

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-1(b)
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Counsel for DFDJ Sugar Bear, Inc.

In re:

UNITED SITE SERVICES, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 25-23630 (MBK)

Jointly Administered

**OBJECTION TO CURE AMOUNT BY CREDITOR AND LESSOR
DFDJ SUGAR BEAR, INC.**

DFDJ Sugar Bear, Inc., a California corporation (“Lessor”) and objects to the proposed cure amount of \$0.00 identified by the above-captioned debtor United Site Services of California, Inc. (“Debtor”) in connection with the assumption of the lease as described below, and in support thereof, submits the *Declaration of Daniel Youngblood* (the “Youngblood Declaration”) and the *Declaration of Timothy Proschold* (the “Proschold Declaration”), each filed concurrently herewith and incorporated by reference:

¹ The last four digits of the tax identification number of United Site Services, Inc. are 3387. A complete list of the Debtors in these chapter 11 cases (the “Chapter 11 Cases”), with each one’s tax identification number, principal office address and former names and trade names, is available on the website of the Debtors’ noticing agent at www.veritaglobal.net/USS. The location of the principal place of business of United Site Services, Inc., and the Debtors’ service address for these Chapter 11 Cases is 2487 W Navigator Drive, 3rd Floor, Meridian, ID 83642.



Background

1. Lessor is the successor in interest to the non-residential real property lease with the Debtor for the real property located at 3408 and 3200 Hillcap Avenue, San Jose, California (the "Premises"). Lessor's predecessor in interest originally entered into a Commercial Lease (as subsequently amended, the "Lease") with the Debtor dated August 12, 2005 which was thereafter amended and extended on December 8, 2014 pursuant to a First Amendment to Lease Agreement (the "First Amendment"). Most recently, on August 1, 2025, the Debtor and Lessor further amended and extended the Lease pursuant to a Second Amendment to Lease Agreement (the "Second Amendment"). True and correct copies of the original Lease, the First Amendment and the Second Amendment are attached as **Exhibits A through C** respectively and are incorporated herein by reference.

2. Pursuant to the Lease at Section 10, in addition to payment of monthly base rent and property taxes, the Debtor was also obligated to pay promptly for all heat, electric light, power, telephone, gas, water, garbage, cable and other services of whatever kind and nature furnished to or used or consumed in the Premises during the term of the Lease. Ex. A at 4. Pursuant to the Lease at Section 40, such additional obligations under the Lease are considered to be additional rent owed by the Debtor. Ex. A at 19.

3. Pursuant to the Lease, the Debtor is also obligated at its cost to maintain and keep in good condition, order and repair all of the Premises. Pursuant to Section 15 of the Lease, this obligation extends to the following:

The Lessee at its cost shall maintain and keep in good condition, order and repair all of the Premises including but not limited to the electrical, plumbing, air conditioning and heating systems roof, roof membrane, fencing, pavement, and the interior or exterior condition of the building. If Lessee fails to perform Lessee's obligations under this paragraph or under any other paragraph of this Lease, Lessor may at Lessor's option enter upon the Premises after ten (10) days prior written

notice to Lessee (except in the case of emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf and put the Premises in good order, condition and repair, and the cost thereof together with interest thereon at the maximum rate then allowable by law shall be due and payable as additional rent to Lessor together with Lessee's next Base Rent installment. On the last day of the term hereof, or on any sooner termination, Lessee shall surrender the Premises to Lessor in the same condition as received, ordinary wear and tear excepted, clean and free of debris. Lessee shall repair any damage to the Premises occasioned by the installation or removal of its trade fixtures, furnishings and equipment.

Ex. A at 5.

4. The Debtor repeatedly fell behind in maintaining the Premises and in completing critical repairs. As set forth in the First Amendment, the parties agreed that certain repairs and deferred maintenance which were the Debtor's obligation as the Lessee, would be undertaken by the Debtor based upon a "Work Letter" attached as Exhibit A to the First Amendment. The required repairs and deferred maintenance discussed in the Work Letter confirmed the Debtor's obligation to "remove and replace damaged areas of the parking lot, Seal Coast and Re stripe the parking lot" every 3 years with completion deadlines stated as August 1st of 2015, 2018, 2021 and 2024. *See* Ex. B at 3-4.

5. As also provided on page 3-4 of the First Amendment, specifically in the Work Letter, in the event the Debtor fails to perform any repair obligation under the Work Letter or fails to timely reimburse Lessor for amounts required to be paid by Lessee, "without limiting any other remedies available to Lessor, under the Lease, at law or in equity, Lessor shall be entitled to," perform such repairs or improvements itself, and deduct the cost of such performance and unpaid amounts owed to Lessor from any rental obligation of the Debtor under the Lease. *Id.*

6. As set forth in the Second Amendment, the Lease presently is set to expire on July 31, 2026 and includes an option to extend the term for one additional year which must be exercised by notice received by Lessor not less than ninety (90) days prior to the expiration of the current term. Ex. C at 1.

7. The Lease at Section 32 also generally provides that in the event the Debtor as Lessee fails to perform any provision of the Lease besides failing to pay base rent or abandonment and vacating of the Premises, then the Debtor must cure such default within 10 days. Lessor's remedies under the Lease are cumulative in addition to any remedies now or later allowed by law. Ex. A at 14.

8. The Lease at Section 40(n) provides that the Lease shall be governed and interpreted solely by the laws of the State of California. Ex. A at 20. The statute of limitations under the California Civil Code §337 is 4 years from the date of breach of a written contract.

The Debtor Decided to Assume the Lease

9. Pursuant to the confirmed plan of reorganization in this case, each executory contract and lease was deemed assumed by the Debtor on the Effective Date [D.I. 291 at 58]. Moreover, the cure amount for each assumed lease, including the Lease with Lessor, was stated to be in the amount of \$0.00 unless the Plan or a Final Order provided otherwise [D.I. 291 at 59]. Any dispute regarding the cure amount must be filed with the Court on or before twenty (20) days following the Effective Date. *Id.* The Debtor provided a notice of confirmation together with notice of the Effective Date of the Plan as of March 3, 2026 [D.I. 384 at 2]. Accordingly, the deadline for Lessor to object to the cure amount was March 23, 2026. However, counsel for the Debtor, Ms. Jordan Rosen of Milbank, by email agreed to extend the deadline for Lessor to object to April 6, 2026 while counsel for both sides continued to discuss the cure amount required for assumption of the Lease.

The Debtor's Multiple Defaults Under the Lease

10. The Debtor breached the Lease repeatedly by its failure to properly maintain and repair the Premises. Some of these breaches include the specific requirement in the Lease that the

Debtor maintain and keep in good condition, order and repair and repave the blacktop. The First Amendment also provided specific dates by which the blacktop would be repaved and repaired. The Debtor has not repaved the blacktop since at least 2015 notwithstanding the general requirement to do so in the Lease and explicit requirements to do so in First Amendment.

11. In addition, over the course of the Debtor's tenancy, there have been multiple serious fires at the Premises, including in 2020 and most recently on or about August 6, 2022. The damages from these fires extended to more than just the Debtor's portable toilets that melted. The Debtor is also obligated to maintain proper tree trimming at the Premises, including trees from adjacent properties that overhand the Premises. The need for proper and regular tree trimming is underscored by the multiple fires during the Debtor's tenancy and also premises liability for falling tree limbs. It is for this reason that the requirement for proper tree trimming is enforced by Lessor to require that the Debtor must regularly undertake so ensure that there is no damage to the Premises. Moreover, the trees which overhang the Premises are predominantly eucalyptus trees, which are commonly known to be highly flammable due to their high oil content, shedding bark, and large amounts of flammable leaf litter. These trees are also highly susceptible to breakage during windstorms, causing the possibility of injury or loss of life to persons on the property.

12. In December 2022, the Lessor and Debtor conducted a mutual inspection of the Premises. Following that inspection, Lessor provided the Debtor with a copy of the repairs that the Debtor was obligated to undertake pursuant to the Lease. This list included, among other things, that all blacktop be repaired and sealed, that landscaping be trimmed, and that the roof needed repairs for leaks for the past 2 years. A true and correct copy of the list of repairs required following the inspection is attached as **Exhibit D**.

13. The damages from the fires also extended into areas of the Premises where the fires melted or otherwise destroyed the blacktop and ruined some of the fencing that surrounds the Premises. The fences surrounding the Premises have also been repeatedly damaged by the Debtor's trucks backing up and hitting the fences on the Premises. The Debtor therefore committed multiple serious breaches of the affirmative obligation to maintain and repair the Premises as a result of the fires, as well as regular wear and tear from the Debtor's use of the Premises that was not repaired by the Debtor. These numerous breaches of the Lease involved the failure of the Debtor to maintain and/or repair the following: (a) the roof of the Premises; (b) a rolling overhead door; (c) repaving of the Premises; (d) repairing and/or replacing the fences on the Premises; and (e) proper trimming of trees located on and/or overhanging the Premises. Each is discussed in turn below.

14. Roof and Overhead Door Repairs: With respect to the roof of the Premises, the Debtor did not timely undertake repairs to the roof after multiple leaks developed. The leaks were considerable and were beginning to damage the internal plywood membrane of the Premises. Landlord has a series of emails dating back to June 2023 with various personnel for the Debtor who confirmed the Debtor's obligation to undertake the repair of the roof and yet the Debtor did nothing. Copies of these emails are included as **Exhibit E**. As a result of the Debtor's delays and failure in failing to maintain and repair the roof membrane and following considerable communications and reminders, Lessor determined that it must undertake the repair of the roof to avoid further ongoing damage to the building on the Premises. Although Lessor could have simply declared a default and issued a notice to the Debtor requiring the Debtor to perform the repairs within 10 days, Lessor instead opted to exercise its additional rights and remedies under Section 15 of the Lease to undertake the repairs directly. The roof was therefore replaced by roofing

contractor Fast Track Steel Inc. on or about October 23, 2023 as reflected in the invoice attached as **Exhibit F**. Lessor paid the roofing contractor upon completion of its services and thereafter forwarded the invoices to the Debtor for reimbursement. As of the date of this Opposition, the Debtor has failed to reimburse Lessor of the repair of the roof. This results in a default under the Lease of \$91,256.00 which must be paid to the Lessor pursuant to 11 U.S.C. § 365(b)(1) as part of the total cure amount.

15. During the course of replacing the roof, contractor Fast Track Steel discovered that the Debtor had failed to adequately repair and maintain a rolling overhead door located in the Premises. The state of disrepair of the door was such that it was straining the surrounding walls and roof. At Lessor's request, the same contractor therefore repaired the rolling overhead door as well as reflected in the October 23, 2023 invoice attached as **Exhibit G**. Lessor paid the contractor upon completion of services and thereafter forwarded the invoice to the Debtor for reimbursement. Maintaining the rolling overhead door is also part of the Debtor's general obligation under the Lease to repair and maintain the Premises. As of the date of this Opposition, the Debtor has failed to reimburse Lessor for the repair of the rolling overhead door. This resulted in an additional default under the Lease of \$4,550.00 which must also be paid to the Lessor pursuant to 11 U.S.C. §365(b)(1) as part of the total cure amount.

16. Repaving: The Lease also obligates the Debtor to maintain and repair the paved areas of the Premises. As also detailed in the First Amendment, the Debtor agreed to a periodic schedule for repaving the blacktop in the outdoor parking and storage lot areas of the Premises every 3 years. However, the Debtor failed to maintain the blacktop and did not repave even the melted, crumbling and broken areas. Lessor's numerous efforts to get the Debtor to address this deficiency and breach of the Lease were to no avail and the Debtor continued to ignore the

obligation to maintain and repair the blacktop. As a result, on January 28, 2026, Lessor's property manager, Timothy Proschold, obtained a written estimate for the paving required of \$105,116.00 from licensed contractor K&M Asphalt Maintenance Specialists Inc. as reflected in the estimate attached as **Exhibit H**. Inasmuch as the repair and maintenance of the blacktop is required by the Lease, the Debtor was in default pre-petition as a result of the failure to repair and maintain the blacktop. As a result, in addition to the other cure obligations described above regarding the roof and rolling overhead door, the Debtor must immediately repair the blacktop to cure the default under the Lease.

17. Fence Repair: As noted above, when fires broke out at the Premises, there was damage to both the blacktop and to the fences along the outer perimeter of the Premises. The Debtor's trucks also repeatedly damaged the fences along the outer perimeter of the Premises when backing up trucks and hitting the fencing. The Debtor did not undertake the repairs as required by the Lease. On or about September 7, 2022, as a result of the fires, Landlord first brought this deficiency and breach of the Lease to the Debtor's attention. After the Debtor's repeated failures to repair the fencing, on May 13, 2024, Lessor's property manager Mr. Proschold obtained a written estimate for replacement of the fencing of \$39,220.00 from licensed contractor ABC Steel Fence, LLC, as reflected in **Exhibit I**. Inasmuch as the repair and maintenance of the fencing is required by the Lease, the Debtor was in default pre-petition as a result of the failure to repair and maintain the fencing. As a result, in addition to the other cure obligations described above regarding the roof, rolling overhead door and paving, the Debtor must immediately repair the fencing to cure the default under the Lease.

18. Tree Trimming: Maintaining a clean perimeter around the Premises is critical to reducing potential fire hazards on the Premises. This includes trimming all trees and shrubs located

inside the Premises, along with any vegetation which overhangs onto the Premises, even if located on an adjoining property. The Debtor did not undertake such maintenance of vegetation and tree trimming as required by the Lease. On or about March 28, 2024, through Landlord's Real Estate Broker, Landlord first brought this deficiency and breach of the Lease to the Debtor's attention. As a result of the Debtor's failure to promptly cure this additional breach of the Lease, on May 29, 2024, Lessor obtained a written estimate for required tree trimming of \$75,000.00 from licensed contractor Majestic Tree Service as reflected in **Exhibit J**. Inasmuch as the tree trimming is required by the Lease, the Debtor was in default pre-petition as a result of the failure to trim all trees. As a result, in addition to the other cure obligations described above, the Debtor must immediately trim the trees to cure the default under the Lease.

19. On March 19, 2026, on behalf of Lessor, the property manager Mr. Proschold conducted a physical inspection of the Premises as authorized by Section 17 of the Lease, for purposes of determining if the Debtor was in compliance with the Lease. Section 17 allows Lessor to inspect the Premises on reasonable notice during normal business hours. *See* Ex. A at 6. The results of the inspection confirmed that the Debtor has not undertaken the repairs and/or maintenance of the blacktop, fences, and trees which are the Debtor's obligation under the Lease. A copy of the March 19, 2026 inspection report is attached as **Exhibit K**.

20. Attorneys' Fees and Costs: The Lease at paragraph 21 contains a general indemnity provision as follows:

Lessee shall indemnify and hold harmless Lessor from and against any and all claims arising from Lessee's use of the Premises, or from the conduct of Lessee's business or from any activity, work or things done by Lessee in or about the Premises or elsewhere and shall further indemnify and hold harmless Lessor from and against any and all claims arising from any breach or default in the performance of any obligation on Lessee's part to be performed under the terms of this Lease, or arising from any negligence of the Lessee, or any of Lessee's agents, contractors, or employees, and from and against all costs, attorney's fees, expenses and

liabilities incurred in the defense of any such claim or any action or proceeding brought thereon and in case any action or proceeding be brought against Lessor by reason of any such claim, Lessee upon notice from Lessor shall defend the same at Lessee's expense by counsel satisfactory to Lessor. Lessee, as a material part of the consideration to Lessor, hereby assumes all risk of damage to property or injury to persons, in, upon or about the Premises arising from any negligence or willful Misconduct of Lessee, Lessee's agents, employees, guests and invitees, and Lessee hereby waives all claims in respect thereof against Lessor.

Ex. A at 7-8.

21. Paragraph 39 of the Lease further provides the following regarding attorneys' fees and costs:

If Lessor is required to employ the services of an attorney to enforce any of the terms and conditions of this Lease, Lessor shall be entitled to recover from Lessee all Lessor's costs and fees incurred in connection with the employment of such attorney including, but not limited to, all costs incurred in connection with any action or proceeding or any post judgment proceeding.

Ex. A at 18.

22. As a result of the pre-petition defaults under the terms of the Lease due to the multiple failures to repair and maintain the Premises, these provisions entitle Lessor to recovery of its fees and costs incurred in connection with this bankruptcy case and the Debtor's attempt to assume the Lease without providing for a cure of all defaults. As of the date of filing of this objection, Lessor estimates that it has incurred attorneys' fees and costs in an amount not less than \$17,500.00 for monitoring of the bankruptcy case, review of the plan and disclosure statement, as well as attempting to reach a settlement with Debtor's counsel before counsel for Lessor began drafting this opposition and supporting documents. By the time an evidentiary hearing is held, Lessor fairly estimates that its attorneys' fees and costs will be in excess of \$25,000.00 (exclusive of costs to fly witnesses to New Jersey for an evidentiary hearing), all of which could have been avoided had the Debtor performed according to the terms of the Lease.

CONCLUSION

Wherefore, Lessor prays that the Court enter an order as follows:

A. Ordering the Debtor to pay Lessor \$91,256.00 for the repair and replacement of the roof which is the Debtor's obligation under the Lease;

B. Ordering the Debtor to pay Lessor \$4,550.00 for the repair and replacement of the overhead rolling door which is the Debtor's obligation under the Lease;

C. Ordering the Debtor to perform the required maintenance of the blacktop areas of the Premises as a condition of assuming the Lease and to provide proof of completion of repaving of same to Lessor within 30 days or such other time period as the Court deems appropriate under the circumstances;

D. Ordering the Debtor to perform the required maintenance and replacement of the fencing of the Premises as a condition of assuming the Lease and to provide proof of completion of same to Lessor within 30 days or such other time period as the Court deems appropriate under the circumstances;

E. Ordering the Debtor to perform the required tree trimming of the Premises including trees that overhang the Premises, as a condition of assuming the Lease and to provide proof of completion of same to Lessor within 30 days or such other time period as the Court deems appropriate under the circumstances;

F. Ordering the Debtor to pay Lessor its attorneys' fees incurred in connection with opposing the proposed cure claim amount of zero; and,

G. For such other and further relief as the Court deems just and proper.

Dated: April 1, 2026

SAUL EWING LLP

/s/ Turner N. Falk _____

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<p>UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY</p> <p><i>Caption in Compliance with D.N.J. LBR 9004-1(b)</i> SAUL EWING LLP Turner N. Falk, Esquire 1735 Market Street, 34th Floor Philadelphia, PA 19103 Office: (215) 972-7777 turner.falk@saul.com</p> <p>- and -</p> <p>BINDER MALTER HARRIS & ROME-BANKS LLP Julie Rome-Banks, Esquire (<i>pro hac vice</i> forthcoming) 1625 The Alameda, Suite 101 San Jose, CA 95126 Office: (408) 295-1700 julie@bindermalter.com</p> <p><i>Counsel for DFDJ Sugar Bear, Inc.</i></p>	
<p>In re:</p> <p>UNITED SITE SERVICES, INC., <i>et al.</i>,²</p> <p>Debtors.</p>	<p>Chapter 11</p> <p>Case No. 25-23630 (MBK)</p> <p>Jointly Administered</p>

**DECLARATION OF DANIEL YOUNGBLOOD IN SUPPORT OF OBJECTION TO
CURE CLAIM AMOUNT BY CREDITOR AND LESSOR DFDJ SUGAR BEAR, INC.**

I, Daniel Youngblood, hereby declare:

1. I am the President of Creditor and Lessor DFDJ Sugar Bear, Inc. (“Lessor”) and make this Declaration in support of the objection to the proposed zero cure claim amount.
2. I have personal knowledge of the matters set forth herein and could testify as follows.

² The last four digits of the tax identification number of United Site Services, Inc. are 3387. A complete list of the Debtors in these chapter 11 cases (the “Chapter 11 Cases”), with each one’s tax identification number, principal office address and former names and trade names, is available on the website of the Debtors’ noticing agent at www.veritaglobal.net/USS. The location of the principal place of business of United Site Services, Inc., and the Debtors’ service address for these Chapter 11 Cases is 2487 W Navigator Drive, 3rd Floor, Meridian, ID 83642.

3. In my capacity as President of the Lessor, I have access to, and I am familiar with, the books and records kept by the Lessor. These books and records have been generated, recorded and compiled in the ordinary course of business of the Lessor and in my role as President. Further, these documents were prepared at the time, or near the time that the information was received or the events and transactions actually took place. It is my standard operating procedure to preserve these documents in a place of safekeeping on my premises. I have personal access to these books and records and their continued safekeeping is maintained under my direction and supervision.

4. Lessor is the successor in interest to the non-residential real property lease with the Debtor for the real property located at 3408 and 3200 Hillcap Avenue, San Jose, California (the "Premises"). Lessor's predecessor in interest originally entered into a Commercial Lease with the Debtor dated August 12, 2005 (as amended, the "Lease") which was thereafter amended and extended on December 8, 2014 pursuant to a First Amendment to Lease Agreement (the "First Amendment"). Most recently, on August 1, 2025, the Debtor and Lessor further amended and extended the Lease pursuant to a Second Amendment to Lease Agreement (the "Second Amendment"). True and correct copies of the original Lease, the First Amendment and the Second Amendment are attached as **Exhibits A through C** respectively and are incorporated herein by reference.

5. Pursuant to the Lease at Section 10, in addition to payment of monthly base rent and property taxes, the Debtor was also obligated to pay promptly for all heat, electric light, power, telephone, gas, water, garbage, cable and other services of whatever kind and nature furnished to or used or consumed in the Premises during the term of the Lease. Ex. A at 4. Pursuant to the Lease at Section 40, such additional obligations under the Lease are considered to be additional rent owed by the Debtor. Ex. A at 19.

6. Pursuant to the Lease, the Debtor is also obligated at its cost to maintain and keep in good condition, order and repair all of the Premises. Pursuant to Section 15 of the Lease, this obligation extends to the following:

The Lessee at its cost shall maintain and keep in good condition, order and repair all of the Premises including but not limited to the electrical, plumbing, air conditioning and heating systems roof, roof membrane, fencing, pavement, and the interior or exterior condition of the building. If Lessee fails to perform Lessee's obligations under this paragraph or under any other paragraph of this Lease, Lessor may at Lessor's option enter upon the Premises after ten (10) days prior written notice to Lessee (except in the case of emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf and put the Premises in good order, condition and repair, and the cost thereof together with interest thereon at the maximum rate then allowable by law shall be due and payable as additional rent to Lessor together with Lessee's next Base Rent installment. On the last day of the term hereof, or on any sooner termination, Lessee shall surrender the Premises to Lessor in the same condition as received, ordinary wear and tear excepted, clean and free of debris. Lessee shall repair any damage to the Premises occasioned by the installation or removal of its trade fixtures, furnishings and equipment.

Ex. A at 5.

7. The Debtor repeatedly fell behind in maintaining the Premises and in completing critical repairs. As set forth in the First Amendment, the parties agreed that certain repairs and deferred maintenance which were the Debtor's obligation as the Lessee, would be undertaken by the Debtor based upon a "Work Letter" attached as Exhibit A to the First Amendment. The required repairs and deferred maintenance discussed in the Work Letter confirmed the Debtor's obligation to "remove and replace damaged areas of the parking lot, Seal Coast and Re stripe the parking lot" every 3 years with completion deadlines stated as August 1st of 2015, 2018, 2021 and 2024. *See* Ex. B at 3-4.

8. As also provided on page 3-4 of the First Amendment, specifically in the Work Letter, in the event the Debtor fails to perform any repair obligation under the Work Letter or fails to timely reimburse Lessor for amounts required to be paid by Lessee, "without limiting any other remedies available to Lessor, under the Lease, at law or in equity, Lessor shall be entitled to,"

perform such repairs or improvements itself, and deduct the cost of such performance and unpaid amounts owed to Lessor from any rental obligation of the Debtor under the Lease. *Id.*

9. As set forth in the Second Amendment, the Lease presently is set to expire on July 31, 2026 and includes an option to extend the term for one additional year which must be exercised by notice received by Lessor not less than ninety (90) days prior to the expiration of the current term. Ex. C at 1.

10. The Lease at Section 32 also generally provides that in the event the Debtor as Lessee fails to perform any provision of the Lease besides failing to pay base rent or abandonment and vacating of the Premises, then the Debtor must cure such default within 10 days. Lessor's remedies under the Lease are cumulative in addition to any remedies now or later allowed by law. Ex. A at 14.

11. The Lease at Section 40(n) provides that the Lease shall be governed and interpreted solely by the laws of the State of California. Ex. A at 20.

12. The Debtor breached the Lease repeatedly by its failure to properly maintain and repair the Premises. Some of these breaches include the specific requirement in the Lease that the Debtor maintain and keep in good condition, order and repair and repave the blacktop. The First Amendment also provided specific dates by which the blacktop would be repaved and repaired. The Debtor has not repaved the blacktop since at least 2015 notwithstanding the general requirement to do so in the Lease and explicit requirements to do so in First Amendment.

13. Over the course of the Debtor's tenancy, there have been multiple serious fires at the Premises, including in 2020 and most recently on or about August 6, 2022. The damages from these fires extended to more than just the Debtor's portable toilets that melted. The Debtor is also obligated to maintain proper tree trimming at the Premises, including trees from adjacent

properties that overhang the Premises. The need for proper and regular tree trimming is underscored by the multiple fires during the Debtor's tenancy and also premises liability for falling tree limbs. It is for this reason that the requirement for proper tree trimming is enforced by Lessor to require that the Debtor must regularly undertake so ensure that there is no damage to the Premises. Moreover, the trees which overhang the Premises are predominantly eucalyptus trees, which are commonly known to be highly flammable due to their high oil content, shedding bark, and large amounts of flammable leaf litter. These trees are also highly susceptible to breakage during windstorms, causing the possibility of injury or loss of life to persons on the property.

14. In December 2022, the parties conducted a mutual inspection of the Premises. Following that inspection, Lessor provided the Debtor with a copy of the repairs that the Debtor was obligated to undertake pursuant to the Lease. This list included, among other things, that all blacktop be repaired and sealed, that landscaping be trimmed, and that the roof needed repairs for leaks for the past 2 years. A true and correct copy of the list of repairs required following the inspection is attached as **Exhibit D** and incorporated herein by reference.

15. The damages from the fires also extended into areas of the Premises where the fires melted or otherwise destroyed the blacktop and ruined some of the fencing that surrounds the Premises. The fences surrounding the Premises have also been repeatedly damaged by the Debtor's trucks backing up and hitting the fences on the Premises. The Debtor therefore committed multiple serious breaches of the affirmative obligation to maintain and repair the Premises as a result of the fires, as well as regular wear and tear from the Debtor's use of the Premises that was not repaired by the Debtor. These numerous breaches of the Lease involved the failure of the Debtor to maintain and/or repair the following: (a) the roof of the Premises; (b) a rolling overhead door; (c) repaving of the Premises; (d) repairing and/or replacing the fences on

the Premises; and (e) proper trimming of trees located on and/or overhanging the Premises. Each is discussed in turn below.

16. Roof and Overhead Door Repairs: With respect to the roof of the Premises, the Debtor did not timely undertake repairs to the roof after multiple leaks developed. The leaks were considerable and were beginning to damage the internal plywood membrane of the Premises. Landlord has a series of emails dating back to June 2023 with various personnel for the Debtor who confirmed the Debtor's obligation to undertake the repair of the roof and yet the Debtor did nothing. Copies of these emails are included as **Exhibit E** attached hereto. As a result of the Debtor's delays and failure in failing to maintain and repair the roof membrane and following considerable communications and reminders, Lessor determined that it must undertake the repair of the roof to avoid further ongoing damage to the building on the Premises. Although Lessor could have simply declared a default and issued a notice to the Debtor requiring the Debtor to perform the repairs within 10 days, Lessor instead opted to exercise its additional rights and remedies under Section 15 of the Lease to undertake the repairs directly. The roof was therefore replaced by roofing contractor Fast Track Steel Inc. at a cost of \$91,256.00, on or about October 23, 2023 as reflected in the invoice attached as **Exhibit F**. Lessor paid the roofing contractor upon completion of its services and thereafter forwarded the invoices to the Debtor for reimbursement. As of the date of this Opposition, the Debtor has failed to reimburse Lessor of the repair of the roof.

17. During the course of replacing the roof, contractor Fast Track Steel discovered that the Debtor had failed to adequately repair and maintain a rolling overhead door located in the Premises. The state of disrepair of the door was such that it was straining the surrounding walls and roof. At Lessor's request, the same contractor therefore repaired the rolling overhead door as

well, at a cost of \$4,550.00, as reflected in the October 23, 2023 invoice attached as **Exhibit G**. Lessor paid the contractor upon completion of services and thereafter forwarded the invoice to the Debtor for reimbursement. Maintaining the rolling overhead door is also part of the Debtor's general obligation under the Lease to repair and maintain the Premises. As of the date of this Opposition, the Debtor has failed to reimburse Lessor for the repair of the rolling overhead door.

18. Repaving: The Lease also obligates the Debtor to maintain and repair the paved areas of the Premises. As also detailed in the First Amendment, the Debtor agreed to a periodic schedule for repaving the blacktop in the outdoor parking and storage lot areas of the Premises every 3 years. However, the Debtor failed to maintain the blacktop and did not repave even the melted, crumbling and broken areas. Lessor's numerous efforts to get the Debtor to address this deficiency and breach of the Lease were to no avail and the Debtor continued to ignore the obligation to maintain and repair the blacktop. As a result, on January 28, 2026, Mr. Proschold obtained a written estimate for the paving required of \$105,116.00 from licensed contractor K&M Asphalt Maintenance Specialists Inc. as reflected in **Exhibit H**.

19. Fence Repair: As noted above, when fires broke out at the Premises, there was damage to both the blacktop and to the fences along the outer perimeter of the Premises. The Debtor's trucks also repeatedly damaged the fences along the outer perimeter of the Premises when backing up trucks and hitting the fencing. The Debtor did not undertake the repairs as required by the Lease. On or about September 7, 2022, as a result of the fires, Landlord first brought this deficiency and breach of the Lease to the Debtor's attention. After the Debtor's repeated failures to repair the fencing, on May 13, 2024, Mr. Proschold obtained a written estimate for replacement of the fencing of \$39,220.00 from licensed contractor ABC Steel Fence, LLC, as reflected in **Exhibit I**.

20. Tree Trimming: Maintaining a clean perimeter around the Premises is critical to reducing potential fire hazards on the Premises. This includes trimming all trees and shrubs located inside the Premises, along with any vegetation which overhangs onto the Premises, even if located on an adjoining property. The Debtor did not undertake such maintenance of vegetation and tree trimming as required by the Lease. On or about March 28, 2024, through Landlord's Real Estate Broker, Landlord first brought this deficiency and breach of the Lease to the Debtor's attention. As a result of the Debtor's failure to promptly cure this additional breach of the Lease, on May 29, 2024, on behalf of the Lessor, I obtained a written estimate for required tree trimming of \$75,000.00 from licensed contractor Majestic Tree Service as reflected in **Exhibit J**.

21. On March 19, 2026, on behalf of Lessor, Mr. Proschold conducted a physical inspection of the Premises as authorized by Section 17 of the Lease, for purposes of determining if the Debtor was in compliance with the Lease. Section 17 allows Lessor to inspect the Premises on reasonable notice during normal business hours. *See* Ex. A at 6. I understand that the results of the inspection confirmed that the Debtor has not undertaken the repairs and/or maintenance of the blacktop, fences, and trees which are the Debtor's obligation under the Lease. A copy of the March 19, 2026 inspection report is attached as **Exhibit K**.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: March 31, 2026

Respectfully submitted,

/s/ Daniel Youngblood
Daniel Youngblood, President

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-1(b)
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- and -

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Counsel for DFDJ Sugar Bear, Inc.

In re:

UNITED SITE SERVICES, INC., *et al.*,³

Debtors.

Chapter 11

Case No. 25-23630 (MBK)

Jointly Administered

DECLARATION OF TIMOTHY PROSCHOLD IN SUPPORT OF OBJECTION TO CURE CLAIM AMOUNT BY CREDITOR AND LESSOR DFDJ SUGAR BEAR, INC.

I, Timothy Proschold, hereby declare:

1. I am a real estate broker, duly licensed by the State of California and in good standing doing business under the name Luxuriant Realty Inc. I am also the property manager for

³ The last four digits of the tax identification number of United Site Services, Inc. are 3387. A complete list of the Debtors in these chapter 11 cases (the “Chapter 11 Cases”), with each one’s tax identification number, principal office address and former names and trade names, is available on the website of the Debtors’ noticing agent at www.veritaglobal.net/USS. The location of the principal place of business of United Site Services, Inc., and the Debtors’ service address for these Chapter 11 Cases is 2487 W Navigator Drive, 3rd Floor, Meridian, ID 83642.

Creditor and Lessor DFDJ Sugar Bear, Inc. ("Lessor") and make this Declaration on my client's behalf.

2. I have personal knowledge of the matters set forth herein and could testify as follows.

3. In my capacity as a property manager to the Lessor, I have access to, and I am familiar with, the books and records kept by the Lessor. These books and records have been generated, recorded and compiled in the ordinary course of business of the Lessor and in my role as property manager. Further, these documents were prepared at the time, or near the time that the information was received or the events and transactions actually took place. It is my standard operating procedure to preserve these documents in a place of safekeeping on my business premises. I have personal access to these books and records and their continued safekeeping is maintained under my direction and supervision.

4. I understand that: Lessor is the successor in interest to the non-residential real property lease with the Debtor for the real property located at 3408 and 3200 Hillcap Avenue, San Jose, California (the "Premises"). Lessor's predecessor in interest originally entered into a Commercial Lease with the Debtor dated August 12, 2005 (as amended, the "Lease") which was thereafter amended and extended on December 8, 2014 pursuant to a First Amendment to Lease Agreement (the "First Amendment"). Most recently, on August 1, 2025, the Debtor and Lessor further amended and extended the Lease pursuant to a Second Amendment to Lease Agreement (the "Second Amendment"). True and correct copies of the original Lease, the First Amendment and the Second Amendment are attached as **Exhibits A through C** respectively and are incorporated herein by reference.

5. Pursuant to the Lease at Section 10, in addition to payment of monthly base rent and property taxes, the Debtor was also obligated to pay promptly for all heat, electric light, power, telephone, gas, water, garbage, cable and other services of whatever kind and nature furnished to or used or consumed in the Premises during the term of the Lease. Ex. A at 4. Pursuant to the Lease at Section 40, such additional obligations under the Lease are considered to be additional rent owed by the Debtor. Ex. A at 19.

6. Pursuant to the Lease, the Debtor is also obligated at its cost to maintain and keep in good condition, order and repair all of the Premises. Pursuant to Section 15 of the Lease, this obligation extends to the following:

The Lessee at its cost shall maintain and keep in good condition, order and repair all of the Premises including but not limited to the electrical, plumbing, air conditioning and heating systems roof, roof membrane, fencing, pavement, and the interior or exterior condition of the building. If Lessee fails to perform Lessee's obligations under this paragraph or under any other paragraph of this Lease, Lessor may at Lessor's option enter upon the Premises after ten (10) days prior written notice to Lessee (except in the case of emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf and put the Premises in good order, condition and repair, and the cost thereof together with interest thereon at the maximum rate then allowable by law shall be due and payable as additional rent to Lessor together with Lessee's next Base Rent installment. On the last day of the term hereof, or on any sooner termination, Lessee shall surrender the Premises to Lessor in the same condition as received, ordinary wear and tear excepted, clean and free of debris. Lessee shall repair any damage to the Premises occasioned by the installation or removal of its trade fixtures, furnishings and equipment.

Ex. A at 5.

7. The Debtor repeatedly fell behind in maintaining the Premises and in completing critical repairs. As set forth in the First Amendment, the parties agreed that certain repairs and deferred maintenance which were the Debtor's obligation as the Lessee, would be undertaken by the Debtor based upon a "Work Letter" attached as Exhibit A to the First Amendment. The required repairs and deferred maintenance discussed in the Work Letter confirmed the Debtor's obligation to "remove and replace damaged areas of the parking lot, Seal Coast and Re stripe the

parking lot” every 3 years with completion deadlines stated as August 1st of 2015, 2018, 2021 and 2024. *See* Ex. B at 3-4.

8. As also provided on page 3-4 of the First Amendment, specifically in the Work Letter, in the event the Debtor fails to perform any repair obligation under the Work Letter or fails to timely reimburse Lessor for amounts required to be paid by Lessee, “without limiting any other remedies available to Lessor, under the Lease, at law or in equity, Lessor shall be entitled to,” perform such repairs or improvements itself, and deduct the cost of such performance and unpaid amounts owed to Lessor from any rental obligation of the Debtor under the Lease. *Id.*

9. As set forth in the Second Amendment, the Lease presently is set to expire on July 31, 2026 and includes an option to extend the term for one additional year which must be exercised by notice received by Lessor not less than ninety (90) days prior to the expiration of the current term. Ex. C at 1.

10. The Lease at Section 32 also generally provides that in the event the Debtor as Lessee fails to perform any provision of the Lease besides failing to pay base rent or abandonment and vacating of the Premises, then the Debtor must cure such default within 10 days. Lessor’s remedies under the Lease are cumulative in addition to any remedies now or later allowed by law. Ex. A at 14.

11. The Lease at Section 40(n) provides that the Lease shall be governed and interpreted solely by the laws of the State of California. Ex. A at 20.

12. The Debtor breached the Lease repeatedly by its failure to properly maintain and repair the Premises. Some of these breaches include the specific requirement in the Lease that the Debtor maintain and keep in good condition, order and repair and repave the blacktop. The First Amendment also provided specific dates by which the blacktop would be repaved and repaired.

The Debtor has not repaved the blacktop since at least 2015 notwithstanding the general requirement to do so in the Lease and explicit requirements to do so in First Amendment.

13. In addition, I understand that over the course of the Debtor's tenancy, there have been multiple serious fires at the Premises, including in 2020 and most recently on or about August 6, 2022. The damages from these fires extended to more than just the Debtor's portable toilets that melted. The Debtor is also obligated to maintain proper tree trimming at the Premises, including trees from adjacent properties that overhand the Premises. The need for proper and regular tree trimming is underscored by the multiple fires during the Debtor's tenancy and also premises liability for falling tree limbs. It is for this reason that the requirement for proper tree trimming is enforced by Lessor to require that the Debtor must regularly undertake so ensure that there is no damage to the Premises. Moreover, the trees which overhang the Premises are predominantly eucalyptus trees, which are commonly known to be highly flammable due to their high oil content, shedding bark, and large amounts of flammable leaf litter. These trees are also highly susceptible to breakage during windstorms, causing the possibility of injury or loss of life to persons on the property.

14. In December 2022, the parties conducted a mutual inspection of the Premises. Following that inspection, Lessor provided the Debtor with a copy of the repairs that the Debtor was obligated to undertake pursuant to the Lease. This list included, among other things, that all blacktop be repaired and sealed, that landscaping be trimmed, and that the roof needed repairs for leaks for the past 2 years. A true and correct copy of the list of repairs required following the inspection is attached as **Exhibit D**.

15. The damages from the fires also extended into areas of the Premises where the fires melted or otherwise destroyed the blacktop and ruined some of the fencing that surrounds the

Premises. The fences surrounding the Premises have also been repeatedly damaged by the Debtor's trucks backing up and hitting the fences on the Premises. The Debtor therefore committed multiple serious breaches of the affirmative obligation to maintain and repair the Premises as a result of the fires, as well as regular wear and tear from the Debtor's use of the Premises that was not repaired by the Debtor. These numerous breaches of the Lease involved the failure of the Debtor to maintain and/or repair the following: (a) the roof of the Premises; (b) a rolling overhead door; (c) repaving of the Premises; (d) repairing and/or replacing the fences on the Premises; and (e) proper trimming of trees located on and/or overhanging the Premises. Each is discussed in turn below.

16. Roof and Overhead Door Repairs: With respect to the roof of the Premises, the Debtor did not timely undertake repairs to the roof after multiple leaks developed. The leaks were considerable and were beginning to damage the internal plywood membrane of the Premises. Landlord has a series of emails dating back to June 2023 with various personnel for the Debtor who confirmed the Debtor's obligation to undertake the repair of the roof and yet the Debtor did nothing. Copies of these emails are included as **Exhibit E**. As a result of the Debtor's delays and failure in failing to maintain and repair the roof membrane and following considerable communications and reminders, Lessor determined that it must undertake the repair of the roof to avoid further ongoing damage to the building on the Premises. Although Lessor could have simply declared a default and issued a notice to the Debtor requiring the Debtor to perform the repairs within 10 days, Lessor instead opted to exercise its additional rights and remedies under Section 15 of the Lease to undertake the repairs directly. The roof was therefore replaced by roofing contractor Fast Track Steel Inc. at a cost of \$91,256.00 on or about October 23, 2023 as reflected in the invoice attached as **Exhibit F**. Lessor paid the roofing contractor upon completion of its

services and thereafter forwarded the invoices to the Debtor for reimbursement. As of the date of this Opposition, the Debtor has failed to reimburse Lessor of the repair of the roof.

17. During the course of replacing the roof, contractor Fast Track Steel discovered that the Debtor had failed to adequately repair and maintain a rolling overhead door located in the Premises. The state of disrepair of the door was such that it was straining the surrounding walls and roof. At Lessor's request, the same contractor therefore repaired the rolling overhead door as well, at a cost of \$4,550.00, as reflected in the October 23, 2023 invoice attached as **Exhibit G**. Lessor paid the contractor upon completion of services and thereafter forwarded the invoice to the Debtor for reimbursement. Maintaining the rolling overhead door is also part of the Debtor's general obligation under the Lease to repair and maintain the Premises. As of the date of this Opposition, the Debtor has failed to reimburse Lessor for the repair of the rolling overhead door.

18. Repaving: The Lease also obligates the Debtor to maintain and repair the paved areas of the Premises. As also detailed in the First Amendment, the Debtor agreed to a periodic schedule for repaving the blacktop in the outdoor parking and storage lot areas of the Premises every 3 years. However, the Debtor failed to maintain the blacktop and did not repave even the melted, crumbling and broken areas. Lessor's numerous efforts to get the Debtor to address this deficiency and breach of the Lease were to no avail and the Debtor continued to ignore the obligation to maintain and repair the blacktop. As a result, on January 28, 2026, I obtained a written estimate for the paving required of \$105,116.00 from licensed contractor K&M Asphalt Maintenance Specialists Inc. as reflected in **Exhibit H**.

19. Fence Repair: As noted above, when fires broke out at the Premises, there was damage to both the blacktop and to the fences along the outer perimeter of the Premises. The Debtor's trucks also repeatedly damaged the fences along the outer perimeter of the Premises when

backing up trucks and hitting the fencing. The Debtor did not undertake the repairs as required by the Lease. On or about September 7, 2022, as a result of the fires, Landlord first brought this deficiency and breach of the Lease to the Debtor's attention. After the Debtor's repeated failures to repair the fencing, on May 13, 2024, I obtained a written estimate for replacement of the fencing of \$39,220.00 from licensed contractor ABC Steel Fence, LLC, as reflected in **Exhibit I**.

20. Tree Trimming: Maintaining a clean perimeter around the Premises is critical to reducing potential fire hazards on the Premises. This includes trimming all trees and shrubs located inside the Premises, along with any vegetation which overhangs onto the Premises, even if located on an adjoining property. The Debtor did not undertake such maintenance of vegetation and tree trimming as required by the Lease. On or about March 28, 2024, through Landlord's Real Estate Broker, Landlord first brought this deficiency and breach of the Lease to the Debtor's attention. As a result of the Debtor's failure to promptly cure this additional breach of the Lease, on May 29, 2024, on behalf of the Lessor, I obtained a written estimate for required tree trimming of \$75,000.00 from licensed contractor Majestic Tree Service as reflected in **Exhibit J**.

21. On March 19, 2026, on behalf of Lessor, I conducted a physical inspection of the Premises as authorized by Section 17 of the Lease, for purposes of determining if the Debtor was in compliance with the Lease. Section 17 allows Lessor to inspect the Premises on reasonable notice during normal business hours. *See* Ex. A at 6. The results of the inspection confirmed that the Debtor has not undertaken the repairs and/or maintenance of the blacktop, fences, and trees which are the Debtor's obligation under the Lease. A copy of the March 19, 2026 inspection report is attached as **Exhibit K**.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: March 31, 2026

Respectfully submitted,

/s/ Timothy Proschold
Timothy Proschold

Exhibit A

COMMERCIAL LEASE

1. PARTIES

This Lease is made this 12th day of August, 2005, between ACME & SONS SANITATION, INC, a California corporation (C0913500), hereinafter called "Lessor" and UNITED SITE SERVICES OF CALIFORNIA, INC., a California corporation, hereinafter called "Lessee".

2. PREMISES

Lessor, for and in consideration of the rents, covenants and agreements hereinafter contained on the part and on behalf of the Lessee to be paid, kept and performed, does hereby lease and demise unto said Lessee, and said Lessee does hereby hire and rent from said Lessor, the following described premises situated at 3408 Hillcap Avenue, San Jose, County of Santa Clara, State of California, with zip code 95136, consisting of: approximately 26,250 + or - square feet of office and shop in a concrete tilt-up building on approximately 4.03 + or - acres (APN 462-17-002) and an adjoining lot of approximately 1.84 + or - acres (APN 462-17-022), plus various other temporary structures, as further described in Exhibit "A", which is attached hereto and made a part hereof. ("Premises")

3. TERM

The term of this Lease shall be a tenancy of ten (10) years, commencing August 12, 2005 (Commencement Date) and shall continue until July 31, 2015 so long as Lessee is not in default as to any provision of the Lease. In the event Lessee is in default, the provisions of Paragraph 32 shall apply.

4. MONTHLY BASE RENT

- (a) **Base Rent.** Lessee shall pay to Lessor as monthly rent, without deduction setoff, prior notice or demand except as hereinafter provided, the sum of Twenty-Six Thousand Eight Hundred and Eighty-Six Dollars (\$26,886.00) per month for each month of the Lease term (Base Rent). All rents shall be paid on the first day of each month of the Lease term, commencing September 1, 2005 and continuing during the term.
- (b) **Annual Rent Adjustments:** Base Rent shall be increased by three percent (3%) on every twelve (12) month anniversary from the Commencement Date.

Lessee shall cause payment of Base Rent to be received by Lessor in the form of lawful money of the United States on or before the day on which it's due, without offset or deduction (except as specifically permitted in this Lease). All rents shall be paid to Lessor at the address to which notices to Lessor are given in accordance with Paragraph 34 below. Rent for any period during the term hereof which is for less than one month shall be a prorata portion of the monthly installment.

5. SECURITY DEPOSIT

Currently Lessee has paid a Security Deposit in the amount of \$30,000.00, as security for the full and faithful performance by the Lessee of the terms, conditions and covenants of this Lease. Lessee and Lessor agree that the following disposition shall apply to the Security Deposit:

- (a) Lessor can maintain the Security Deposit separate and apart from Lessor's general funds or can commingle the security deposit with Lessor's general and other funds.
- (b) Lessor shall not be required to pay Lessee interest on the Security Deposit
- (c) Lessor's obligation with respect to the Security Deposit are those of a debtor and not a trustee
- (d) If at any time during the term hereof Lessee shall be in default in the payment of rents or any portion thereof, or of any sums expressly constituting additional rent, Lessor may appropriate and apply any portion of the Security Deposit as may be necessary to the payment of overdue rent or other sums expressly constituting additional rent.
- (e) If at any time during the term hereof Lessee should fail to repair any damage to the Premises leased or any part of the common portions of the complex caused by such Lessee or his agent, employees, invitees or other visitors through lack of ordinary care for a period of greater than 30 days after written demand to make such repairs is served on Lessee by Lessor, then Lessor may appropriate and apply any portion of the Security Deposit as may be reasonably necessary to fund the repair.
- (f) If on termination of this Lease for any reason Lessee does not leave the Premises in as good condition as when received by Lessee from Lessor then Lessor may appropriate and apply any portion of the Security Deposit as may be reasonably necessary to put the Premises in such condition.
- (g) If on termination of the Lease or incident to any actions to enforce the agreements, terms and conditions of this Lease, it becomes necessary for Lessor to obtain the services of attorneys, sheriffs, or moving and storage firms to secure full possession of the Premises or other legal proceedings, Lessor may appropriate and apply any portion of the Security Deposit as may be reasonably necessary to fund such services. None of the above shall prevent or limit Lessor from bringing suit to recover any and all funds for such costs which may exceed the amount of the Security Deposit.
- (h) Lessee agrees to restore the Security Deposit to its original amount should resort to funds be required by Lessor during the period of this lease. Refusal to restore such amount within 15 days after written demand shall be cause for termination of this Lease.
- (i) Should Lessor transfer his interest under the Lease in any manner, he or his agent shall do one of the following acts, either of which shall relieve him of further liability with respect to such deposit: (1) Transfer the portion of such deposit remaining after any lawful deductions, as above, to his successor in interest, and thereafter notify the Lessee by registered mail at the address under this Lease on such transfer, and of the transferee's name and address. On receipt of such remaining deposit, the successor in interest of Lessor shall have all rights and obligations of Lessor holding such deposit with respect to

such deposit. (2) Return the portion of such deposit remaining after any lawful deductions as above have been made.

- (j) The Security deposit shall not be treated by Lessee as in lieu of payment of the last month's Base Rent.

6. REAL PROPERTY TAXES

- (a) **Lessee to Pay All Real Property Taxes and Assessments on Leased Lands and Improvements.** Lessee shall pay before delinquency 100% of real property taxes and assessments levied or assessed against the leased Premises and improvements thereon (APN 462-17-002 and APN 462-17-022) during the term hereof. Lessee shall also pay any assessments levied or assessed by special improvement districts that provide for bonds to be issued thereon with principal and interest thereon payable in installments.
- (b) **Substitute Taxes.** Lessee shall not be required to pay any municipal, county, state, or federal income or franchise taxes of Lessor, or any municipal, county, state or federal estate, succession, or inheritance taxes of Lessor. If at any time during the term the laws concerning the methods of real property taxation prevailing at the commencement of the term are changed so that a tax or excise on rents or any other such tax, however described, is levied or assessed against Lessor as a direct substitution in whole or in part for any real property taxes, Lessee shall pay before delinquency (but only to the extent that it can be ascertained that there has been a substitution and that as a result Lessee has been relieved from the payment of real property taxes it would otherwise have been obligated to pay) the substitution tax or excise on rents. Lessee's share of any tax or excise on rent shall be substantially the same as, and a substitute for, the payment of such real property taxes as provided in this lease.

7. LATE CHARGES

Lessee hereby acknowledges that late payment by Lessee to Lessor of Base Rent and other sums due hereunder will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult and impractical to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed on Lessor by the terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of Base Rent or any other sum due from Lessee shall not be received by Lessor or Lessor's designee with ten (10) days after such amount shall be due then without any requirement for notice to Lessee, Lessee shall pay to Lessor a late charge equal to 10% of such overdue amount which may be treated as additional rent. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of late payment by Lessee. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's default with respect to such overdue amount, nor prevent Lessor from exercising any of the other rights and remedies granted hereunder. The ten (10) day period is not a grace period. Lessor may make written demand for any rent unpaid on the second day of the month: The late charge shall be in addition to all other remedies available to Lessor. In the event that a late charge is payable hereunder, whether or not collected for three (3) consecutive installments of Base Rent then Base Rent shall, in the discretion of Lessor, become due and payable upon written advance notice to Lessee quarterly in advance rather than monthly notwithstanding any other provision of this Lease to the contrary.

8. BAD CHECK CHARGE

In the event any rent is tendered by check which is, for any reason, dishonored by the maker's financial institution, Lessee shall pay to Lessor \$50.00 as reimbursement to Lessor for administrative expense in processing such dishonored check. This charge shall be deemed additional rent and shall be in addition to all other remedies available to Lessor.

9. PERSONAL PROPERTY TAXES

Lessee shall pay, before delinquency, all taxes, assessments, license fees, and other charges that are levied and assessed on Lessee's personal property installed or located in and on the Premises that become payable during the term hereof. On demand by Lessor, Lessee shall furnish Lessor with satisfactory evidence of such payment. If any of Lessee's said personal property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee within ten (10) days after receipt of a written statement setting forth the taxes applicable to Lessee's property. Such payment shall be deemed additional rent, payable as such on the next date upon which Base Rent becomes due.

10. UTILITY AND ALLIED SERVICES

Lessee shall promptly pay for all heat, electric light and power, telephone, gas, water, garbage, cable-vision and all other services of whatsoever kind or nature furnished to or used or consumed in or about the demised Premises by Lessee during the term hereof

11. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE COSTS

Lessee shall promptly pay all premiums or other costs and expenses for maintaining public liability and property damage insurance as required under the provisions of Paragraph 27 hereof.

12. INTEREST ON DELINQUENT RENT, PERSONAL PROPERTY TAXES AND PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE COSTS

Any rent, personal property taxes and insurance charges owing by Lessee hereunder not paid when the same shall become due, shall bear interest from the date the same becomes due until paid at the rate of ten percent (10%) per annum.

13. USE OF PREMISES

The demised Premises are leased to Lessee for the sole and exclusive purpose of operating a construction service provider, for the rental, sale and storage of portable restrooms, sanitation facilities, portable freshwater facilities, temporary power equipment, storage containers, temporary fencing, vehicles and related equipment and office support pertaining to operating Lessee's business. Lessee agrees not to use or permit said demised Premises to be used for any other purpose or purposes. If Lessee is unable to use the Premises for the purposes identified in the first sentence of this Section as a result of any zoning or land use laws, regulations or ordinances, then Lessee may, with 30 days notice to Lessor, terminate this Lease without any further obligations hereunder. Lessee shall not do, bring or keep anything in or about the Premises that will cause a cancellation of any insurance covering the Premises.

Lessee agrees not to use or permit to be used, stored, transported to, or maintained on, for however briefly, any "hazardous waste" or "hazardous substance" as defined in accordance with the California Health and Safety Code and/or any federal statute as well as any state or federal judicial

decision, other than such limited amounts of material or substances as may be customarily and ordinarily used in Lessee's business operations.

Lessee shall not perform any act or carry on any practices that may injure the Premises or be a nuisance or menace to other Lessees of Lessor or to adjoining property owners.

Lessee shall keep all yard area in good condition and not let material that is scrap or unusable become piled or stored on or about the Premise except Lessee may store equipment, inventory and vehicles as necessary to operate its business. Lessee further shall not let any inoperable motor vehicles of any type, trailers or any structures come to rest, be parked or stored on the Premises for more than 10 days.

14. INTENTIONALLY OMITTED

15. REPAIRS AND MAINTENANCE

- (a) Lessee expressly waives the benefits of any statute now or hereafter in effect which otherwise afford Lessee the right to make repairs at Lessor's expense or to terminate this Lease because of Lessor's failure to keep the Premises in good order, condition and repair.
- (b) The Lessee at its cost shall maintain and keep in good condition, order and repair all of the Premises including but not limited to the electrical, plumbing, air conditioning and heating systems roof, roof membrane, fencing, pavement, and the interior or exterior condition of the building. If Lessee fails to perform Lessee's obligations under this paragraph or under any other paragraph of this Lease, Lessor may at Lessor's option enter upon the Premises after ten (10) days prior written notice to Lessee (except in the case of emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf and put the Premises in good order, condition and repair, and the cost thereof together with interest thereon at the maximum rate then allowable by law shall be due and payable as additional rent to Lessor together with Lessee's next Base Rent installment. On the last day of the term hereof, or on any sooner termination, Lessee shall surrender the Premises to Lessor in the same condition as received, ordinary wear and tear excepted, clean and free of debris. Lessee shall repair any damage to the Premises occasioned by the installation or removal of its trade fixtures, furnishings and equipment.

16. ALTERATIONS AND ADDITIONS

- (a) Lessee shall not, without Lessor's prior written consent, which shall not be unreasonably withheld, make any alterations, improvements, additions or utility installations in, on or about the Premises. Lessee shall make no change or alteration to the Premises without Lessor's prior written consent, which shall not be unreasonably withheld. As used in this paragraph the term "Utility Installation" shall mean junction box/power panels, electrical distribution systems, lighting fixtures and plumbing. Lessor may require that Lessee remove any or all of said alterations, improvements, additions or Utility Installations at the expiration of the term, and restore the Premises to their prior condition. Lessor may require Lessee to provide Lessor at Lessee's sole cost and expense a lien and completion bond in an amount equal to one and one-half times the estimated cost of such improvements to insure Lessor against any liability for mechanic's and materialmen's liens and to insure completion of the work. Should Lessee make any alterations, improvements, additions or Utility Installations without the prior approval of Lessor, Lessor may require that Lessee remove any or all of the same.
- (b) Any alterations, improvements, additions or Utility Installations in or about the Premises that

Lessee shall desire to make and which requires the consent of the Lessor shall be presented to Lessor in written form with proposed detailed plans. If Lessor shall give its consent, the consent shall be deemed conditioned upon Lessee acquiring a permit to do so from appropriate governmental agencies, the furnishing of a copy thereof to Lessor prior to the commencement of the work and the compliance by Lessee of all conditions of said permit in a prompt and expeditious manner.

- (c) Lessee shall pay when due all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use in the Premises, which claims are or may be secured by any mechanics' or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than ten (10) days, notice prior to the commencement of any work in the premise and Lessor shall have the right to post notices of non-responsibility in or on the Premises as provided by law. If Lessee shall, in good faith, contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend itself and Lessor against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof against the Lessor or the Premises upon the condition that if Lessor shall require, Lessee shall furnish to Lessor a surety bond satisfactory to Lessor in an amount equal to such contested lien claim or demand indemnifying Lessor against liability for the same and holding the Premises free from the effect of such lien or claim. In addition, Lessor may require Lessee to pay Lessor's attorneys fees and costs in participating in such action if Lessor shall decide it is to its best interest to do so.
- (d) Unless Lessor requires their removal as set forth above, all alterations, improvements, additions and Utility Installations (whether or not such Utility Installations constitute trade fixtures of Lessee) which may be made on the Premises shall become the property of Lessor and remain upon and be surrendered with the Premises at the expiration of the term. Notwithstanding the provisions of this paragraph, Lessee's machinery and equipment other than that which is affixed to the Premises so that it cannot be removed without material damage to the Premises shall remain the property of Lessee and may be removed by Lessee subject to the provisions of this lease.

17. LESSOR'S ACCESS

- (a) Lessor and Lessor's agents shall have the right to enter the Premises without notice in case of an emergency, upon court order or when Lessee has abandoned or surrendered the Premises. Lessor, Lessor's agents and agents or employees of federal, state or local municipalities shall have the right to enter the Premises upon reasonable notice, with entrance during normal business hours from 8:00 a.m., to 5:00 p.m., Monday through Friday, holidays excepted, to make necessary or agreed inspections, repairs, decorations, alterations or improvements, supply necessary or agreed services or exhibit the Premises to prospective or actual purchasers, mortgagees, tenants, workmen or contractors, or for the purpose of inspecting the Premises for compliance with the Lease. Twenty-four hours shall be presumed to be reasonable notice.
- (b) Lessor may at any time during the last 30 days of the term hereof place on or about the Premises any ordinary "For Lease" signs, all without rebate of rent or liability to Lessee.

18. SIGNS

Lessee shall not place any sign upon the Premises without Lessor's prior written consent, which shall not be unreasonably withheld, and sign permit approval from the City of San Jose.

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19. **COVENANT AGAINST ASSIGNMENT AND SUBLETTING**

Lessee agrees not to assign, transfer, mortgage or hypothecate this Lease in whole or in part or any interest therein nor to sublease or sublet the herein demised Premises or any part or portion thereof, either voluntarily or by operation of law without first obtaining the written consent of the Lessor. Lessor shall not unreasonably withhold consent to an assignment or subletting. Failure to consent to an assignment to an assignee that is not at least as financially strong as Lessee shall be conclusively reasonable. A consent to one (1) assignment or subletting shall not be deemed a consent to any subsequent assignment or subletting. The acceptance of rent by Lessor from Lessee or from any other person or entity after a purported assignment or subletting shall not be deemed a waiver by Lessor of any provision hereof. In the event Lessee shall assign, transfer or hypothecate this Lease or any interest therein, or in the event the Lessee shall sublet the whole or any part of the herein demised Premises or in the event that any interest in this Lease shall be transferred by operation of law, or by any proceedings against the Lessee in attachment, execution, judgment, voluntary or involuntary proceedings in bankruptcy, or insolvency of Lessee, or moratorium proceedings in bankruptcy, or otherwise, which in the case of attachment or other proceeding not initiated by Lessee, is not discharged by Lessee in 60 days, then at the option of the Lessor, his successors and assigns, this lease shall immediately terminate. In the event Lessee shall assign or sublet the Premises or request the consent of Lessor to any assignment or subletting or if Lessee shall request the consent of Lessor for any act Lessee proposes to do then Lessee shall pay Lessor's reasonable attorneys' fees incurred in connection therewith, such attorneys' fees not to exceed \$2,500.00 for each such request.

20. **EXEMPTION OF LESSOR FROM LIABILITY**

Lessee hereby agrees that Lessor shall not be liable for injury to Lessee's business or any loss of income there from or for damage to the equipment, goods, wares, merchandise or other property of Lessee, Lessee's employees, invitees, customers, or any other person in or about the Premises, nor shall Lessor be liable for injury to the person of Lessee, Lessee's employees, agents or contractors whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, whether the said damage or injury results from conditions arising upon the Premises or upon other portions of the building of which the Premises are a part or from other sources or places and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to Lessee. Lessor shall not be liable for any damage arising from any act or neglect of any other tenant, if any, of the building in which the Premises are located.

21. **GENERAL INDEMNITY**

Lessee shall indemnify and hold harmless Lessor from and against any and all claims arising from Lessee's use of the Premises, or from the conduct of Lessee's business or from any activity, work or things done by Lessee in or about the Premises or elsewhere and shall further indemnify and hold harmless Lessor from and against any and all claims arising from any breach or default in the performance of any obligation on Lessee's part to be performed under the terms of this Lease, or arising from any negligence of the Lessee, or any of Lessee's agents, contractors, or employees, and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought

thereon and in case any action or proceeding be brought against Lessor by reason of any such claim, Lessee upon notice from Lessor shall defend the same at Lessee's expense by counsel satisfactory to Lessor. Lessee, as a material part of the consideration to Lessor, hereby assumes all risk of damage to property or injury to persons, in, upon or about the Premises arising from any negligence or willful Misconduct of Lessee, Lessee's agents, employees, guests and invitees, and Lessee hereby waives all claims in respect thereof against Lessor.

ENVIRONMENTAL INDEMNITY AND REMEDIATION

In addition to the indemnity obligations set forth in Paragraph 21, Lessee undertakes the following obligations related to Environmental Contamination:

Hazardous Substance Contamination means tetrachloroethylene, also known as perchloroethylene or PCS which is caused to become present on the leased Premises as a result of Lessee's operations on the leased Premises or by the operations on the leased Premises conducted by Lessee's agents, successors or assigns or those acting on Lessee's behalf and which violate applicable federal, state or local laws as in effect during the term of this Lease or any extension thereof. "Covered Contamination" means Hazardous Substance Contamination or other environmental contamination which violates applicable federal, state or local laws as in effect during the term of this Lease or any extension thereof, and which becomes present on the leased Premises as a result of Lessee's operation on the leased Premises or by the operations on the leased Premises conducted by Lessee's agents, successors or assigns or those acting on Lessee's behalf. Definition of Hazardous Substance the term "hazardous substance" shall be interpreted to mean: Any substance, product, waste, or other material of any nature that is or becomes listed, regulated, or addressed under one or more of the following "Hazardous Substance Laws":

- (1) The Comprehensive Environmental Response, Compensation, and Liability Act, referred to as "CERCLA," in 42 U.S.C. § 9601 et seq. .
- (2) The Hazardous Materials Transportation Act, in 49 U.S.C. § 1801 et seq. .
- (3) The Resource Conservation and Recovery Act, referred to as "RCRA," in 42 U.S.C. § 6901 et seq. .
- (4) The Clean Water Act in 33 U.S.C. § 1251 et seq. .
- (5) The Toxic Substances Control Act, in 15 U.S.C. § 2601 et seq. .
- (6) The California Carpenter-Presley-Tanner Hazardous Substance Account Act, referred to as the "HSAA," in Health & Safety Code § 25300 et seq.
- (7) The California Porter-Cologne Water Quality Control Act, in Water Code § 13000 et seq.
- (8) The California Hazardous Waste Control Act, in Health & Safety Code § 25100 et seq.
- (9) The California Safe Drinking Water and Toxic Enforcement Act, in Health & Safety Code § 25249.5 et seq.
- (10) The California Hazardous Waste Management Act, in Health & Safety Code § 25170.1 et seq.
- (11) Any other federal or state law or local ordinance or other rule concerning hazardous, toxic, or dangerous substances, wastes, or materials.
- (12) Any substance, product, waste, or other material that may give rise to liability under any of the laws designated in subparagraphs 1 through 11 or under any other statutory or common-law tort theory.

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- (13) Crude oil products, including petroleum.
- (14) Asbestos.
- (15) Polychlorinated biphenyl.
- (16) Fossil fuel combustion wastes, including fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste.
- (17) Solid wastes resulting from the extraction and processing of ore.
- (18) Cement kiln dust wastes.

- (a) Lessee shall defend, indemnify and hold Lessor harmless from and against any and all claims, losses, damages, costs (including reasonable attorneys' fees), expenses, liabilities, fines, penalties, administrative and judicial proceedings, judgments and enforcement actions of any kind to the extent that they arise from or are attributable to (i) the presence, or release of Covered Contamination in or from the leased Premises, (ii) the use, generation, storage or treatment of Covered Contamination on or under the leased Premises, (iii) the presence of tanks or other receptacles on or under the leased Premises placed there by Lessee, its agents, successors, assigns or those acting on Lessee's behalf, and (iv) the migration of Covered Contamination from the leased Premises. Notwithstanding the foregoing, or any other provision of this Lease, Lessee shall not be required to indemnify, hold harmless or defend Lessor for any migration to or for the presence upon the leased Premises of any environmental contamination caused by persons/entities other than Lessee, its agents, successors, assigns or those acting on Lessee's behalf.

The foregoing indemnity includes the costs of preparing plans to remediate and remediating (as hereinafter described) any Covered Contamination in full compliance with all applicable laws and regulations within such time period as the appropriate governmental agency having jurisdiction thereover shall require. Lessee shall also defend, indemnify and hold harmless Lessor for any liabilities, damages, losses, claims, costs and expenses (including reasonable attorneys' fees) incurred by Lessor as a result of injury to or death of any person or damage to or destruction of property arising out of Lessee's remediation activities.

- (b) In the event that during the term of this Lease, or any extension thereof, any investigation, site monitoring, containment, cleanup, removal, restoration or other remedial work of any kind or nature (hereinafter "Remedial Work") is required by any appropriate governmental authority having jurisdiction on account of a release of Covered Contamination in or from the leased Premises, Lessee shall forthwith commence and thereafter diligently prosecute to completion within such time period as the appropriate governmental agency having jurisdiction thereover shall require, all such Remedial Work in compliance with the requirements of any applicable law, regulation or order. All Remedial Work shall be performed by licensed personnel when any governmental regulation or law so requires. All costs and expenses of such Remedial Work shall be paid by Lessee. Lessee shall give Lessor copies of all reports and other information developed during investigation and performance of Remedial Work of any covered Contamination.
- (c) If Lessor or Lessee receives notice of a claim, demand, or complaint from any third party or from any government agency with jurisdiction for the payment of damages, costs, or expenses for the presence of or the escape, leakage, spillage, discharge, emission or release from the

leased Premises into or onto the leased Premises, adjacent land, or any watercourse, of any Covered Contamination, the party receiving said notice shall promptly notify the other. If Lessor first receives notice, Lessor shall notify Lessee of the claim, demand or complaint, and Lessee will proceed diligently after receipt of notice of the Claim to assess and to remediate the Covered Contamination as set forth herein. If Lessee, in good faith, believes that the claimed contamination is not a Covered Contamination as defined in Paragraph 22(a), Lessee shall have the right to challenge such claim, demand or complaint in an appropriate forum.

- (d) In the event action is taken against Lessor regarding a claim, demand or complaint, or commenced by Lessee to challenge a claim, demand or complaint, Lessor shall, at no cost or expense to Lessor, cooperate with Lessee in the defense thereof.
- (e) Lessee shall upon expiration of the term of this lease or any extension thereof, or upon earlier termination hereof, at Lessee's expense, monitor and/or remediate any Covered Contamination as defined in Paragraph 22(a), to the extent validly required by governmental agencies having jurisdiction. In order for Lessee to perform such remediation, Lessor hereby grants Lessee an irrevocable license, commencing on the first day after expiration or earlier termination of this Lease, or any extension thereof, and ending when such Covered Contamination is monitored or cleaned up to the extent validly required by governmental agencies having jurisdiction. In conducting such remediation, Lessee shall use its best efforts not to unnecessarily interfere with Lessor's use of the Premises. Lessor shall not, during the term of the license, conduct or allow to be conducted activities on the Premises that interfere with such remediation.

Lessee shall defend, indemnify, and hold harmless Lessor from any liabilities, damages, losses, claims, costs and expenses (including reasonable attorneys' fees) incurred by Lessor as a result of injury to or death of any person or damage to or destruction of property arising out of such remediation activities.

22. EARTHQUAKE AND WATER DAMAGE

It is understood and agreed that the Lessor shall not be held liable for any damages to any equipment, goods, property, or effects in, or upon, the herein demised Premises during the term of this Lease caused by earthquake or by water from any source whatsoever.

24. SECURITY MEASURES

Lessee hereby acknowledges that the rental 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 Lessee, its agents and invitees from acts of third parties.

25. COMPLIANCE WITH ALL LAWS AND REGULATIONS - NUISANCES

Lessee shall not maintain on the demised Premises any nuisances nor use the demised Premises in whole or in part, during the term of this lease, for any purpose or use in violation of any laws, ordinances, rules or regulations of any public authority applicable thereto; and Lessee agrees at all times during the term hereof, to keep and maintain the demised Premises in a clean, tidy and sanitary manner and condition and in compliance with any and all statutes, laws, rules, regulations and ordinances applicable thereto.

26. **LESSEE NOT TO SUFFER LIENS**

Lessee agrees not to cause any lien to attach to or encumber the demised Premises or any part or portion thereof during the term hereof. Failure of Lessee to remove any such lien within 30 days of attachment shall constitute a material breach of this Lease.

27. **PUBLIC LIABILITY, PROPERTY DAMAGE, PLATE, DOOR AND WINDOW GLASS AND WORKERS' COMPENSATION INSURANCE TO BE MAINTAINED BY LESSEE**

Lessee shall at its own cost and expense take out, maintain, keep in full force and effect throughout the term hereof, in a reputable insurance company or companies authorized to engage in such business in the State of California, (or in the State Workers' Compensation Insurance Fund as to workmen's compensation insurance) the following insurance:

- (a) Policy of Public Liability and Property Damage Insurance with a single combined liability limit of not less than \$ 2,000,000, and property damage limits of not less than \$300,000 insuring against all liability of Lessee and its authorized representatives arising out of and in connection with Lessee's use or occupancy of the leasehold Premises. All public liability insurance and property damage insurance shall insure performance by Lessee of the indemnity provisions of Paragraph 21. Lessor shall be named as additional insured, and the policy shall contain cross-liability endorsements. Lessee shall provide Lessor with written evidence that such insurance is in force. Not more frequently than each year throughout the term and any extended term hereof, if in the considered opinion of Lessor's insurance broker the amount of such coverage is not adequate, Lessee shall increase the coverage to such amount as Lessor's insurance broker shall reasonably deem adequate. Coverage hereunder shall include, but not necessarily be limited to, Premises/operations liability coverage, personal injury liability coverage, contractual liability coverage and broad form property damage liability coverage.
- (b) Glass Insurance - Jointly insuring Lessor and Lessee against all loss or damage to plate, window, skylights and door glass, and specifying coverage for replacement of all stained glass leaded windows on the Premises, if any.
- (c) Workers' Compensation Insurance insuring the Lessee as employer against liability for injury or death to employees of Lessee.

All such policies shall be nonassessable and shall contain language, to the extent obtainable, to the effect that: (i) any loss be payable notwithstanding any act or negligence of Lessor that might otherwise result in the forfeiture of the insurance; (ii) the insurer waives the right of subrogation against Lessor and against Lessor's agents and representatives; (iii) the policies are primary and noncontributing with any insurance that may be carried by Lessor; and (iv) they cannot be cancelled or materially changed except after ten (10) days' written notice by the insurer to the Lessor or Lessor's designated representative. Lessee shall furnish Lessor with copies of all such required insurance policies promptly upon receipt of them or with certificates evidencing such insurance. Lessee agrees that if for any reason such insurance is not in full force and effect, then, in such event, Lessor may obtain the necessary insurance, pay the premium thereon and the repayment thereof shall be deemed additional rent payable as such on the next date upon which Base Rent becomes due. Lessee shall, prior to opening business in the Premises, furnish from the insurers providing the above referred to coverage, certificates of such coverage evidencing the existence and amounts of such insurance.

28. FIRE, CASUALTY AND EXTENDED COVERAGE INSURANCE

- (a) **Lessee's Obligations To Insure Its Fixtures And Equipment.** On the commencement of and throughout the term hereof Lessee shall take out and maintain on all of its trade fixtures, appliances and equipment in and on the Premises, a policy or policies of fire insurance with standard extended coverage and vandalism and malicious mischief endorsements to the extent of at least ninety percent (90%) of their full replacement value. In event of loss or damage, the proceeds from any such policy or policies shall be used by Lessee for the replacement of the Lessee's personal property and/or the repair or replacement of the Lessee's trade fixtures, machinery and equipment so insured, in the event this lease is to continue in existence under the provisions of Paragraph 28, otherwise if said lease is terminated, to be paid to Lessee.
- (b) **Lessee to Maintain Insurance on the Premises.** Lessee, at Lessee's cost, shall maintain on the Premises exclusive of plate glass a policy of standard fire and extended coverage insurance with vandalism and malicious mischief endorsements to the extent of 100% of full replacement value. The "full replacement value" of the building to be insured under this section shall be determined by the company issuing the insurance policy at the time the policy is initially obtained.
- (c) **Waiver of Subrogation.** Lessee hereby releases and relieves and waives its entire right of recovery against the Lessor for loss or damage arising out of or incident to the perils insured against under paragraph (a) above which perils occur in, on or about the Premises, whether due to the negligence of Lessor or Lessee or their agents, employees, contractors and/or invitees. Lessee shall, upon obtaining the policies of insurance required hereunder, give notice to the insurance carrier or carriers that the foregoing waiver of subrogation is contained in this Lease.

29. DAMAGE OR DESTRUCTION - OBLIGATIONS TO RESTORE, ETC.

- (a) **Loss Due to Risk Covered by Insurance.** In the event of damage or destruction of the Premises by an insured fire or casualty loss, Lessor shall forthwith repair, rebuild and/or restore the same, provided such repairs, rebuilding and/or restoration can be made and completed within one hundred and eighty (180) calendar days from the date construction of repairs, rebuilding and/or restoration begins, and can be done under the then laws and regulations of state, federal, county or municipal authorities, but such damage or destruction shall in no way annul or void this lease, except that Lessee shall be entitled to an abatement of or a proportionate reduction, as the case may be, of the monthly Base Rent while such repairs, rebuilding and/or reconstruction are being made, such proportionate reduction to be based on the extent to which the damage or destruction shall interfere with Lessee's business and operations on the Premises. If such repairs, rebuilding and/or restoration cannot be made in the period of time stated above or cannot be done under the then laws and regulations, Lessee may by written notice to Lessor given within thirty (30) days of such occurrence forthwith terminate this lease and if Lessee fails to terminate, then Lessor may, at his option within forty-five (45) days after such occurrence, by written notice to Lessee, either terminate this Lease or make the repairs or restoration within a reasonable time, in which latter event this lease shall continue in full force and effect with the monthly rent and other sums due hereunder proportionately reduced as provided in this paragraph. If Lessor undertakes to repair or restore the Premises, Lessee shall make available to Lessor for such purpose any insurance proceeds received by Lessee for damage or destruction to leasehold improvements made by Lessee to the Premises and Lessor's work shall restore the leasehold improvements to the extent that there are insurance proceeds available for such purpose. Lessor shall not be required to restore Lessee's trade fixtures and personal property, such excluded items being the sole responsibility of Lessee to restore. If Lessor elects to repair, rebuild and/or restore the Premises,

or if Lessee elects to pay to Lessor the difference between five percent (5%) of the then replacement value of the building and/or improvement damaged or destroyed, then Lessee shall be entitled to an abatement of or a proportionate reduction, as the case may be, of the Monthly Base Rent while such repairs, rebuilding and/or reconstructions are being made, such proportionate reduction to be based on the extent to which the damage or destruction shall interfere with Lessee's business and operations on the Premises.

- (b) **Loss Due to Risk Not Covered By Insurance.** If the Premises shall be damaged or destroyed by a risk not covered and insured against by fire and casualty insurance Lessor shall forthwith and with due diligence repair, rebuild and/or restore the same unless the then cost of such repairs and/or reconstruction shall amount to five percent (5%) or more of the then replacement value of the building and/or improvement damaged or destroyed, in which latter event Lessor shall have the option (giving notice thereof to Lessee within fifteen (15) days after ascertaining the repairs, rebuilding and/or restoration costs and replacement value) whether to terminate this Lease or to proceed with the reconstruction; provided, however, should Lessor elect to terminate this Lease, Lessee shall have the option within fifteen (15) days after Lessor's notice to terminate this Lease, to elect to pay to Lessor at the time Lessee notifies Lessor of its election herein the difference between five percent (5%) of the then replacement value of the building and/or improvement damaged or destroyed and the actual cost to Lessor in repairing, rebuilding and/or restoring the building and other improvements, in which event Lessor shall forthwith commence said repairs, rebuilding and reconstruction. It is agreed that the amount payable by Lessor under these provisions shall be the only monies to be paid by Lessor with respect to such work of restoration, and shall not be payable by Lessor until Lessee shall have paid to Lessor its required contribution to the costs and expenses thereof. If Lessor elects to terminate this Lease, and if Lessee does not elect to contribute toward the cost of reconstruction within the time and manner provided herein, this lease shall forthwith terminate and the parties shall be relieved of further liability hereunder. If Lessor elects to repair, rebuild and/or restore the Premises, or if Lessee elects to pay to Lessor the difference between five percent (5%) of the then replacement value of the building and/or improvement damaged or destroyed, then Lessee shall be entitled to an abatement of or a proportionate reduction, as the case may be, of the Monthly Base Rent while such repairs, rebuilding and/or reconstructions are being made, such proportionate reduction to be based on the extent to which the damage or destruction shall interfere with Lessee's business and operations on the Premises.
- (c) **Waiver of Civil Code Sections.** In respect to any damage or destruction to the Premises under the terms of this paragraph, the provisions of Section 1932, Subdivision 2, and of Section 1933, Subdivision 4 of the Civil Code of the State of California are waived by Lessee.
- (d) **Loss During Last Part of Term.** In the event damage or destruction to the Premises shall occur during the last six (6) months of the term of this lease or of any extended term, Lessor may terminate this Lease by notice to the Lessee given not more than fifteen (15) days after the damage or destruction, provided, however, in the event the damage or destruction shall occur during the last six (6) months of the term, and if Lessee is given by the terms hereof an option to extend this lease and exercises said option within fifteen (15) days following the damage or destruction, then Lessor shall repair, rebuild and/or restore the Premises as provided in subparagraphs (a) and (b) of this paragraph and rent shall abate as provided therein. Should this Lease not be terminated as provided in this subparagraph, then this Lease shall continue in full

force and effect.

30. SURRENDER UPON TERMINATION

At the expiration of the term of this Lease, or upon the earlier termination thereof for any reason, the Lessee shall quit and surrender said leased Premises to the Lessor in as good state and condition as said Premises are in when possession thereof is given to the Lessee, reasonable wear and tear and damage by the elements, fire and other casualty excepted, and the Lessor shall thereupon have the right to enter upon and take possession of said Premises and said leased personal property.

31. HOLDING OVER

If Lessee should remain in possession of the Premises after the expiration of the Lease term and without executing a new Lease, then such holding over shall be construed as a tenancy from month to month, subject to all conditions, provisions and obligations of this Lease insofar as the same are applicable to a month to month tenancy. However, the Base rental amount shall be one hundred and fifty percent (150%) of the then current monthly rental rate.

32. DEFAULT

(a) Lessee's Default The occurrence of any of the following shall constitute a default by Lessee:

- (1) Failure to pay Base Rent or any other payment required of Lessee when due, if the failure continues for three (3) days after notice has been given to Lessee.
- (2) Abandonment and vacation of the Premises (failure to occupy and operate the Premises for seven (7) consecutive days shall be deemed an abandonment and vacation.)
- (3) Failure to perform any other provision of this Lease if the failure to perform is not cured within ten (10) days after notice has been given to Lessee. If the default cannot reasonably be cured within ten (10) days, Lessee shall not be in default of this Lease if Lessee commences to cure the default within the 10-day period and diligently and in good faith continues to cure the default.
- (4) The discovery by Lessor that any financial statement given to Lessor by Lessee, any assignee of Lessee, any subtenant of Lessee, any successor in interest of Lessee or any guarantor of Lessee's obligation hereunder, and any of them was materially false.
- (5) The filing of a petition in bankruptcy by any guarantor of Lessee's obligations hereunder and the failure within ten days after written notice from Lessor to Lessee to provide the substitute guarantor of Lessee's obligation hereunder satisfactory to Lessor.

Notices given under this paragraph shall specify the alleged default and shall demand that Lessee perform the provisions of this lease or pay the rent amount that is in arrears, as the case may be, within the applicable period of time, or quit the Premises. No such notice shall be deemed a forfeiture or a termination of this Lease unless Lessor so elects in the notice.

(b) Lessor's Remedies. Lessor shall have the following remedies if Lessee commits a default. These remedies are not exclusive; they are cumulative in addition to any remedies now or later allowed by law:

- (1) Lessor can continue this Lease in full force and effect, and the Lease will continue in effect as long as Lessor does not terminate Lessee's right to possession, and Lessor shall have the right to collect rental amounts when due. During the period Lessee is in default, Lessor can enter the Premises and relet them, or any part of them, to third parties for Lessee's account. Lessee shall be liable immediately to Lessor for all costs Lessor incurs in reletting the Premises, including without limitation, broker's commissions, expense of remodeling the Premises required by the reletting, and like costs. Reletting can be for a period shorter or longer than the remaining term of this Lease. Lessee shall pay to Lessor the rental amounts due under this Lease on the dates the rent is due, less the rent Lessor receives from any reletting. No act by Lessor allowed by this paragraph shall terminate this Lease unless Lessor notifies Lessee that Lessor elects to terminate this Lease. After Lessee's default and for as long as Lessor does not terminate Lessee's right to possession of the Premises, if Lessee obtains Lessor's consent, Lessee shall have the right to assign or sublet its interest in this Lease, but Lessee shall not be released from liability. Lessor's consent to a proposed assignment or subletting shall not be unreasonably withheld.
- (2) Lessor can terminate Lessee's right to possession of the Premises at any time. No act by Lessor other than giving notice to Lessee shall terminate this Lease. Act of maintenance, efforts to relet the Premises, or the appointment of a receiver on Lessor's initiative to protect Lessor's interest under this Lease shall not constitute a termination of Lessee's right to possession. On termination, Lessor, has the right to recover from Lessee:
 - (i.) The worth, at the time of the award, of the unpaid rent that had been earned at the time of termination of this Lease;
 - (ii.) The worth, at the time of the award, of the amount by which the unpaid rent that would have been earned after the date of termination of this Lease until the time of award exceeds the amount of the loss of rent that Lessee proves could have been reasonably avoided;
 - (iii.) The worth, at the time of the award, of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of the loss of rent that Lessee proves could have been reasonably avoided; and
 - (iv.) Any other amount necessary to compensate Lessor for all the detriment proximately caused by Lessee's failure to perform Lessee's obligations hereunder, including court costs.

"The worth, at the time of the award," as used in (i) and (ii) of this paragraph, is to be computed by allowing interest at the maximum rate an individual is permitted by law to charge. "The worth, at the time of the award," as referred to in (iii) of this paragraph, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

(c) **Appointment of Receiver.** Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by Lessor to terminate this Lease.

(d) **Lessor's Right to Cure Lessee's Default.** Lessor, at any time after Lessee commits a default, can cure the default at Lessee's cost. If Lessor at any time, by reason of Lessee's default, pays any sum or does any act that requires the payment of any sum, the sum paid by Lessor shall be due immediately from Lessee to Lessor at the time the sum is paid, and if paid at a later date shall bear interest at the lesser of 10% or maximum rate an individual is permitted by law to

charge from the date the sum is paid by Lessor until Lessor is reimbursed by Lessee. The sum, together with interest on it, shall be additional rent.

33. **CONDEMNATION**

a) **Effective Total Condemnation.**

- (1) In the event that there shall be a total taking of the leased Premises during the Lease term, or any extension thereof, under the power of eminent domain, the leasehold estate hereby created shall cease and terminate as of the date actual physical possession of the leased Premises is taken by the condemnor.
- (2) All compensation and damages awarded for such total taking shall belong to and be the sole property of Lessor, and Lessee shall have no claim thereto and hereby irrevocably assigns and transfers to Lessor any right they might have to compensation or damages to which they may become entitled; provided, however, that Lessee shall be entitled to receive any award made for the taking of or damage to Lessee's trade fixtures and any improvements made by Lessee to the leased Premises which Lessee would have had, but for the condemnation, the right to remove on expiration or sooner termination of this Lease.
- (3) On termination of this Lease by a total taking of the leased Premises under the power of eminent domain, all rentals and other charges payable by Lessee to or on behalf of Lessor under the provisions of this Lease shall be paid up to the date on which actual physical possession of the leased Premises shall be taken by the condemnor, and the parties hereto shall thereafter be released from any further liability in relation thereto.

b) **Effective Partial Condemnation.**

- (1) In the event that there shall be a partial taking of the leased Premises during the Lease term or any extension thereof under the power of eminent domain, this Lease shall terminate as to the portion of the leased Premises so taken on the date when actual physical possession of said portion is taken by the condemnor, but this Lease shall, at Lessor's option, continue in force and effect as to the remainder of the leased Premises provided the remainder is suitable for Lessee's business purposes, and provided further that the rental payable by Lessee for the balance of said term shall be abated in the ratio that the square footage of floor space of the leased premises taken bears to the total floor space of the leased premises occupied by Lessee at the time of such taking.

On such partial condemnation as in this subsection provided, all compensation and damages awarded for such partial taking shall belong to and be the sole property of Lessor, and Lessee shall have no claim thereto and hereby irrevocably assigns and transfers to Lessor any right they may have to compensation or damages for property condemned; provided, however, that Lessee shall be entitled to receive any award made for the taking of or damage to Lessee's trade fixtures and any improvements made by Lessee to the leased premises which Lessee would have, but for the condemnation, the right to remove on expiration or sooner termination of this Lease.

- (2) On termination of this Lease in whole or in part as herein provided, all rentals and

other charges payable by Lessee to or on behalf of Lessor hereunder shall be paid up to the date on which actual physical possession shall be taken by the condemnor and in the event that the Lease is totally terminated, the parties hereto shall thereafter be released from all further liability in relation thereto, and in the event that the Lease is only partially terminated, Lessee shall thereafter be liable only for that portion of rent required for the balance of the Lease term as in this subsection provided.

34. NOTICES

In the event that any notice is to be given under this Lease by either party hereto to the other, either expressly required to be given in writing, or such notice as such party may desire to give, such notice may be given by either personally delivering the same to the other or by mailing such notice by certified or registered mail with return receipt requested thereon, in a sealed envelope with all postage and certification charges thereon prepaid, addressed as follows:

If to Lessor: Acme & Son Sanitation, Inc
c/o Daniel Youngblood, Sr.
P.O. Box 488
Ben Lomond, CA 95005

or to such other address as Lessor may hereafter notify Lessee in writing.

If to Lessee: c/o United Site Services, Inc.
200 Friberg Parkway, Suite 4000
Westboro, MA 01582
Attn: Ronald Parlengas

or to such other address as Lessee may hereafter notify Lessor in writing.

The deposit of such notice in a United States Post Office as herein provided, postage prepaid, shall constitute said notice, and the time of performance of any act or obligation required to be made after said notice under the terms of this Lease, shall commence to run from the date of the deposit of said notice in a United States post office in the State of California.

35. SALE OF PREMISES

If Lessor sells or transfers all or any portion of land, Lessor on consummation of the sale or transfer, shall be released from any liability thereafter accruing under this Lease if Lessor's successor has assumed in writing, for the benefit of Lessee, Lessor's obligations under this Lease.

36. SUBORDINATION

(a) Provided that Lessor obtains the non-disturbance agreement described herein, this Lease, at Lessor's option, shall be subordinate to any ground lease, mortgage, deed of trust, or any other

hypothecation or security now or hereafter placed upon the real property of which the Premises are a part and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof. Notwithstanding such subordination, Lessee's right to quiet possession of the Premises shall not be disturbed if Lessee is not in default and so long as Lessee shall pay the Base Rent and observe and perform all of the provisions of this Lease, unless this Lease is otherwise terminated pursuant to its terms. Lessor shall obtain and deliver to Lessee, in recordable form, such a non-disturbance agreement from any such ground lessor, mortgagee or other third party to whose interest this Lease shall be subordinate. If any mortgagee, trustee or ground lessor shall elect to have this Lease prior to the lien of its mortgage, deed of trust or ground lease, and shall give written notice thereof to Lessee, this Lease shall be deemed prior to such mortgage, deed of trust, or ground lease, whether this Lease is dated prior or subsequent to the date of said mortgage, deed of trust or ground lease or the date of recording thereof.

- (b) Lessee agrees to execute any documents required to effectuate an attornment, a subordination or to make this Lease prior to the lien of any mortgage, deed of trust or ground lease, as the case may be. Lessee's failure to execute such documents within 10 days after written demand shall constitute a material default by Lessee hereunder, or, at Lessor's option, Lessor shall execute such documents on behalf of Lessee as Lessee's attorney-in-fact. Lessee does hereby make, constitute and irrevocably appoint Lessor as Lessee's attorney-in-fact and in Lessee's name, place and stead, to execute such documents in accordance with this paragraph.

37. PERSONAL PROPERTY LEFT ON PREMISES AT LEASE TERMINATION

On expiration of the term of this Lease, or upon the earlier termination thereof for any reason, Lessor can elect to retain or dispose of in any manner, any of Lessee's personal property or equipment that Lessee does not remove from the Premises by giving at least thirty (30) days notice to Lessee. Lessee waives any and all claims against Lessor for any damage to Lessee resulting from Lessor's retention or disposition of such personal property items. Lessee shall be liable to Lessor for all of Lessor's costs and expenses for storing, removing, and disposing of any of Lessee's personal property left on the Premises. Lessor shall be entitled to charge reasonable rental for the storage of any personal property and equipment left on the Premises by Lessee whether claimed to be the property of Lessee or others.

38. BREACH OF SECURITY

Lessee shall be solely and exclusively responsible for the security of its personal property on the Premises and shall be solely and exclusively liable to Lessor for any and all damages resulting thereto from any breach of security including property damage and personal liability, whether caused by burglary, robbery or such other breaches of security and specifically including any damage due to any break-ins through the roof. Lessee further agrees to waive any rights against Lessor by way of subrogation on behalf of Lessee's insurance carrier in the event of any such security breach, such waiver to extend to Lessor's insurance carrier.

39. ATTORNEY'S FEES AND COSTS

If Lessor is required to employ the services of an attorney to enforce any of the terms and conditions of this Lease, Lessor shall be entitled to recover from Lessee all Lessor's costs and fees incurred in connection with the employment of such attorney including, but not limited to, all costs incurred in connection with any action or proceeding or any post judgment proceeding.

40. MISCELLANEOUS PROVISIONS

- (a) **Paragraph Headings.** The paragraph and subparagraph headings of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part of this Lease.
- (b) **Integrated Agreement; Modification.** This Lease contains all of the agreements and conditions made between the parties hereto and may not be modified orally or in any other manner than by an agreement in writing signed by all of the parties to this Lease or their respective successors in interest. Notwithstanding anything in this Lease to the contrary, nothing in this Lease shall be deemed to modify any of the obligations of Acme & Sons Sanitation, Inc. (the "Seller") or the rights of United Site Services, Inc. (the "Buyer") under the Asset Purchase Agreement dated August 12, 2005, among the Seller, Buyer and Seller's Principals named therein.
- (c) **Time of Essence.** Time is of the essence of each term and provision of this Lease.
- (d) **All Required Payments Are Additional Rent.** Except as otherwise expressly stated, each payment required to be made by Lessee shall be in addition to and not in substitution for other payments to be made by Lessee and all such payments shall be deemed to be additional rental.
- (e) **Severability.** The invalidity or illegality of any provision shall not affect the remainder of this Lease.
- (f) **Duration of Obligations.** Unless otherwise stated in particular provisions of this Lease, an obligation resulting from the Lease or from the relationship created by the Lease, is coterminous with the Lease, except that defaults occurring during the term of this Lease are actionable until the expiration of the period of limitations.
- (g) **WAIVER OF RIGHT TO TRIAL BY JURY.** LESSOR AND LESSEE HEREBY WAIVE THEIR RESPECTIVE RIGHT TO TRIAL BY JURY OF ANY CAUSE OF ACTION, CLAIM, COUNTERCLAIM OR CROSS-COMPLAINT IN ANY ACTION, PROCEEDING AND/OR HEARING BROUGHT BY EITHER LESSOR AGAINST LESSEE OR LESSEE AGAINST LESSOR ON ANY MATTER WHATSOEVER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS LEASE, THE RELATIONSHIP OF LESSOR AND LESSEE, LESSEE'S USE OR OCCUPANCY OF THE PREMISES, OR ANY CLAIM OF INJURY OR DAMAGE, OR THE ENFORCEMENT OF ANY REMEDY UNDER ANY LAW, STATUTE OR REGULATION, EMERGENCY OR OTHERWISE, NOW OR HEREAFTER IN EFFECT.
- (h) **Joint and Several Liability.** In the event two or more persons or entities execute this Lease as "Lessee", then the obligation of each such person shall be joint and several.
- (i) **Guarantor.** In the event that there is a guarantor of this Lease, said guarantor shall have the same obligations as Lessee under this Lease. In the event the guarantor files a petition in bankruptcy in any court, Lessor, in Lessor's sole discretion, may terminate this Lease unless Lessee, within ten days after notification from Lessor, provides a new guarantor satisfactory to Lessor.
- (j) **Covenants or Conditions.** All the agreements in this Lease upon the part of Lessee, whether technically covenants or conditions, shall be deemed conditions for the purpose hereof

- (k) **Authority.** If Lessee is a corporation, trust or general or limited partnership, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said entity. If Lessee is a corporation, trust or partnership, Lessee shall, within thirty (30) days after execution of this lease, deliver to Lessor evidence of such authority satisfactory to Lessor.
- (l) **Waivers.** No waiver by Lessor of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by Lessee of the same or any other provision. Lessor's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to or approval of any subsequent act by Lessee. The acceptance of Base Rent, or partial payment hereunder by Lessor shall not be a waiver of any preceding breach by Lessee of any provision hereof, other than the failure of Lessee to pay the particular rent so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such rent.
- (m) **Words.** Whenever the singular is used in this Lease, the same shall include the plural when required by the context, and the masculine gender shall include the feminine and neuter genders, and the word "person" shall include corporation, firm and association. If there is more than one Lessee, the obligations of this Lease shall be joint and several.
- (n) **California Law.** This Lease shall be governed and interpreted solely by the laws of the State of California. Any litigation related to this Lease shall be filed in Santa Clara County Superior Court.
- (o) **Heirs, Etc.** This Lease shall be binding upon the successors, administrators and assigns of the respective parties hereto.
- (p) **Exhibits.** All exhibits, if any, that are attached to this Lease are hereby incorporated into the body of this Lease.
- (q) **No Real Estate Brokers or Finders' Fees.** Lessor has not had any dealings with any real estate broker, finder, or other person with respect to this Lease in any manner and owes no commissions or fees in such regard. Lessee is solely responsible for any compensation due its agent. Lessee shall hold harmless Lessor from all damages resulting from any claims that may be asserted against Lessor by any broker, finder, or other person regarding this Lease.
- (r) Lessor shall provide Lessee such affidavits regarding mechanics liens and parties in possession, and take such actions as Lessee may reasonably request, for Lessee to obtain a leasehold title insurance policy on the leased premises.

Executed on Next Page

IN WITNESS WHEREOF the Lessor and Lessee have hereunto executed this Lease in duplicate the day and year first above written.

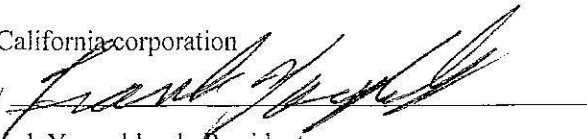
Lessor: Acme & Sons Sanitation, Inc.,

Lessee: United Site Services of California, Inc.,

a California corporation

a California corporation

by



by

Frank Youngblood— President

Dated: _____

Dated: _____

IN WITNESS WHEREOF the Lessor and Lessee have hereunto executed this Lease in duplicate the day and year first above written.

Lessor: Acme & Sons Sanitation, Inc.,

Lessee: United Site Services of California, Inc.,

a California corporation

a California corporation

by _____

by  _____

Frank Youngblood- President

Dated: _____

Dated: August 17, 2005

Our File No: SLC05007880

EXHIBIT "A"

Parcel One:

(An unincorporated area of Santa Clara County)

Beginning on the westerly line of a 56.71 acre tract of land described in the Deed of Trust dated October 15, 1903 and recorded in Liber "Y", Page 561, of Trust Deeds, Santa Clara County Records, at the most northerly corner of that certain 5 acre parcel of land described in the deed from Carl W. Heyne to Irving R. Fontaine, et ux, as recorded May 4, 1955 in Book 3159, Page 292, Official Records, Santa Clara County Records; thence along said westerly line the following courses and distances: North 48° 24' 35" East 63.74 feet, North 39° 06' 35" East 104.28 feet and North 30° 39' 35" East 84.18 feet; thence leaving said westerly line of the 55.71 acre tract and running parallel with the northeasterly line of said 5 acre parcel South 36° 40' 50" East 661.42 feet to a ¾" iron pipe; thence South 26° 00' 10" West 261.56 feet to a ¾" iron pipe; thence South 53° 47' 23" West 330 feet to a point on the southeasterly prolongation of the southwestery line of said 5 acre parcel; thence along said southeasterly prolongation North 36° 40' 50" West 30.45 feet to the most southerly corner of said 5 acre parcel; thence along the southeasterly line of said 5 acre parcel North 53° 19' 10" East 320.10 feet to the most easterly corner thereof; thence along the northeasterly line of said 5 acre parcel North 36° 40' 50" West 684.81 feet to the point of beginning.

Said land also being depicted on that certain Record of Survey recorded January 30, 1968 in Book 232, Page 47, of Maps, Santa Clara County Records

Parcel Two:

(An unincorporated area of Santa Clara County)

A portion of that 100 foot strip of land described in the Grant Deed dated March 18, 1886 and executed by W.L. Manley to the San Jose and Almaden Railroad Company recorded July 29, 1886 in Book 86, Page 150, of Deeds, more particularly described as follows:

All of that 100 foot strip of land lying south of the southern line of the land described in the deed from Southern Pacific Transportation Company, to Weetie Enterprises, LLC, a Delaware corporation recorded July 11, 1997, as Instrument No. 13770439, Official Records and northeasterly of the centerline of Hillcap Avenue as said avenue presently exists.

Excepting therefrom all mineral, and all mineral rights of every kind and character now known to exist or herein after discovered and all oil and gas, but without the right of surface entry or use upon the land as reserved in the Grant Deed, dated February 16, 1999 and executed by Union Pacific Railroad Company, recorded February 25, 1999, as Instrument No. 14672823, Official Records, Santa Clara County Records.

Assessor's Parcel Numbers: 462-17-002 and 462-17-022
Joint Plant Number: 462-17-002 and 462-17-005

Exhibit B

AMENDMENT TO LEASE

THIS AMENDMENT TO LEASE ("AMENDMENT") IS MADE ON THIS 8TH DAY OF DECEMBER 2014, BY AND BETWEEN DFDJ SUGAR BEAR, INC, A CALIFORNIA CORPORATION, THE SUCCESSOR TO ACME & SONS SANITATION, INC A CALIFORNIA CORPORATION (C0913500), HEREIN DESIGNATED AS "LESSOR" AND UNITED SITE SERVICES OF CALIFORNIA, INC, A CALIFORNIA CORPORATION HEREIN DESIGNATED AS "LESSEE" WITH REGARDS TO THE FOLLOWING FACTS:

Recitals:

- A. Lessor entered into a lease dated as of August 12, 2005 with Lessee, where under Lessee leased building and yard space ("Property") at 3408 and 3200 Hillcap Avenue, San Jose, California. Such lease, is hereinafter referred to as the "Lease."
- B. Lessor and Lessee now desire to amend the Lease to, among other things, extend the term of the Lease and to have certain work performed on the Property as provided in this Amendment

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, and for other good and valuable consideration, the receipt and adequacy of, which are hereby acknowledged Lessor and Lessee hereby, agree as follows:

- 1) Scope of this Amendment:
Except as expressly set forth in this Amendment, the Lease shall remain in full force and effect, and the Lease, as amended hereby, is hereby ratified and confirmed in all respects.
- 2) Effective Date:
The effective date of this Amendment shall be the date that the Lessee provides notice tht this Amendment to Lease has been approved by the Lessee's Board of Directors which notice may be in the form of an email from Lessee to Lessor..
- 3) Modification to the Lease:
The Lease is hereby modified as follows:
 - a) TERM. The end of the Lease term as set in Paragraph 3 and 4; shall be extended for a period of ten (10) years, commencing Augusts 1, 2015 and terminating on July 31, 2025.
 - b) MONTHLY BASE RENT. The Monthly Base Rent for the above stated period of time shall begin at \$ 38,940 per month with the same adjustments as agreed to in Paragraph 4 (b), three (3) percent annual commencing on August 1st 2016 and every twelve (12) month anniversary thereafter. .
 - c) SECURITY DEPOSIT The Security Deposit as forth in Paragraph 5 shall be increased to \$38,940.

- 4) Lessee shall accept the Property in As-Is, Where-is condition.
- 5) Work Letter; The Lessee shall both complete pay for the cost of maintenance work to the Property as outlined and listed in the attached work letter ("Exhibit A"), the terms and conditions of which are hereby incorporated herein and made part hereof. The conditions as stated in the Exhibit A are to be completed by the Lessee and approved by the Lessor and all work related to the Property paid for by Lessee and all liens from that work placed on the Property removed before August 1st 2015. Any failure by Lessee to explicitly comply with the provisions of Exhibit A by August 1st 2015 shall automatically grant Lessor the option to complete any necessary repairs or maintenance as described in Exhibit A. If Lessor exercises this option, Lessee shall reimburse Lessor for all costs incurred, upon demand and an accounting by Lessor.
- 6) This Amendment is non-binding until such time as it is mutually executed by Lessor and Lessee and approved by Lessee's Board of Directors.
- 7) Remaining Terms and Conditions. All terms and conditions not expressly and specifically amended hereby shall remain in full force and effect as if this Amendment had not occurred.
- 8) Counterparts. This Amendment may be executed in one or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

If there is any conflict between the original lease document and this Amendment, the Amendment shall prevail.

In witness whereof, Lessor and Lessee have executed this Amendment as of the day and year written below.

LESSOR:

LESSEE:

DFDJ Sugar Bear, Inc.
a California corporation

United Site Services of California, Inc.
a California corporation

By: [Signature]
Dan Youngblood Sr.
Title: Vice President

By: [Signature]
Ed Simoneau
Title: Chief Financial Officer

Date: 3-12-15
By: [Signature]
Title: President

Date: _____
By: Ed Simoneau
Title: Chief Financial Officer

Date: 3-12-15

Date: 12-29-14

[Signature]
Jim Youngblood
Exec. Vice President

EXHIBIT A

WORK LETTER

Lessee's Scope of Work;

The following repairs and deferred maintenance will be done to the Property prior to the commencement of the Lease Extension, at Lessee's sole cost and expense, the following by the indicated deadlines:

By February 1st 2015

Walk-through by representative from United Site Services, Tennessee Harris and a member of the Youngblood family to address the present condition and subsequent inspection of work upon work completion.

By August 1st 2015

1. Remove and Replace damaged areas of the parking lot, Seal Coat and Re stripe the parking lot.
2. Repair, replace and renew the perimeter fencing. Specifically on the East side of the Property where vehicles and equipment have damaged the fencing material and posts.
3. Documentation to be given to Landlord for ongoing service of the back-up generator.
4. Return of Chair Assist for the stairs.
5. Return video cameras removed from the Building.

By August 1st, 2018

Remove and Replace damaged areas of the parking lot, Seal Coat and Re stripe the parking lot.

By August 1st, 2021

Remove and Replace damaged areas of the parking lot, Seal Coat and Re stripe the parking lot.

By August 1st, 2024

Remove and Replace damaged areas of the parking lot, Seal Coat and Re stripe the parking lot.

Without limiting the foregoing, in the event Lessee (a) fails to perform any repairs obligation of Lessor under this Work Letter, or (b) fails to timely reimburse Lessor for amounts required to be paid by Lessee, as set forth in the first sentence of this paragraph, without limiting any other remedies available to Lessor, under the Lease, at law or in equity, Lessor shall be entitled to (x) perform such repairs or improvements itself, and (y) deduct the cost of such performance and any unpaid amounts owed to Lessor hereunder from any rental (including, without limitation, security deposits and or additional rent) obligation of Lessee under the Lease.

Lessor: DFDJ Sugar Bear, Inc.
a California Corporation

Lessee: United Sites Services of California, Inc.
a California Corporation

By: [Signature]
~~Frank Youngblood~~
Its: President

By: [Signature]
Its: Chief Financial Officer

By: [Signature]
Dan Youngblood
Vice President

[Signature] Jim Youngblood

Exec. Vice President

Exhibit C

SECOND AMENDMENT TO LEASE AGREEMENT

THIS SECOND AMENDMENT TO LEASE AGREEMENT (this “Amendment”), dated for reference purposes as of the last date on which this Amendment is executed by all of the parties hereto (the “Reference Date”), to be effective as of August 1, 2025 (the “Effective Date”), is entered into by and between United Site Services of California, Inc (“Lessee”) and DFDJ Sugar Bear, Inc. (“Lessor”), with reference to the following facts:

RECITALS

WHEREAS, Lessee and Lessor entered into that certain Lease Agreement, dated as of August 12, 2005 and Amendment to Lease dated as of December 14, 2014 (the “Lease Agreement”), pursuant to which Lessor leased to Lessee that certain property located at 3408 and 3200 Hillcap Avenue, San Jose, CA, as more particularly described in the Lease Agreement (the “Premises”); and

WHEREAS, the term of the Lease Agreement expires on July 31, 2025 and Lessee and Lessor now desire to extend the term of the Lease Agreement for one (1) year commencing on August 1, 2025, and expiring on July 31, 2026, upon the terms and subject to the conditions of the Lease Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, including the mutual covenants herein contained, the parties agree as follows:

1. Notwithstanding anything contained in the Lease Agreement to the contrary, the term of the Lease Agreement shall be extended for one (1) year from August 1, 2025 through July 31, 2026.

2. Notwithstanding anything contained in the Lease Agreement to the contrary, Base Rent as of the Effective Date shall be \$53,348.26 per month.

3. Lessor further agrees that Lessee shall have an option to extend the term of the Lease Agreement for one (1) year. Written notice of the option to extend must be received by Lessor not less than ninety (90) days prior to the expiration of the current term.

4. Base Rent during the option period shall be subject to Fair Market Value. Base Rent shall be at 95% of the “fair market rental value” on the first day of the option period, provided, however, that the Fair Market Rental Value will not exceed 30% of the Base Rent in effect during the current term. Within thirty (30) days after Lessor’s receipt of Lessee’s option to extend, Lessor shall provide Lessee Lessor’s opinion of the fair market rental value of the Premises during the option period. Thereafter, Lessor and Lessee shall attempt to agree in writing on such fair market rental value. If Lessor and Lessee do not agree on the fair market rental value of the Premises by the date that is thirty (30) days after Lessee receives Lessor's opinion of the fair market rental value, then Lessor and Lessee shall each select a licensed real estate broker (“Brokers”) with a

minimum of ten (10) years of commercial leasing experience in the jurisdiction where the Premises is located, to determine the fair market rental value of the Premises. If the Brokers are unable to agree as to the fair market rental value by the earlier to occur of thirty (30) days after their appointment and the date that is seventy-five (75) days prior to the Expiration Date, then such fair market rental value shall be determined by a third licensed real estate broker ("Arbitrator") who has no less than the minimum qualifications as the Brokers, selected by the mutual agreement of the parties. Each Broker shall submit to the Arbitrator his or her determination of the fair market rental value of the Premises, and the support therefor, and the Arbitrator shall decide which Broker has most accurately determined the fair market rental value, which shall be final and binding on both Lessor and Lessee. Lessor and Lessee shall each pay their own Broker's fees and costs and shall each pay one-half (1/2) of the Arbitrator's fees and costs.

5. Except as herein expressly amended, the covenants, terms and provisions of the Lease Agreement, and any amendments, addendums or extensions shall be and remain in full force and effect.

This Amendment may be executed in counterparts each of which, when taken together, shall be deemed to be an original document. This Amendment may also be executed and transmitted via facsimile or other electronic signature, and any faxed or electronically transmitted signatures shall be deemed original signatures.

IN WITNESS WHEREOF, the parties have executed this Amendment to be effective as the date first written above.

LESSOR:

DFDJ SUGAR BEAR, INC.

Date: 4/23/2025

Signed by:

E610D155D85040E

By:
Its:

LESSEE:

UNITED SITE SERVICES OF
CALIFORNIA, INC

Date: 4/22/2025



By: John Hafferty
Its: CFO

Exhibit D

United Site Services

Inspection 12-1-22

3408 Hillcap Ave San Jose

Repairs

Yard -

1. All Black top repaired & sealed
2. Trim landscape bushes – oleanders
3. Repair sinking hole AC by front gate
4. Soils test – fire area

Office -

1. Ceiling tiles need to be replaced – water damage
2. Replace all burned out lights
3. Light covers – multiple
4. Are all workstations able to connect to servers?
5. New refrigerator - upstairs office

Shop –

1. Bad Switch for fans
2. Compressor service log – needs current service
3. Mezzanine along office wall is overloaded
4. Roof leaking – at least the last 2 years
5. Overhang outside – metal roof bent R & R

Exhibit E

LUXURIANT
REALTY

Tim Proschold <tim@luxuriantrealty.com>

FW: Roof Repairs March 2023

1 message

Laurie <youngblood5@mindspring.com>
To: Tim Proschold <tim@luxuriantrealty.com>

Wed, Mar 25, 2026 at 8:01 AM

Here are 2 more emails I found. This is 1 of 2

Laurie

-----Forwarded Message-----
From: Laurie <youngblood5@mindspring.com>
Sent: Jun 30, 2023 12:07 PM
To: Christine L Wightman <Christine.Wightman@unitedsiteservices.com>
Subject: FW: Roof Repairs March 2023

Hi Christine,

In regards to the roof repairs, I have paid the contractor since I have not heard from anyone regarding this.

Please send a check to DFDJ Sugar Bear to cover the cost.

Let me know if you have any questions.

Laurie Youngblood

-----Forwarded Message-----
From: youngblood5 <youngblood5@mindspring.com>
Sent: Jun 30, 2023 7:47 AM
To: <youngblood5@mindspring.com>
Subject: FW: Roof Repairs March 2023

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----
From: Dano <diehard55@mindspring.com>
Date: 6/15/23 10:09 AM (GMT-08:00)
To: youngblood5@mindspring.com
Subject: FW: Roof Repairs March 2023

-----Forwarded Message-----
From: Christine L Wightman <Christine.Wightman@unitedsiteservices.com>
Sent: Jun 12, 2023 10:56 AM
To: Accounts Payable <accountspayable@unitedsiteservices.com>

Cc: Dano <diehard55@mindspring.com>
Subject: FW: Roof Repairs March 2023

AP,

The attached Invoice was submitted in March, can you provide a status update?

Thanks



Christine Wightman
Real Estate Coordinator
118 Flanders Road
Westborough, MA 01581
Christine.Wightman@unitedsiteservices.com
Cell 508.948.5840

Stay Safe and Stay Clean with hand hygiene stations and sanitized restrooms from USS.

From: Dano <diehard55@mindspring.com>
Sent: Monday, June 12, 2023 1:51 PM
To: Christine L Wightman <Christine.Wightman@unitedsiteservices.com>
Subject: Roof Repairs March 2023

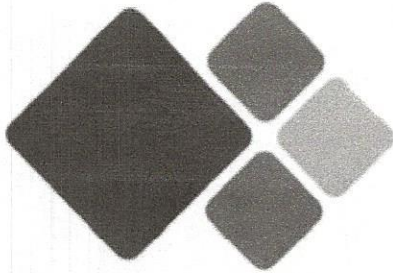
Please pay the attached invoice for the roof repairs done March 15, 2023.

Let me know if you have any questions.

Thanks,
Dan

 Roof Repair bill - USS 5-2023.pdf
169K

Exhibit F



Fast Track Steel Inc.

7392 Crews Road Gilroy Ca 95020
 408-665-2947
 vito.fasttracksteel@gmail.com

INVOICE
 INV0378

DATE
 10/23/2023

DUE
 On Receipt

BALANCE DUE
 USD \$91,256.00

BILL TO

DFDJ Sugar Bear Inc.

Dan Youngblood Sr
 3408 Hillcap Ave
 San Jose Ca 95136
 ☐ 4086912263
 diehard55@mindspring.com

DESCRIPTION	RATE	QTY	AMOUNT
Remove and replace roof to include the following. 1. Demo old roof with haul off. 2. Provide and install 26 guage pbr panel system. Colored stone/sand stone. 3. Provide all hardware, screws as needed. 4. Provide and install trim gable. 5. Provide and install ridge vent. 6. Provide forklift and man lifts as needed. 7. 18,700 square ft plus or minus with lap. Gutters not included, TBD.	\$4.88	18,700	\$91,256.00

Payment Info

TOTAL \$91,256.00

BY CHECK
 Fast Track Steel Inc.

BALANCE DUE USD \$91,256.00

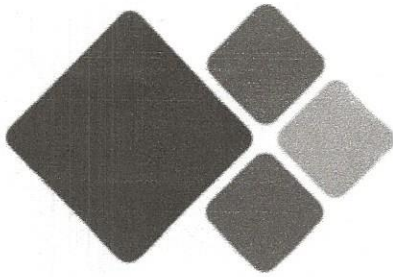
- *Price subject to change upon approval from city.
- *Price good for 5 days material. Labor price good for 30 days
- *Any cost increase over 5% in material to be past through cost to owner.
- *Permit fees or anything not list above would be extra cost.
- *Engineering not included maybe provided at request as additional service provided.

Credit accepted plus fee 3.5%

*pd #1916
 10-30-23*

Thanks for your business!

Exhibit G



Fast Track Steel Inc.

7392 Crews Road Gilroy Ca 95020
 408-665-2947
 vito.fasttracksteel@gmail.com

INVOICE
 INV0377

DATE
 10/23/2023

DUE
 On Receipt

BALANCE DUE
 USD \$4,550.00

BILL TO

DFDJ Sugar Bear Inc.

Dan Youngblood Sr
 3408 Hillcap Ave
 San Jose Ca 95136
 ☎ 4086912263
 diehard55@mindspring.com

DESCRIPTION	RATE	QTY	AMOUNT
Roll up door frame retrofit to include the following. 1. Engineering. 2. Provide steel and hardware. 3. Fabricate and install 4. To be channel frame headers and posts 5. Epoxy anchored posts/thur bolted header. 6. Field welding. 7. Forklift (on site for roof) 8. Man lift (on site for roof) 9. Prime painted	\$4,550.00	1	\$4,550.00

Payment Info

TOTAL \$4,550.00

BY CHECK
 Fast Track Steel Inc.

BALANCE DUE **USD \$4,550.00**

Credit accepted plus fee 3.5%

*pd # 1917
 11-6-23*

Thanks for your business!

Exhibit H

Proposal / Contract



Date: 1/28/26
Job: # 26-12018
Rep: Bill Baker

We Specialize in all your Asphalt Maintenance Needs!

Submitted to: Luxuriant Realty Address: 885 Oak Grove Avenue #302 Menlo Park, CA 94025 Contact: Tim Proschold	Phone: (650) 610-7793 Email: Tim@LuxuriantRealty.com	Project: Commercial Location: 3408 Hillcap Avenue San Jose
------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------	-----------------------------------------------------------------------------

Approx. Sq Ft	We hereby propose to furnish all the materials and perform all the necessary labor for the completion of the detailed work below:	
636	<i>Asphalt Repair</i> Grind and excavate designated areas (3 areas) to a depth of 6” inches and haul away. Re-grade and re-compacting existing base. Adjust or replace services boxes as needed. Tack vertical edges with SS-1H oil. Furnish and install new hot asphalt at a depth of 6” inches in two lifts using ½” medium asphalt mix. Roll to proper compaction.	
5,849	Grind and excavate designated areas (17 areas) to a depth of 4” inches and haul away. Re-grade and re-compacting existing base. Tack vertical edges with SS-1H oil. Furnish and install new hot asphalt at a depth of 4” inches in two lifts using ½” medium asphalt mix. Roll to proper compaction.	55,100.00
110,402	<i>Asphalt Seal Coat</i> Thoroughly clean designated asphalt area using power brooms and blowers. Apply hot rubberized crack filler to all cracks in excess of ¼” inch in width. Apply two heavy coats of #327 Western Colloid Parktop Pavement sealer per manufacturers specifications with the addition of sand and latex in the first coat only. <i>Note:</i> To be done in 3 weekday moves. <i>Note:</i> Ambient temperatures must be 70° and rising for seal coat to dry properly, due to this seal coat may need to be applied in spring/summer. Re-stripe to the existing layout. <i>Note:</i> To be done on 3 weekday moves.	42,516.00 7,500.00

Note: Due to the daily rise of the price of oil, we no longer guarantee our prices. Due to this, we can NOT guarantee this price. Contract may need to be revised before the start of the project to reflect those increases.

Exclusions: Engineering, surveying, compaction testing, permits, fees, bonds, clean dirt certification, towing vehicles, notification to tenants, repair to unknown underground lines, traffic control, SWPP's or any work not mentioned above.

Note: K & M Asphalt will not warranty against standing water if existing or design slopes are not greater than 1.5% for water run off.

Note: If the sub base is unsuitable for proper compaction, a change order will be negotiated to stabilize the areas.

Total: **\$ 105,116.00**

Thank you, we appreciate you considering us for your project.

Should it become necessary for K & M Asphalt, Inc. to take any action to enforce its rights under the "proposal / contract", it shall be entitled to reasonable attorneys fees together with, and costs and expenses to resolve the dispute and to enforce the final judgment.

"NOTICE TO OWNER" (Section 7019-Contractors License Law) 1. Payment to be made as follows: Upon completion of each phase. 2. Any alteration or deviation from above specifications involving extra costs will become an extra charge over and above original estimate. Under the mechanics lien law any contractor, subcontractor, laborer, motorman, or other person who helps to improve your property and is not paid for his labor, services or material has the right to enforce his claim against your property under the law, you may protect yourself against such claims by filing before completing such work or original contract for the work of improvement or modification thereof, in the office of the county recorder of the county where the property is situated and require that a contractors payment bond be recorded in such office. Paid bond shall be in the amount not less than fifty percent (50%) of the price and shall in addition to any conditions for the performance of the contract, be conditioned for the payment in full of the claim of all persons furnishing labor, services or materials for the work described in said contract. The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to perform the work specified. Payment will be made as outlined above. Our California contractors license # 775411.

Contractors are required by law to be licensed and regulated by the contractor state license board, which has jurisdiction to investigate complaints against contractors if a complaint regarding a parent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the registrar of the board whose address is: Contractors State License Board 9821 Business Park Drive Sacramento, CA 95827

Accepted by please print: _____ Signature: _____ Signature: *Miranda Cruz*



**K & M Asphalt
Scope of Work**

1-3 6" Repair

1-17 4" Repair

[Red Outline] Seal & Stripe

Exhibit I



STEEL FENCE, LLC
 "PRIVACY, SAFETY & LANDSCAPE ENHANCEMENT"

abcsteelfence@gmail.com - #408-396-0527 - LIC. #1062742 - **PROPOSALS ONLY VALID FOR 21-DAYS**

PROPOSAL and CONTRACT

DATE: 5/13/2024

TO: LUXURIANT REALTY

JOB LOCATION:

STREET: 885 OAK GROVE AVE, #301B	3408 HILLCAVE – SAN JOSE
CITY: MENLO PARK	CONTACT: TIM #650-200-5943
STATE: CA 94025	EMAIL: TIM@LUXURIANTREALTY.COM
	XST: HILLSDALE AVE

ABC STEEL FENCE WILL FURNISH LABOR AND MATERIALS TO COMPLETE THE FOLLOWING:

- | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>#1. MOST OF THE YARD.) REPAIR; REPLACE 655' OF 8'H 9GA GALVANIZED CHAIN LINK WIRE with BROWN PLASTIC SLATS, 180' OF 18" RAZOR RIBBON, 71' OF 6'H 9GA GALVANIZED CHAIN LINK WIRE with RED PLASTIC SLATS, AND 7- 2 3/8" DIAMETER FENCE POSTS. STRAIGHTEN APPROX. 18- FENCE LINE POSTS BEST AS POSSIBLE. SET NEW POSTS IN 8"Wx36"D HOLES, BACKFILLED TO GRADE LEVEL with HANDMIXED CONCRETE. ATTACH CHAIN LINK WIRE TO POSTS AND RAILS with 11GA GALVANIZED STEEL HOOK TIES AT 18" MAX O.C. ADJUST 2- DOUBLE DRIVE GATES BEST AS POSSIBLE. CLEAN AND HAUL AWAY DEBRIS GENERATED BY WORK ACTIVITIES.</p> <p style="text-align: right;">\$22,450.00</p> |
| <p>#2. REPAIR SHARED FENCE RUNNING NORTH-EAST.) REMOVE AND HAUL AWAY 258' OF DAMAGED GALVANIZED CHAIN LINK FENCE(S). INSTALL 258' OF 8'H 9GA GALVANIZED CHAIN LINK FENCE with BROWN PLASTIC SLATS. 2 7/8" DIAMETER TERMINAL POSTS, 2 3/8" DIAMETER LINE POSTS. SET POSTS AT 10' MAX O.C. IN 8"Wx36"D HOLES, BACKFILLED TO GRADE LEVEL with HANDMIXED CONCRETE. 1 5/8" DIAMETER TOP RAIL, 7 GA BOTTOM TENSION WIRE. ATTACH CHAIN LINK WIRE TO POSTS AND RAILS with 11GA GALVANIZED STEEL HOOK TIES AT 18" MAX O.C. CLEAN AND HAUL REMAINING DEBRIS GENERATED BY WORK ACTIVITIES.</p> <p style="text-align: right;">\$16,770.00</p> |

(ABC STEEL FENCE WILL CALL 811 BEFORE WE DIG IF NEEDED, BUT WILL NOT BE HELD RESPONSIBLE FOR PERMITS and/or ANY DAMAGED UNDERGROUND LINES INCLUDING IRRIGATION PIPES.)

ALL OF THE ABOVE WORK TO BE COMPLETED IN ACCORDANCE WITH THE ABOVE SPECIFICATIONS, FOR THE SUM OF \$ DOLLARS WITH PAYMENTS TO BE MADE AS FOLLOWS:

100% NET 15DAYS UPON FENCE WORK COMPLETION



ACCEPTANCE OF CONTRACT

THE ABOVE SPECIFICATIONS, CONDITIONS AND PRICE(S) ARE SATISFACTORY AND ACCEPTED. YOU ARE HEREBY AUTHORIZED TO FURNISH ALL MATERIALS AND LABOR REQUIRED TO COMPLETE THE WORKED MENTIONED IN THE ABOVE PROPOSAL, FOR WHICH YOU AGREE TO THE TERMS THEREOF. ANY ALTERATION OR DEVIATION FROM THE ABOVE SPECIFICATIONS INVOLVING EXTRA COST OF MATERIAL OR LABOR WILL ONLY BE EXECUTED UPON WRITTEN AGREEMENT ORDERS FOR SAME, AND WILL

PRINT NAME: _____ **DATE:** _____

SIGNATURE: _____



BECOME AN EXTRA CHARGE OVER THE SUM MENTIONED IN THIS CONTRACT. ALL MATERIALS WILL REMAIN PROPERTY OF ABC STEEL FENCE UNTIL ALL INVOICES PERTAINING TO THIS JOB ARE PAID IN FULL. RESTOCKING FEE MAY BE APPLIED IF JOB IS CANCELED. ACCOUNTS NOT PAID WITHIN TERMS ARE SUBJECT TO A 5% MONTHLY COMPOUND INTEREST FEE.

PRINT NAME: _____ DATE: _____

SIGNATURE: _____

Exhibit J

LUXURIANT
REALTY

Tim Proschold <tim@luxuriantrealty.com>

3408 Hillcap Avenue Tree Estimate

Jonathan Gil <info@majestictreeservice.com>
To: Tim Proschold <tim@luxuriantrealty.com>

Wed, May 29, 2024 at 9:51 AM

Hi Tim, I just dropped by again took another look. I was able to see through the gate this time and I would say to do all the eucalyptus starting from the entrance all the way back to the dump station area on the right back corner of the lot would be roughly 75k. That's for the whole tree trim not just your side. Hauling and disposal of all debris is included. Let me know if you have any questions and feel free to give me a call. 669-216-9118. Thanks.

Jonathan Gil
ISA Certified Arborist
(669)216-9118
Info@majestictreeservice.com

Majestic Tree Service
A Diamond Certified Company
Licensed, insured, workers comp.
CA Lic. #970739
[171 Branham Lane Suite 10 #209](https://www.majestictreeservice.com)
San Jose, CA 95136

[Quoted text hidden]

Exhibit K

3408 Hillcap Avenue - Property Inspection Report

Inspection Complete By: Timothy Proschold

Other Parties Present: Veronica (in Office), and Site Manager (Did not get name)

Inspection Date: March 19, 2026 @ 9:00 AM

Weather: Sunny, Clear

Introduction

This report documents the findings of a property inspection conducted at 3408 Hillcap Avenue on March 19, 2026. The inspection was conducted to assess the site's current condition, with particular attention to items the tenant identified for repair or maintenance as required under the lease agreement.

The inspection revealed several ongoing issues that remain unresolved since previous site visits in March 2024 and September 2025. Key areas of concern include significant deterioration of paving and concrete surfaces due to heavy equipment use, chemical exposure (particularly hydrochloric acid), inadequate containment of operational activities, and multiple fire safety and electrical hazards. Additional concerns were noted regarding tree maintenance, perimeter fencing, building drainage, and interior building conditions.



Many of the deficiencies appear to stem from prolonged heavy industrial use without adequate preventive maintenance or proper containment practices. These issues not only affect the property's overall condition and appearance but also pose potential safety risks, environmental concerns, and possible violations of lease obligations.

The following sections detail the specific observations and recommended actions for each category of concern. The tenant is expected to address these items promptly to bring the property into compliance with the terms of the lease agreement.

Items identified for Repair by Tenant

1) Paving Repairs:

- a) The tenant has not completed paving repairs at the property as required by the lease agreement. They have sealed portions of the pavement in some drive lanes at the back of the property (which appear to be at least 8-10 years old), but essentially seal-coated around their equipment leaving the pavement and oil screened aggregate unrepaired. The paving below the stored equipment at the back portion of the lot has not been done for about 15-20 years, as evidenced by its deteriorated condition and tendency to turn to mud during rain. This paving is clearly deteriorated under equipment in multiple locations, some of which may allow leaching of portable toilet liquid into the ground.

The owner is also aware of multiple fires on the property that have damaged paving, which should be pulled up, soil tested, and replaced. Any cracked paving should be repaired and replaced as necessary, and the entire paved area should be sealed and re-striped. There don't appear to be any changes to the onsite paving since my last inspections in March 2024 and September 2025.









- b) The driveway entry area where the sewer pipe exits the property is still damaged. This paving needs to be repaired before it can be repaved. The landscape lighting is also heaving damaged along the driveway.





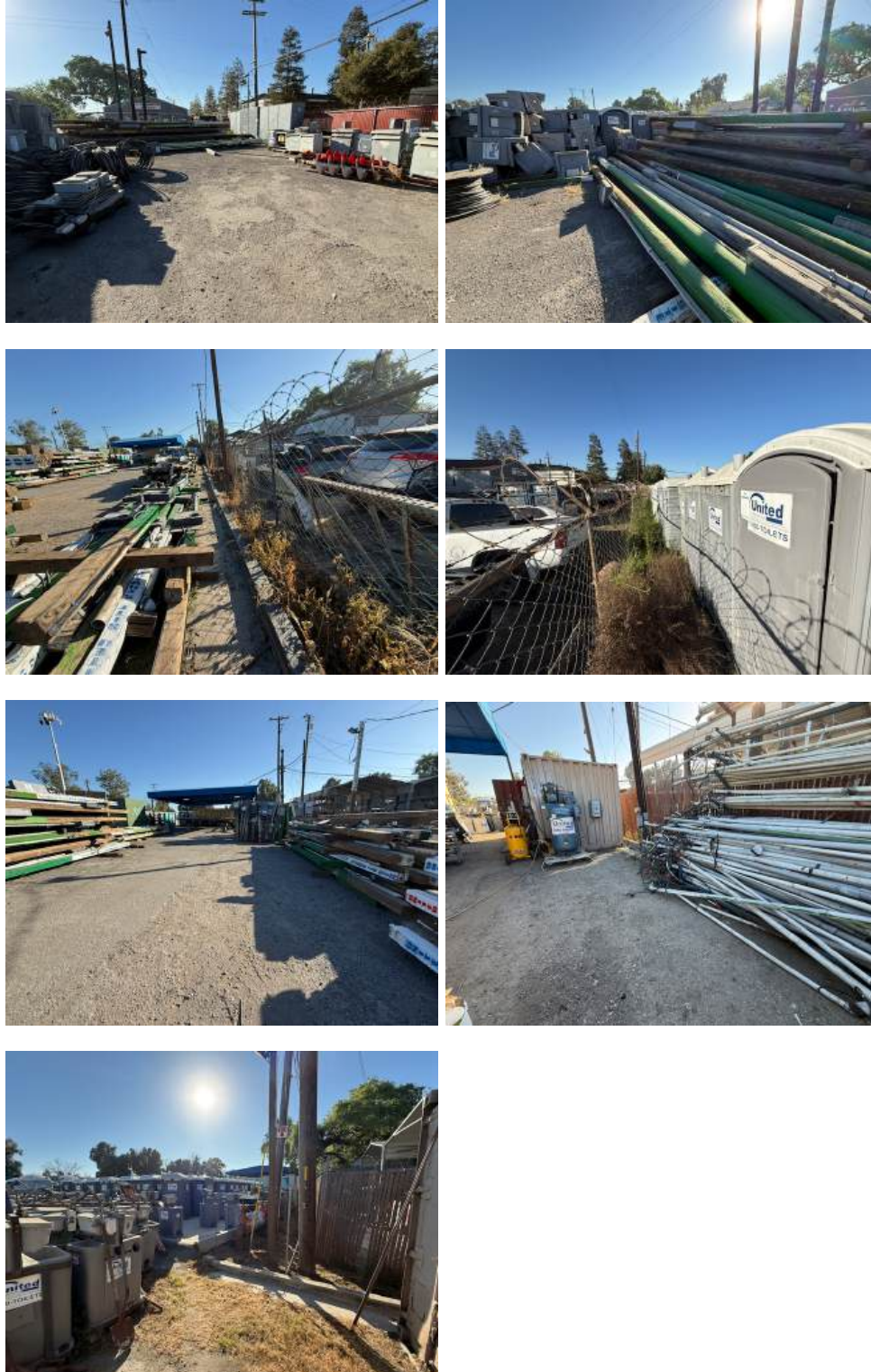
c) Adjacent to the portable toilet cleaning pad, the paving is severely deteriorated due to the use of HCL for cleaning. Toilets are being washed outside of the containment area, and the drainage has damaged the asphalt. It is also directing untreated acidic water into the storm drain system.





d) The site for the power pole repair area and the area near the back of the property where the fire occurred in 2020 have completely deteriorated to soil. Some asphalt is collecting in drainage channels, and the drainage paths are impeded by stored materials.





e) The truck tank cleaning area and paper products storage area at the back right of the property has significant asphalt damage and lacks proper containment.

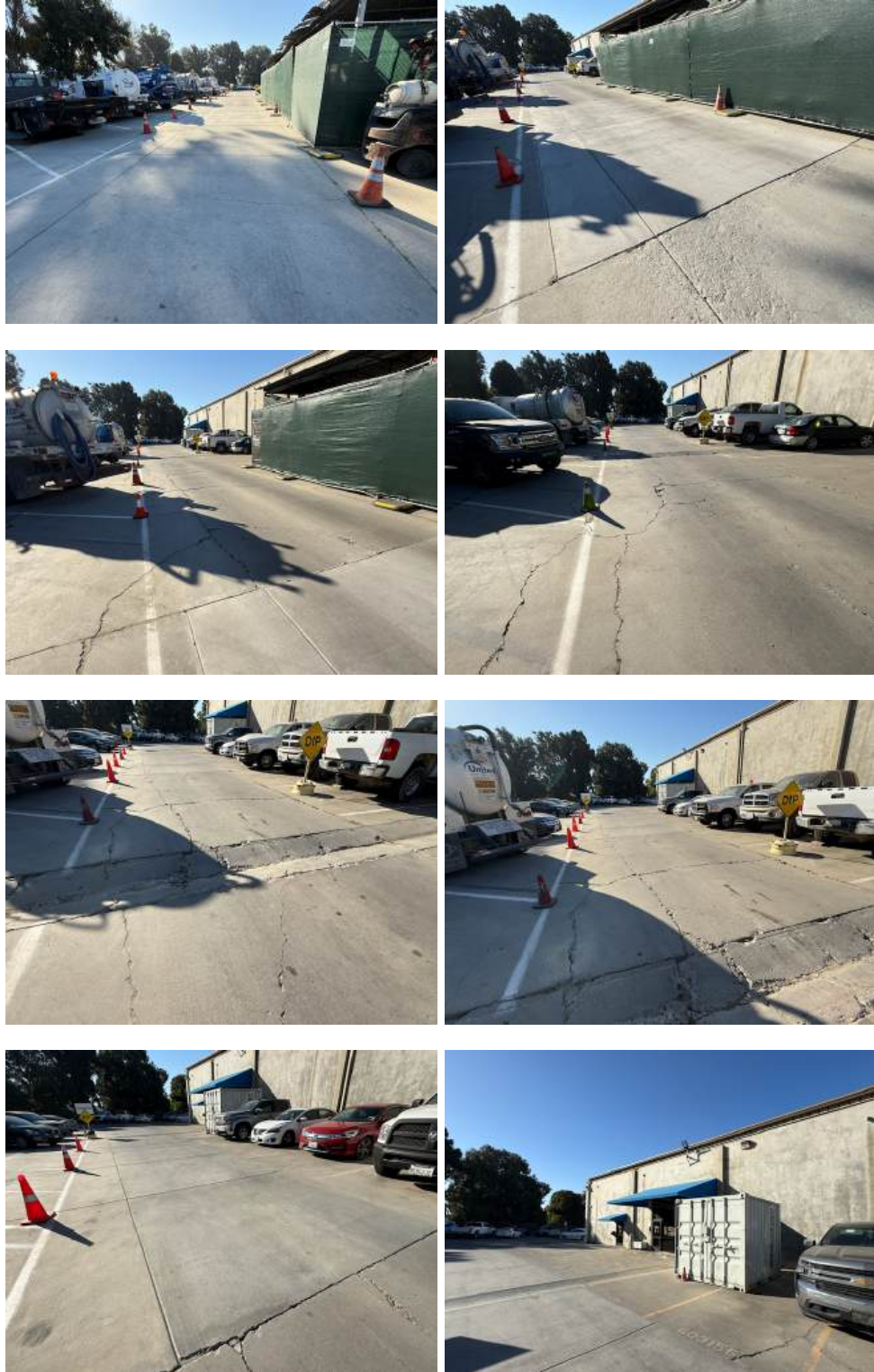
In the areas in front of the service area and at the back right corner, the drive areas appear to be soil only and are being significantly eroded by heavy truck traffic and use. Tenant needs to ensure compliance with SPCC plan in place for the site.





2) Concrete & Wash Pad Repairs:

- a) The slab adjacent to the building has been significantly cracked, ponding water in multiple locations, and has multiple sections that need to be replaced. It appears that the tenant has replaced 2 sections of concrete since hte last visit, but there are still sections that are damaged significantly.



b) The concrete wash pad has been significantly deteriorated from the use of HCL across the entire wash pad, instead of isolating use to a single area. This

has exposed aggregate in the concrete.



- c) The three-stage separator has no records of being pumped or cleaned out to prevent blockage of the main sewer pipe to the city sewer. Tenant to verify that this work has been completed.

3) Fire Safety Issues:

- a) The fire lane on the south side of the property is still blocked by equipment, vehicles, and toilets surrounding the fire hydrant near the power pole, making the fire lane and hydrant inaccessible.



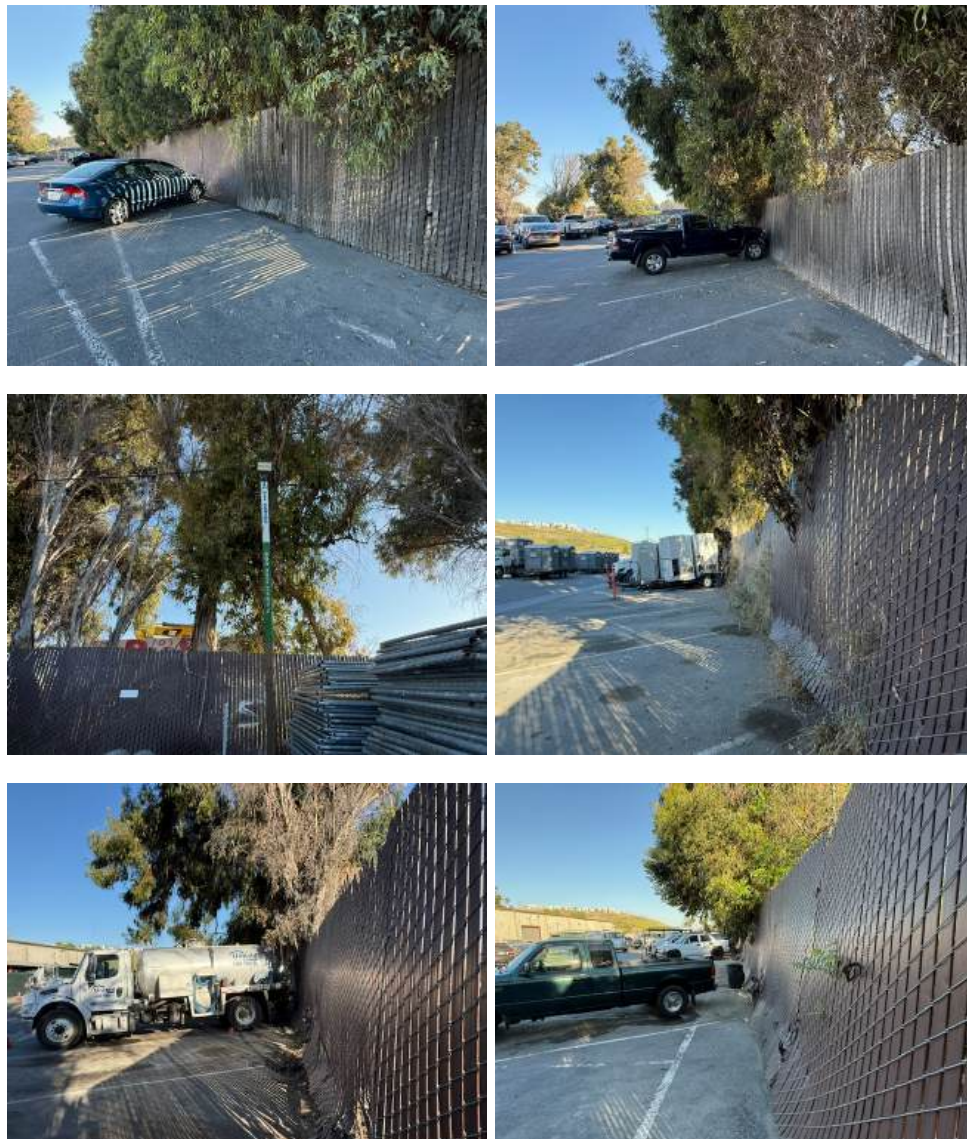


- b) There is limited access to the reduced-pressure backflow prevention device and FDC.



4) Tree Maintenance & Fence Repairs

a) The eucalyptus trees around the property shared with Granite Rock must be trimmed. They are a safety hazard, and they can snap, damaging property and endangering life. The limbs are also a fire hazard as they are highly combustible material. The tenant may be able to work with Granite to share these costs. The property owner did this before the sale to USS. There is also significant fence damage around the property's perimeter, caused by overgrown trees and mostly by vehicles hitting the fence.





b) The tree near the wash station is resting on the tarp roof and damaging the roofing material. This tree needs to be trimmed.



5) Exterior Building:

- a) The gutters are damaged, and the tenant has not maintained the drainage around the property's perimeter. This has led to some settlement of the building around the perimeter of the property.



- b) The Air Conditioning Compressor Units appear to be very old and near the end of their useful life.



- c) The generator's tire is flat, the containment unit appears to have been full of water, and it appears to have not been maintained. Also, there is equipment in

front of the switchgear cabinet impeding access to the main electrical shutoff for the building.



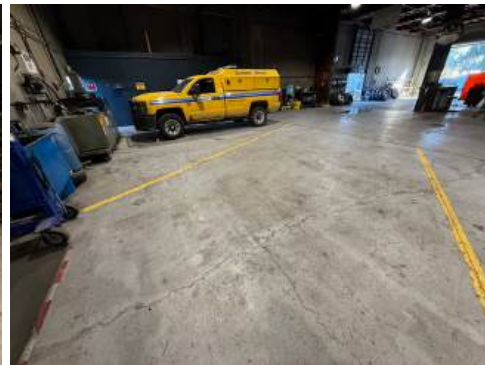
6) Site Electrical

- a) Multiple subpanels have been installed at the site and strung together with temporary cables attached to the existing subpanel installed at the wash area. This situation has not changed, and appears to be permanent electrical lines that are installed in a temporary fashion.
- b) A new service line was installed at the electrical panel storage area with a meter connected to a wire dangling from a pole on the other side of the property line. This appears to be a safety hazard and has not changed since the last site visit.
- c) It appears some new temp lighting poles were added off the back subpanel since the last site visit to illuminate the fencing area.

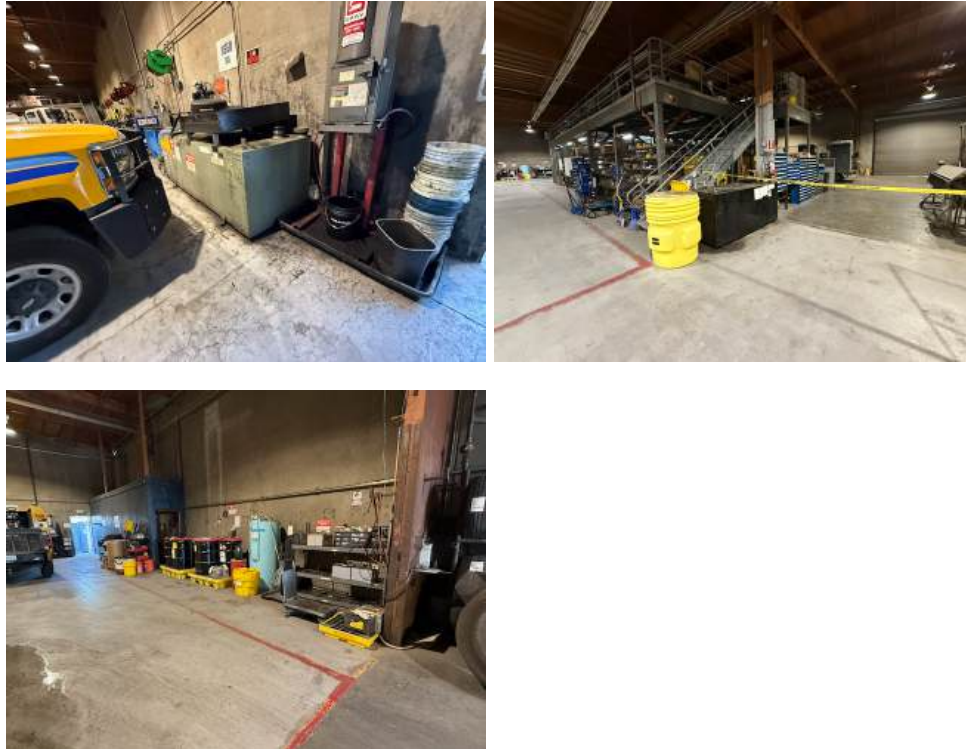


7) Building Interior: Shop Area

- a) One of the main exhaust fans on the West side of the property still does not operate. This may be a switch issue and needs to be repaired or replaced.
- b) There is increasing cracking in the slab area and more oil staining on the floors throughout the building.



- c) Oil and other hazardous chemicals are stored in multiple locations inside the building. It appears containment is inadequate, and bollards are not installed where tanks are susceptible to vehicle collisions. Tenant needs to ensure compliance with the SPCC plan in place for the property.



8) Building Interior Office Area

- a) The interior condition of the building has not changed since the last site inspection, and it appears that only the front offices, the restrooms, and some of the larger offices on the left side of the property are being used. The building appears to have very little use overall.
- b) There have been no repairs made to the stained interior ceiling tiles or to the bathrooms at the time of inspection, and these are damaged beyond ordinary wear and use.

<p>UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY</p> <p><i>Caption in Compliance with D.N.J. LBR 9004-1(b)</i> SAUL EWING LLP Turner N. Falk, Esquire 1735 Market Street, 34th Floor Philadelphia, PA 19103 Office: (215) 972-7777 turner.falk@saul.com</p> <p>- and -</p> <p>BINDER MALTER HARRIS & ROME-BANKS LLP Julie Rome-Banks, Esquire (<i>pro hac vice</i> forthcoming) 1625 The Alameda, Suite 101 San Jose, CA 95126 Office: (408) 295-1700 julie@bindermalter.com</p> <p><i>Counsel for DFDJ Sugar Bear, Inc.</i></p>
<p>In re:</p> <p>UNITED SITE SERVICES, INC., <i>et al.</i>,⁴</p> <p>Debtors.</p>

Chapter 11

Case No. 25-23630 (MBK)

Jointly Administered

CERTIFICATE OF SERVICE

I hereby certify that on April 1, 2026, I did cause the foregoing *Objection to Cure Amount by Creditor and Lessor DFDJ Sugar Bear, Inc.* to be filed using the Court’s CM/ECF system, which will automatically send email notification to all parties and counsel of record.

⁴ The last four digits of the tax identification number of United Site Services, Inc. are 3387. A complete list of the Debtors in these chapter 11 cases (the “Chapter 11 Cases”), with each one’s tax identification number, principal office address and former names and trade names, is available on the website of the Debtors’ noticing agent at www.veritaglobal.net/USS. The location of the principal place of business of United Site Services, Inc., and the Debtors’ service address for these Chapter 11 Cases is 2487 W Navigator Drive, 3rd Floor, Meridian, ID 83642.

SAUL EWING LLP

/s/ Turner N. Falk _____
Turner N. Falk, Esquire
1735 Market Street, 34th Floor
Philadelphia, PA 19103
Office: (215) 972-7777
turner.falk@saul.com