such rents and profits, conduct the business then being carried on by the Tenant on said Premises and that said receiver may take possession of any personal property belonging to the Tenant and used in the conduct of such business, and may use the same in conducting such business on the Premises without compensation to the Tenant for such business, and may use the same in conducting such business on the Premises without compensation to the Tenant for such use. Neither the application for nor the appointment of such a receiver shall be construed as an election on the Landlord's part to terminate this Lease unless a written notice of such intention is given by the Landlord.

18. LANDLORD'S RIGHT TO CURE DEFAULTS. The Landlord, at any time after the Tenant commits a default in the performance of any of the Tenant's obligations under this Lease, shall be entitled to (but is not obligated to) cure such default, or to cause such default to be cured, at the sole cost and expense of the Tenant. If, by reason of any default by the Tenant, the Landlord incurs any expense or pays any sum, or performs any act requiring the Landlord to incur any expenses or to pay any sum, including reasonable fees and expenses paid or incurred by the Landlord in order to prepare and post or deliver any notice permitted or required by the provisions of this Lease, or otherwise permitted or contemplated by law, then the amount so paid or incurred by the Landlord shall be immediately due and payable to the Landlord by the Tenant as additional rent. The Tenant hereby authorizes the Landlord to deduct said sums from any security deposit held by the Landlord. If there is no security deposit, said sums shall be paid by the Tenant immediately upon demand by the Landlord, and shall bear interest at the lesser of Three Percent (3%) above the Wall Street Journal prime rate per annum, or the maximum rate permitted by law from the date of such demand until paid in full.

19. WAIVER OF BREACH. Any waiver, express or implied, by any party hereto, of any breach by any party or any covenant or provision of this Lease, shall not be, nor be construed to be, a waiver of any subsequent breach of the same or any other term or provision hereof. No payment by the Tenant or receipt by the Landlord of a lesser amount of rent, or other payments due hereunder, shall constitute a waiver of any breach of this Lease. Any such payment actually received by the Landlord shall be deemed to be on account of the earliest rent or other payment due.

20. SUBORDINATION; ESTOPPEL CERTIFICATES; LANDLORD WAIVERS.

20.1 Subordination Agreement. The Tenant agrees to execute, acknowledge and deliver to the Landlord upon request such documents and instruments that may be necessary to subordinate this Lease to (1) any mortgages or trust deeds that now exist or may hereafter be placed upon the Premises by the Landlord, (2) to any and all advances made or to be made thereunder, (3) to the interest on all obligations secured thereby, and (4) to all renewals, modifications, consolidations, replacements and extensions thereof; provided, however, that in each case the mortgagee or beneficiary named in any such mortgage or trust deed shall agree in writing that, as long as the Tenant performs its obligations under this Lease, no foreclosure or deed in lieu of foreclosure, or sale under the encumbrance or other procedures to enforce the rights incident thereto, shall affect the Tenant's rights under this Lease. If the Tenant shall fail at any time to execute, acknowledge and deliver any such subordination instrument, then the Landlord, in addition to any other remedies available to it, may execute, acknowledge and deliver the instrument as the attorney-in-fact of the Tenant and in the Tenant's name, place and stead, and the Tenant hereby irrevocably makes, constitutes and appoints the Landlord, its successors and assigns, such attorney-in-fact for that purpose.

20.2 Attornment. The Tenant shall attorn to any purchaser at any foreclosure sale or to any grantee or transferee designated in any deed given in lieu of foreclosure.

20.3 Estoppel Certificate. Within ten (10) days after receipt of a written request therefor, the Tenant shall deliver in recordable form a written statement certifying (if such be the case) that this Lease is in full force and effect and that there are no defenses or offsets thereto, or stating those claimed to exist and such other information as the Landlord may reasonably request be included in such statement. The failure of the Tenant to deliver such certificate within said 10-day period shall be conclusive upon the Tenant for the benefit of the Landlord, its lender, mortgagee or assignee, and their respective successors in interest, that this Lease is in full force and effect and has not been modified except as may be represented by the Landlord in its written request for such statement. If the Tenant shall fail at any time to execute, acknowledge and deliver any such estoppel certificate, then the Landlord, in addition to any other remedies available to it, may execute, acknowledge, and deliver the instrument as the attorney-in-fact of the Tenant and in the Tenant's name, place and stead, and the Tenant hereby irrevocably makes, constitutes and appoints the Landlord, its successors and assigns, such attorney-in-fact for that purpose.

20.4 Landlord Waivers. Landlord recognizes that Tenant may obtain financing for its business from time to time and, as security for such financing, Tenant may grant security

interests in Tenant's personal property, inventory, equipment, trade fixtures and other personal property located within the Premises. Landlord hereby waives any rights it may have to a statutory, prejudgment lien on such items and Landlord agrees to execute, upon request, a confirmation of such waiver in form satisfactory to Tenant and Tenant's lenders. Nothing set forth in this Paragraph 20.4 shall be construed to permit Tenant to assign, mortgage or otherwise encumber this Lease or the Premises.

21. LANDLORD'S ENTRY ON PREMISES.

21.1 Right of Entry. The Landlord and its authorized representatives shall have the right without liability and without abatement of rent to enter the Premises at all reasonable times for, without limitation, upon forty-eight (48) hours prior notice (except in the case of an actual or perceived emergency), any of the following purposes:

A. to determine whether the Premises and/or the Building are in good condition, and whether the Tenant is complying with its obligations under this Lease;

B. to do any necessary maintenance, repairs, restoration or remodeling to the Premises and/or the Building that the Landlord has the right or obligation to perform;

C. to serve, post, or keep posted any notices required or allowed under the provisions of this Lease, including "for rent" or "for lease" notices during the term of the Lease, or during any period while the Tenant is in default, and any notices provided by law for the protection of the Landlord's interest in the Premises; to shore the foundations, footings and walls of the Building, and to erect scaffolding and protective barricades around and about the Building is located, but not so as to prevent entry to the Premises, and to do any other act or thing necessary for the safety or preservation of the Premises if any excavation or other construction is undertaken or is about to be undertaken on any adjacent property or area; and

D. to show the Premises and/or the Building to prospective purchasers, lenders, tenants, brokers and others for business purposes, and for such other purposes as the Landlord may deem appropriate.

21.2 Exercise of Right. The Landlord shall exercise its rights under this Paragraph 21 in a manner that will not interfere unreasonably with the Tenant's use and occupancy of the Premises; provided that the Landlord's entry and activities do not result from the Tenant's default. The Landlord shall not be liable in any other manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of the Landlord's entry on the Premises as provided herein, except damage resulting from the acts or omissions of the Landlord or her authorized representatives.

22. SALE OR TRANSFER OF PREMISES. If the Landlord sells or transfers all or any portion of the Premises, or the Building, improvements and land of which the Premises is a part, then the Landlord shall be released from any liability thereafter accruing under this Lease upon (a) the consummation and (b) the Landlord accounting to any such transferee for any security deposit and prepaid rent of the Tenant hereunder.

23. SURRENDER ON TERMINATION; HOLDING OVER.

23.1 Surrender. On the last day of the term, or upon sooner termination of this Lease, the Tenant shall surrender to the Landlord the Premises and all Tenant's improvements and alterations, broom clean, maintained and repaired in accordance with Paragraph 8 hereof, and otherwise in the same condition as when received, except reasonable wear and tear and except for improvements and alterations that the Tenant has the right to remove under the provisions of this Lease. The Tenant shall remove all of its personal property within the above stated time, but any such removal shall not affect the Landlord's lien on such personal property until all amounts owing by the Tenant hereunder are paid in full. The Tenant shall promptly repair any damage to the Premises caused by the removal of any improvements or alterations or Tenant's personal property and/or arising as a result of the Tenant's vacation of the Premises.

The Landlord can elect to retain or dispose of in any manner any improvements or alterations or the Tenant's personal property that the Tenant does not remove from the Premises on expiration or termination of the term as allowed or required by this Lease by giving at least ten (10) days' written notice to the Tenant. Title to any such improvements or alterations or the Tenant's personal property that the Landlord elects to retain or dispose of on expiration of the ten (10) day period shall vest in the Landlord. The Tenant waives all claims against the Landlord for any damage to the Tenant resulting from the Landlord's retention or disposition of any such alterations of the Tenant's personal property.

23.2 Holding Over. If the Tenant, without the Landlord's consent, remains in possession of the Premises after expiration or termination of the Lease term, or after the date in any notice given by the Landlord to the Tenant terminating this Lease, such possession by the Tenant shall be deemed to be a month to month tenancy terminable on thirty (30) days' notice given at any time by either party at a minimum rent equal to one and one half (1 1/2) times the monthly Base Rent in effect on the date of such expiration for the first month of hold over and thereafter three (3) times the monthly Base Rent. Such tenancy shall otherwise be subject to all of the terms and conditions of this Lease, except those pertaining to the Lease term, including but not limited to Tenant's obligation to pay taxes, insurance and other expenses concerning the Premises. Any holding over without the Landlord's consent shall not give the Tenant tenure hereunder.

24. NOTICES. Any and all notices by the Landlord to the Tenant, or by the Tenant to the Landlord, shall be in writing and delivered personally or by U.S. certified mail, return receipt requested, addressed to the parties at the addresses specified on the signature page. Either party may, at any time, change the address by written notice to the other party in accordance with this paragraph. If notice is mailed, it shall be deemed received on the third business day following the date on which it is mailed.

25. BINDING ON SUCCESSORS, ETC. The Landlord and the Tenant agree that each of the terms, conditions and obligations of this Lease shall extend to and bind, or inure to the benefit of (as the case may require), the respective parties hereto, and each and every one of their respective heirs, executors, administrators, representatives, successors and assigns.

26. ATTORNEYS' FEES. In the event that any legal action is instituted by either of the parties hereto to enforce or construe any of the terms, conditions or covenants of this Lease, or the validity thereof, the party prevailing in any such action shall be entitled to recover from the other party all court costs and reasonable attorneys' fees to be set by the court, and the costs and fees incurred in enforcing any judgment entered therein in addition to any other award of damage or other remedy. Attorneys' fees and costs, whenever mentioned in this Lease, shall include those incurred with respect to arbitration proceedings, if any.

27. PARTIAL INVALIDITY. If any term or provision, in whole or in part, of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid, unenforceable, or inapplicable in the stated circumstances or for stated purposes, in any jurisdiction, then the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those to which it is held invalid, unenforceable or inapplicable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforceable to the fullest extent permitted by law.

28. NO RECORDATION. Neither party shall record this Lease or a short form memorandum hereof, without the prior written consent of Landlord, which may be withheld in Landlord's sole and absolute discretion.

29. COMPLETE AGREEMENT. This Lease constitutes the entire agreement between the parties and may not be altered, amended, modified or extended, except by an instrument in writing signed by all parties hereto. The parties respectively acknowledge and agree that neither has made any representations or warranties to the other not expressly set forth herein.

30. CONSENT OF PARTY. If this Lease requires the consent of a party hereto, such consent shall not be unreasonably withheld or delayed.

31. AUTHORITY. If the Tenant is a partnership, each individual executing this Lease on behalf of said partnership represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said partnership, and that all future forms, reports, fees and other documents necessary to comply with applicable laws will be filed when due.

32. TIME. Time is of the essence of this Lease and each and every term, covenant and condition hereof.

33. SIGNS. The Tenant agrees to maintain at all times any sign, awning, canopy, decoration, lettering, advertising on the Premises in good condition, and in full compliance with all applicable governmental regulations. The Tenant agrees that the Landlord may post in conspicuous places "For Sale" or "For Rent" signs on the Premises.

34. ACCORD AND SATISFACTION. No payment by the Tenant or receipt by the Landlord of a lesser amount than the rent herein stipulated shall be deemed to be other than on account of the earliest stipulated rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and the

Landlord may accept such check or payment without prejudice to the Landlord's right to recover the balance of such rent or pursue any other remedy provided in this Lease.

35. CONSTRUCTION OF LEASE. The language in all parts of this Lease shall in all cases be construed as a whole according to its fair meaning and not strictly for nor against the Landlord or the Tenant.

36. LIMITATION OF LANDLORD'S LIABILITY. The Tenant hereby acknowledges and agrees that (i) no present or future partner manager, member, shareholder, officer or director of the Landlord, or its assign, shall have any personal liability of any kind or nature whatsoever for or by reason of any matter or thing whatsoever arising under, related to, or in any way connected with this Lease, and the rights and obligations of the parties hereunder, and (ii) the Tenant shall look solely to the Premises for the enforcement of its rights hereunder.

37. SUPERSEDES PROPOSAL TO LEASE; INTEGRATION. This Lease supersedes any proposals regarding the leasing of the Premises, whether written or oral, and any such proposals will be terminated, and of no force or effect, effective upon the execution of this Lease. This Lease contains the entire understanding and agreements of the parties.

38. ENVIRONMENTAL MATTERS. The Tenant hereby acknowledges that the Premises are being leased in "as is" condition. The Landlord represents and warrants to the Tenant that it does not have actual knowledge of any toxic contamination, including, but not limited to, (i) releases of hazardous materials from any underground improvements, including treatment or storage tanks, or underground piping associated with such tanks, used currently or in the past at the Premises, (ii) any dump or landfill or other unit for the treatment or disposal of hazardous materials, (iii) polychlorinated biphenyls ("PCBs"), (iv) toxic mold; or (v) asbestos-containing materials, but has not conducted an investigation into such matters.

The Tenant covenants as follows:

(a) The Tenant shall at all times and in all respects comply with all federal, state and local laws, ordinances and regulations (the "**Hazardous Material Laws**") relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, disposal or transportation of any oil, flammable explosives, asbestos, urea, formaldehyde, radioactive materials or wastes or other hazardous, toxic, contaminated or polluting materials, substances or wastes, including, without limitation, any hazardous substances which are the subject of any such laws, ordinances or regulations (collectively, the "**Hazardous Materials**").

(b) The Tenant shall, at its own expense, procure, maintain in effect, and comply with all conditions of any and all permits, licenses and other governmental and regulatory approval required for the Tenant's use of the Premises, including, without limitation, discharge of (appropriately treated) materials or wastes which may be discharged into or through any sanitary sewer serving the Premises. The Tenant shall, in all respects, deal with the Hazardous Materials in conformity with the Hazardous Materials Laws.

(c) The Tenant shall indemnify, defend (by counsel reasonably acceptable to the Landlord), protect, and hold the Landlord and each of the Landlord's partners, employees, agents, attorneys, successors and assigns, free and harmless from and against any and all claims, liabilities, penalties, forfeitures, losses or expenses (including attorneys' fees), damages or death of or injury to any person or damage to any property whatsoever, arising from or caused in whole or in part, directly or indirectly, by the Tenant's: (i) failure to comply with any Hazardous Materials Law, or other health or safety law, regulation or ordinance or (ii) use or occupancy of the Premises. The Tenant's obligations hereunder shall include, without limitation, and whether foreseeable or unforeseeable, all costs of any required or necessary repair, clean-up or detoxification or decontamination of the Premises, and the preparation and implementation of any closure, remedial action or other required plans in connection therewith, and shall survive the expiration or earlier termination of the term of this Lease. For purposes of this indemnity provision, any acts or omission of the Tenant, or by employees, agents, assignees, contractors or subcontractors of the Tenant, or others acting for or on behalf of the Tenant (whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to the Tenant. Tenant's indemnity obligations under this Paragraph 38 shall not apply with respect to conditions which pre-existed the Tenant's occupancy under this Lease.

39. BROKERS. Each of the parties represents and warrants to the other that it has not dealt with any broker or finder in connection with this Lease.

40. INDEPENDENT COUNSEL. The Tenant has received the advice of counsel prior to executing this Lease.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Lease on this ____ day of July, 2009 at Lodi, California.

Landlord:
213 Kelly, LLC,
a California limited liability company

By: _____
Its: _____

Address:

Tenant:
Excel Storage Products, L.P.,
a Pennsylvania limited partnership

By: Excel Capital Partners, LLC, its
general partner

By: _____
Its: _____

Address:

IN WITNESS WHEREOF, the parties hereto have executed this Lease on this ____ day of July, 2009 at Lodi, California.

Landlord:
213 Kelly, LLC,
a California limited liability company

By: [Signature]
Its: Manager

Address:
213 Kelly, LLC
555 East Ocean Blvd. Suite 510
Long Beach, CA 90802

Tenant:
Excel Storage Products, L.P.,
a Pennsylvania limited partnership

By: Excel Capital Partners, LLC, its
general partner

By: _____
Its: _____

Address:

IN WITNESS WHEREOF, the parties hereto have executed this Lease on this ____ day of July, 2009 at Lodi, California.

Landlord:
213 Kelly, LLC,
a California limited liability company

By: _____
Its: _____

Address:

Tenant:
Excel Storage Products, L.P.,
a Pennsylvania limited partnership

By: Excel Capital Partners, LLC, its
general partner

By: Bruce A. Conroy, Jr.
Its: MEMBER

Address:
P.O. Box 407
East Stroudsburg, PA 18301
