

# SAMPLE UAIZ LEASE

## Property Owner and Urban Ag Project Creator Agreement

### Prologue and Statement of Purpose

Whereas both parties share a mutual interest in the long-term health and productivity of seedlings and urban farming for the benefit of community and society; and whereas the Lessor wishes to offer an affordable venue for the Lessee to establish, develop and operate a greenhouse/seedling sales enterprise as a tax-exempt non-profit entity; and whereas the Lessor wishes the property to be maintained according to high standards of stewardship, the parties agree as follows:

### 1. Basic Provisions ("Basic Provisions").

1.1 **Parties:** This Lease ("**Lease**"), dated for reference purposes only, is made by and between:

**Lessor:**  
and

**Lessee:**  
(collectively the "**Parties**", or individually a "**Party**").

### 1.2 Premises:

The Premises consist of 2 contiguous legal parcels of approximately 11,440 square feet, with storage and associated structures of approximately 1,030 square feet and a covered area of approximately 910 square feet.

Street Address:

County:

State:

It is understood that Lessor also owns the adjacent parcel at----- which is not a part of this Agreement. Lessor intends to lease this separate property to a different operator and expects Lessee and that operator to cooperate and coordinate operations to maintain a harmonious and collaborative arrangement among all parties concerned.

### 1.3 Urban Agriculture Tax Incentive Zone

Lessor and Lessee shall cooperate so that the property qualify under the City of San Jose's Municipal Code, Chapter 4.88, Urban Agriculture Tax Incentive Zone and so that Lessor receives the full property tax benefit this ordinance allows. Lessee shall endeavor to assist Lessor in completing the application process, to establish and construct necessary qualifying features and to operate the premise in a manner consistent with this ordinance and to not carry out any activities that may jeopardize such tax benefits, for the entire duration that this Lease Agreement remains in effect. If such tax benefits are denied at any time during this Lease due to the fault of Lessee, this Agreement may be terminated and Lessee must vacate the Premises in accordance with other provisions of this Agreement.

This Agreement is in effect only after the City of San Jose has approved Lessor's urban farm application and contract. Without such approval, this Agreement becomes null and void.

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**1.4 Term:**

**Original Term:** 5 years and 0 months

**Commencement Date:**

**Expiration Date:**

**Option to Extend:**

**1.5 NOT USED**

**1.6 Base Rent:**

Lessee, on or before the first day of the Lease term, shall pay Lessor an annual Lease fee of \$1.00 for each full calendar year of the Lease term, subject to adjustment as provided in paragraph (b), below. Beginning on December 16, 2016, and continuing on each subsequent December 1st of the Lease term, the Lessee shall pay the Lessor a Lease fee equal to the prior year's Lease fee.

**1.7 NOT USED**

**1.8 NOT USED**

**1.9 Agreed Use:**

- a) Lessee is hereby permitted all normal activities associated with urban farming including but not limited to: planting, cultivating and harvesting of seedlings, including perennial crops; application of soil amendments; pest and weed management, erection and management of structures such as greenhouses, hoop houses, temporary fencing, irrigation systems etc.; use, routine maintenance and storage of tools and equipment; post washing, cooling, sorting, and packing; management of brush, land edges and driveway; conversion of necessary and related land to greenhouse production of seedlings; and on-site sales of goods produced on the Premises as permitted by local regulations. Lessee may conduct educational and other public programming on the Premises related to, and in furtherance of, greenhouse stewardship.
- b) Lessor and Lessee shall conduct joint inspections of the Premises on an annual basis at minimum. In the interests of fostering frequent communication and a positive working relationship between the parties, Lessor may, at any time and from time to time, designate one or more individuals to act as Lessor's representative to the Lessee on all issues related to this Lease, including, without limitation, property management, stewardship standards and planning issues.
- c) Lessee shall not, unless by mutual agreement and prior approval to the contrary, engage in any of the following activities on the Premises: cutting trees; erection of permanent fencing or structures; storing vehicles or greenhouse equipment not essential to the greenhouse operation, except as provided herein;
- d) Lessor reserves the right to approve plans as to design, location of approved greenhouse and raised bed structures.

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- e) Lessee agrees to abide by all local, state and federal laws and regulations.
- f) Lessee agrees to apply for all applicable permits at Lessee's expense, subject to any advance agreement between the parties to share such expenses.
- g) Lessor reserves the right to enter the property for the purposes of inspection with 24 hours prior notification to the Lessee.
- h) Lessor reserves the right to carry out investigations including but not limited to surveying, taking soil samples, geotechnical studies including drilling, hazardous material studies, upon 24-hour notice to Lessee. Lessor shall endeavor to minimize disruption to Lessee's normal operations.

**2. Premises.**

**2.1 Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease.

**2.2 Condition.** Lessor shall deliver the Premises to Lessee in an "as-is" condition, **without** guarantee as to the working conditions of any facilities or components thereof, the availability of any utility, the safety or hazardous conditions, building code compliance of any parts of the Premises. Lessee certifies that Lessee has inspected and is familiar with the existing conditions of the Premises.

**2.3 Maintenance, Repairs and Improvements.**

- a) Lessee is responsible for protecting and maintaining in good working conditions all facilities on the Premises, including-----
- b) Lessee is responsible for normal maintenance of the Premises including, without limitation, performing all minor repairs. The Lessee will also keep the Premises free of trash to the greatest extent feasible.
- c) At the commencement of this Lease and annually (in January of each calendar year or in such other month as may be mutually agreed to by the parties) or upon extension, Lessor and Lessee shall agree on major repairs, additions, alterations, replacements and improvements. Such specification shall be in written form and signed by both parties.
- d) With prior written approval from the Lessor (pursuant to the process described in Section 2.3 (c), above, or at such other times mutually agreed to by the parties), the Lessee may place and maintain improvements including but not limited to any structures, fencing, and raised beds upon the Premises.
- e) In each case, both parties shall agree in writing as to how the costs of such major repairs, additions, alterations, replacements and improvements are allocated and whether the Lessee will have the right to remove such improvement at the conclusion of the Lease term in accordance with Section 2.3 (g) below.
- f) The Lessee shall be responsible for maintenance of all greenhouse improvements constructed or installed after the date of this Lease.
- g) Subject to the provisions of any specific agreements between the parties made in accordance with the provisions of Section 2.3 (e), above, at the termination of the Lease, Lessee may have the right to remove certain improvements constructed or installed after the date of this Lease, or may be required by Lessor to do so, and return the property to its prior condition. Alternatively, the improvements may remain and become the property of Lessor. Lessor shall

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not be obligated to compensate Lessee for the remaining improvements; however, Lessor and Lessee may establish alternative agreements set forth in writing and signed by both parties.

**6.2 Hazardous Substances.**

- (a) **Reportable Uses Require Consent.** The term "**Hazardous Substance**" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "**Reportable Use**" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use such as ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.
- (b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.
- (c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially

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contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds \$5,000, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice.

6.3 **Lessee's Compliance with Applicable Requirements.** Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises.

6.4 **Inspection; Compliance.** Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times, after reasonable notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. The cost of any such inspections

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shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see paragraph 9.1e) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (MSDS) to Lessor within 10 days of the receipt of written request therefor.

**7. Ownership; Removal; Surrender; and Restoration.**

- (a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.
- (b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.
- (c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7 (c) without the express written consent of Lessor shall constitute a holdover under other provisions of this Agreement.

**8. Insurance; Indemnity.**

**8.1 NOT USED**

**8.2 Liability Insurance.**

- (a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$1,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement and coverage shall also be extended to include damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this

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Lease as an "**insured contract**" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

- (b) **Carried by Lessor.** Lessor shall maintain liability insurance in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

**8.3 NOT USED**

**8.4 Worker's Compensation Insurance.**

- (a) **Worker's Compensation Insurance.** Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements.
- (b) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

**8.5 Insurance Policies.** Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 10 days prior written notice to Lessor. Lessee shall, at least 30 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

**8.6 Waiver of Subrogation.** Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

**8.7 Indemnity.** Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor

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and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 **Exemption of Lessor and its Agents from Liability.** Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 **Failure to Provide Insurance.** Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and therefore will result in an immediate termination of this Lease.

9. **NOT USED**

10. **NOT USED**

11. **Utilities and Services.**

Lessor makes no representation as to the availability or existence of any utilities on the Premises. Lessee is responsible for ascertaining which utilities exist and in what conditions, for starting utility service accounts and paying for utility usage.

12. **Assignment and Subletting.**

12.1 **Lessor's Consent Required.**

- (a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "**assign or assignment**") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.
- (b) A change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

12.2 **NOT USED**

13. **Default; Breach; Remedies; Termination.**

13.1 **Default; Breach.** A "**Default**" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "**Breach**" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

- (a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance

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described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

- (b) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee.
- (c) Failure to maintain a reasonable standard of stewardship of the Premises that is consistent with the intent of this Lease Agreement.
- (d) Failure to make repair and maintenance standards of the Premises.
- (e) Failure on Lessor's part to make the Premises fully available to Lessee for the establishment and development of greenhouse enterprise, and training program.

**13.2 Remedies.** If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may:

- (a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor.
- (c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

**13.2 Termination for Cause.** Either party may terminate this Lease upon default by the other as specified in 13.1 (a) above. Upon termination, Lessee must vacate the property and remove all personal possession and any improvements that Lessee is required or permitted to remove. Property must be left in the same condition as at the commencement of this Lease, or better, normal wear and tear notwithstanding. If either party shall default in the performance of any of its obligations, covenants or agreements under this Lease and such default shall not be cured within sixty (60) days after written notice to the defaulting party, then the non-defaulting party may declare the Lease terminated.

The parties recognize that weather, "acts of God" or similar unforeseen events may, in extreme circumstances, interfere with the Lessee's greenhouse practices and could prevent the Lessee's timely compliance with the terms of the Lease. In such a scenario, Lessee has the right to terminate the Lease upon a 60-day written notice to Lessor.

**13.3 Termination for Convenience of Lessor.** Lessor may cancel lease starting with year 3 of lease term, upon a 90-day written notification to Lessee, and subject to the following provisions:

- a) If cancellation occurs within year 3 of lease term, Lessor shall pay for 100% of the cost of dismantling and reinstallation of the greenhouse at a new location secured by Lessee.
- b) If cancellation occurs within year 4 of lease term, Lessor shall pay for 67% of the cost of dismantling and reinstallation of the greenhouse at a new location secured by Lessee.
- c) If cancellation occurs within year 5 of lease term, Lessor shall pay for 33% of the cost of dismantling and reinstallation of the greenhouse at a new location secured by Lessee.
- d) Lessor shall not be responsible for any cost if lease is terminated at the end of the lease term as described above.

**14. Condemnation.** If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "**Condemnation**"), this

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Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. Condemnation awards and/or payments shall be the property of Lessor.

15. **No Relocation Benefits.** Lessee understands that Lessor may in the future develop the Premises for commercial and/or other uses, and which would require Lessee to vacate the Premises at the end of the Lease's term. Lessee further understands that in the event it is required to move as a result of such a project, it will not qualify as a "displaced person" under any federal, state or local law and that it, therefore, will not be eligible for any relocation benefits available to persons displaced by government activities.
16. **NOT USED**
17. **NOT USED**
18. **Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.
19. **Days.** Unless otherwise specifically indicated to the contrary, the word "**days**" as used in this Lease shall mean and refer to calendar days.
20. **Limitation on Liability.** The obligations of Lessor under this Lease shall be limited by the total rent Lessor receives for the Premises. Lessee shall not seek recourse against Lessor or Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for satisfaction of any obligations.
21. **NOT USED**
22. **NOT USED**
23. **Notices.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by email with a Read receipt. Date of Notice shall be the date of delivery of such notice.
24. **NOT USED**
25. **NOT USED**
26. **NOT USED**
27. **NOT USED**
28. **Covenants and Conditions; Construction of Agreement.** All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.
29. **Binding Effect; Choice of Law.** This Lease shall be binding upon the Parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.
30. **NOT USED**
31. **Dispute Resolution.** Both parties agree to the best of their abilities to resolve any disputes regarding the interpretation and performance of this Lease through mutual good faith effort. All disputes that cannot be resolved through such efforts shall be determined and settled by arbitration in Santa

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Clara County, CA in accordance with the rules and procedures of the American Arbitration Association then in effect, and judgment upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expenses of the arbitration shall be borne equally by the parties to the arbitration, except that each party shall pay for the cost of its own experts, evidence, and legal counsel.

32. **Lessor's Access; Showing Premises; Repairs.** Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.
33. **Auctions.** Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.
34. **Signs.** Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Lessor may not place any sign on the exterior of the Building that covers any of the windows of the Premises. Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.
35. **NOT USED**
36. **NOT USED**
37. **NOT USED**
38. **NOT USED**
39. **NOT USED**
40. **Security Measures.** Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.
41. **Reservations.**
- (a) Lessor reserves the right: (i) to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessor may also: change the name, address or title of the Building or Project upon at least 90 days prior written notice. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights. The obstruction of Lessee's view, air, or light by any structure erected in the vicinity of the Building, whether by Lessor or third parties, shall in no way affect this Lease or impose any liability upon Lessor.
42. **NOT USED**
43. **NOT USED**

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44. **Conflict.** Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.
45. **Offer.** Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.
46. **Amendments.** This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable nonmonetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.
47. **Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.**
48. **Arbitration of Disputes.** An Addendum requiring the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease ☐ is ☐ is not attached to this Lease.
49. **Americans with Disabilities Act.** Since compliance with the Americans with Disabilities Act (ADA) is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in ADA compliance, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at: San Jose, CA  
On: December 1, 2016

Executed at: San Jose, CA  
On: December 1, 2016

**By LESSOR:**

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**By LESSEE:**

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