

LICENSE AGREEMENT
59 E. 1ST STREET, MESA, ARIZONA

THIS LICENSE AGREEMENT ("Agreement") is executed on this ____ day of _____, 2022 by and between the CITY OF MESA, a municipal corporation ("City"), and the ARIZONA BOARD OF REGENTS, a body corporate, for and on behalf of ARIZONA STATE UNIVERSITY ("ASU"). City and ASU may be referred to jointly as "Parties," and each separately may be referred to as a "Party."

RECITALS

A. City has title of record to the real property and improvements, including the commercial building of approximately 26,500 square feet in size located at 59 East 1st Street, Mesa, Arizona ("Building"), on Maricopa County Assessor Parcel Number 138-37-005, as depicted in Exhibit A ("Land").

B. To promote City's downtown redevelopment and revitalization, and to encourage the presence of post-secondary education uses and facilities in downtown Mesa, the Parties previously entered into an intergovernmental agreement effective March 1, 2018 ("IGA") and a lease dated November 5, 2018 ("Lease"). Pursuant to the terms of the IGA and Lease, an approximately 118,000 square foot building is being constructed adjacent to the Building and will be leased by ASU for a post-secondary education facility in City's innovation district in downtown Mesa ("Downtown Innovation District").

C. Further, pursuant to the terms of the IGA and Lease, the Parties agreed to redevelop the Building and portions of the Land to create "The Innovation Studios at Mesa City Center," an innovation, technology, and entrepreneurship studio ("The Studios").

D. To that end, ASU desires to license from City to operate The Studios, and City is willing to license to ASU, pursuant to the terms of this Agreement, those portions of the Building and Land that are defined in Section 1 herein as the Program Use Area and Common Area, and any and all improvements presently existing thereon (subject to their availability, as otherwise provided in this Agreement).

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual covenants, conditions, and agreements hereinafter and other good and valuable consideration, City and ASU agree as follows:

Section 1. Grant of License and Use of Licensed Premises

1.01 Grant of License to Premises. City hereby grants to ASU a license for certain rights to enter upon, occupy, and use specified areas of the Land and Building as set forth more fully below and in the attached Exhibit A and Exhibit B, respectively; specifically, ASU will license the areas known as the Program Use Area and Common Area (as those terms are defined below and collectively, hereinafter, shall be referred to as the "Licensed Premises"). For avoidance of doubt, the Licensed Premises are not part of the leased premises under the Lease. As set forth more fully below, the Licensed Premises is located on the first floor of the Building and includes certain areas surrounding the outside of the Building on the Land, which are part of the Common Area as defined below. Certain portions of the Building, including the basement and second floor, are not a part of the Licensed Premises (collectively, the "Non-Licensed Area") and ASU, its employees, invitees, and guests shall not have any right to enter upon, occupy, or use the Non-Licensed Area and are not permitted in the Non-Licensed Area without the prior consent of City. Certain portions of the Licensed Premises shall be for ASU's use, meaning those areas shall be managed by ASU for use as a public innovation, technology, and entrepreneurship studio, while other portions of the Licensed Premises may be used by ASU jointly with City and other occupants of the Building. Each area of the Licensed

Premises set forth below is granted a specific license and permitted use for that portion of the Licensed Premises.

A. Program Use Area. As set forth more fully below, ASU is granted a license for the right to enter upon, occupy, use, and control, including the ability to sublicense in accordance with Section 14, the Program Use Area (except for those rights retained by City) in accordance with the terms of this Agreement for the purpose of operating The Studios, including managing the reservation of and providing public access to a community event room depicted in Exhibit B that is included as a part of the Program Use Area (“Community Room”) (see Subsection 1.01(A)(iii) for more information).

i. Defined Area. The term “Program Use Area” shall collectively mean those areas on the first floor of the Building consisting of approximately 7,795 square feet depicted in Exhibit B, and all present and future improvements and alterations thereon, including City Improvements constructed by City (see Section 7) for the operation of The Studios.

ii. Permitted Use. The Program Use Area will be used by ASU solely for the operation of The Studios, specifically for:

a. Providing educational and professional training and events in the fields of entrepreneurship, digital literacy, future technology, small business, and innovation, available to the public;

b. Providing instruction in the use of technology related tools, equipment, and methodologies that advance the user’s knowledge or use;

c. Permitting users to use and/or acquire tools, equipment, and related published materials to ideate, design, create, and advance ideas related to the development of new products, services, and processes; and

d. Other ancillary uses in support of or in advancement of the preceding uses and of The Studios, including general office uses.

iii. Community Room. The Program Use Area includes the Community Room depicted in Exhibit B. As consideration for the license of the Licensed Premises, ASU will allow the public access to the Community Room during regular business hours through a reservation system designed and maintained by ASU and in furtherance of the innovation, entrepreneurship, and technology advancement goals of the Downtown Innovation District. ASU may establish reasonable rules for use of the Community Room. ASU will not charge any person or entity, including City, a rental fee for the use of the Community Room, including a fee for use of the space, equipment, or furniture provided at the Community Room or The Studios. However, ASU may obtain expense prepayment or reimbursement for direct costs incurred by ASU for use of the Community Room, such as for fees associated with the rental of additional equipment, catering costs, custodial charges, and for damage caused by a user of the Community Room from: (1) third-party users of the Community Room, and (2) City, upon City’s approval of an invoice submitted to City by ASU prior to City’s use of the Community Room. ASU acknowledges that, other than as set forth in this Subsection 1.01(A)(iii), it will not charge City any costs for City’s use of the Community Room. Additional information about the reservation of the Community Room is provided in Subsection 4.07.

B. Common Area. As set forth more fully below, ASU is granted a non-exclusive license for the right to enter upon and use the Common Area for the operation of The Studios in accordance with the terms of this Agreement.

i. Defined Area. The term “Common Area” shall collectively mean those areas on the first floor of the Building and surrounding the outside of the Building described and depicted in Exhibit B consisting of: (1) an approximately 600 square foot lobby, reception, and waiting area on the northeast side of the first floor of the Building; (2) the spiral staircase; and (3) an outdoor entryway and patio space at the northeast entrance of the first floor to the Building with surrounding landscaping and lighting. The Common Area described and depicted in Exhibit B includes City Improvements thereto (see Section 7).

ii. Permitted Use. The Common Area will be used by ASU solely for ancillary uses in furtherance of the permitted uses of the Program Use Area set forth in Subsection 1.01(A)(ii). ASU shall ensure that its use of the Common Area complies with industry standards for the use of similar spaces and improvements in similar commercial buildings. ASU agrees to keep the Common Area open and accessible to guests and users of The Studios. Subject to preapproval by City, ASU may establish reasonable rules for use of the Common Area in furtherance of the innovation, entrepreneurship, and technology advancement goals of the Downtown Innovation District. As the license provided for the Common Area is non-exclusive, City reserves the right, in consultation with ASU, to give third-parties non-exclusive licenses to use the Common Area, permit the public’s use of the Common Area, and for City to use the Common Area in accordance with, and subject to the limitations contained in, Subsection 5.01.

1.02 Condition of Licensed Premises. ASU specifically acknowledges that as of September 1, 2022, ASU will have inspected the Licensed Premises and, subject to City addressing reasonable punch-list items identified by ASU and agreed to by City in City’s reasonable discretion, ASU agrees to accept the Licensed Premises in an “AS IS, WHERE IS” condition without any warranty or representation from City, either express or implied, of any kind or nature whatsoever with respect to the Licensed Premises, including any warranty of merchantability, habitability, or fitness for any particular or specific purpose, and all such warranties are hereby disclaimed except for those construction warranties of City’s general contractor and the warranties of any supplier of the City FF&E and City Technology Equipment.

1.03 Conduct of Activities. ASU shall use the Licensed Premises and conduct its activities in a manner that will not materially interfere with or detract from the value or appearance of the Licensed Premises. The Parties agree that normal wear and tear does not constitute material interference with or detract from the value and appearance of the Licensed Premises.

1.04 Nuisance Prohibited; No Unlawful Use. ASU shall not use or permit any use of the Licensed Premises in any way (A) which would create, or cause to be created, nuisances or hazards to the public health or safety; or (B) for any illegal or immoral purposes. ASU shall comply with all federal, state, and local laws, regulations, codes, or ordinances, whether in effect at present or in the future, concerning the Licensed Premises and the use thereof.

1.05 Quiet Enjoyment. ASU agrees that the use of the Licensed Premises shall be conducted in such a manner that insures the quiet enjoyment of the neighboring properties and third-party occupants, tenants, or licensees of the Building. City agrees that it will not unreasonably interfere with ASU’s quiet enjoyment of the Licensed Premises.

1.06 No Improvements by ASU. ASU agrees no Improvements (as that term is defined in Subsection 7.03) shall be erected, placed upon, operated, or maintained on the Licensed Premises by ASU, unless approved by City in its sole and absolute discretion.

1.07 Compliance with Applicable Zoning. ASU agrees to meet all applicable zoning required to use the Licensed Premises for the purposes stated in this Agreement.

1.08 Parking. City agrees to issue ASU one (1) permit for non-exclusive access to a parking space in a permitted parking lot located in downtown Mesa for use by the ASU staff member assigned to The Studios pursuant to Subsection 4.09. The location of the parking lot for which the permit is issued is at the sole and absolute discretion of City but shall be within a reasonable distance of The Studios, which reasonable distance shall be no more than one-half (0.5) mile from the main entrance to The Studios. ASU acknowledges that this Agreement does not provide any other parking rights to ASU. City is giving ASU no exclusive rights to any parking, no guarantees that parking will be available for ASU's use, and no waivers of any parking restrictions in downtown Mesa. ASU and its invitees, guests, sublicensees, employees, and representatives shall have access and rights to parking in downtown Mesa the same as any member of the public. Except as it pertains to the one (1) parking permit provided to ASU as set forth in this Subsection 1.08, ASU is solely responsible for finding adequate parking for its vehicles. ASU acknowledges and understands that City provides no security for public parking in downtown Mesa, including for the parking lot for which the one (1) permit will be issued pursuant to this Subsection 1.08. ASU specifically acknowledges that City shall not be responsible for any personal injury or death of persons, or damage or theft of property that may occur in, on, or around any public parking in downtown Mesa, including that which may occur related to the parking permit issued to the ASU staff members pursuant to this Subsection 1.08. ASU's duty to Indemnify (as defined below) set forth in Section 16 and this Agreement includes any ASU employee, agent, contractor, invitee, or guest Claims relating to or arising out of security (including lack of security, and types of security installed) for the public parking in downtown Mesa when such public parking is used by any ASU employee, agent, contractor, invitee, or guest for the purpose of accessing the Licensed Premises.

1.09 Modification to the Area Constituting the Licensed Premises; Certain City Rights Regarding the Non-Licensed Area and Common Area.

A. Modification to the Area Constituting the Licensed Premises. The Parties may enter into an amendment to this Agreement pursuant to Subsection 21.02 to expand or otherwise modify the area constituting the Licensed Premises, by way of example and without limitation, to include additional areas of the Building such as the basement or second floor, or portions thereof, as a part of the Licensed Premises. The Parties agree and acknowledge that the City Manager has the authority, without the need for City Council approval, to enter into an amendment to this Agreement to expand or otherwise modify the area constituting the Licensed Premises. If the area constituting the Licensed Premises is expanded or otherwise modified as set forth in this Subsection 1.09, the modified Licensed Premises shall be subject to this Agreement, including the permitted uses set forth in Subsection 1.01(A)(ii). Notwithstanding the foregoing in this Subsection 1.09, ASU acknowledges and agrees that City does not have any obligation to expand or modify the area constituting the Licensed Premises.

B. Certain City Rights Regarding the Non-Licensed Area and Common Area. ASU further acknowledges and agrees that City may at its sole discretion, in consultation with ASU, and without unreasonably interfering with ASU's rights contained in Subsection 1.01, lease, license, or sublicense: (i) the Non-Licensed Area; and (ii) any portion of the Common Area to any person, organization, business, or group whose use of the subject area would be consistent with and advance the goals of the Downtown Innovation District. The decision to enter a lease, license, or sublicense with any third-party pursuant to this Subsection 1.09 shall be at the sole and absolute discretion of City and the terms and conditions of any lease, license, or sublicense between City and any third-party pursuant to this Subsection 1.09 shall be at the sole and absolute discretion of City.

Section 2. Term

2.01 Initial Term. The initial term of this Agreement shall commence on August 1, 2022 (“Effective Date”) and shall continue for a period of time of five (5) years thereafter unless this Agreement is otherwise canceled, renewed, or terminated as provided herein (“Initial Term”).

2.02 Renewal. The Term of the Agreement shall automatically renew on the date that is five (5) years after the Effective Date for an additional five (5) years, unless sixty (60) days prior to the end of the Initial Term either Party provides notice to the other Party of a desire not to renew the Agreement or this Agreement is otherwise canceled or terminated as provided herein, and such renewal shall be on the same terms and conditions as those during the Initial Term; the Initial Term, along with any renewal term, shall collectively be referred to as the “Term”.

Section 3. Consideration

3.01 Consideration. This Agreement is entered into by the Parties with the understanding that its intent is to facilitate the agreements, obligations, and rights of the Parties set forth in the Lease and IGA, specifically as they relate to the redevelopment and revitalization of downtown Mesa in the creation of The Studios and the Downtown Innovation District, and the development, operation, and maintenance of ASU’s post-secondary education facilities in downtown Mesa. The Lease and IGA both required, as a part of the consideration to be received by City under those agreements, that ASU had certain obligations related to The Studios. As consideration for the license granted to ASU to occupy and use the Licensed Premises, ASU shall perform all the following obligations:

- A. ASU shall complete all the ASU Obligations set forth in Section 4.
- B. City shall obtain ownership of all the Improvements set forth in Section 7, including those Improvements installed, maintained, or paid for by ASU.
- C. ASU shall operate The Studios as set forth in this Agreement and City shall gain the benefit of The Studios, an anchor in establishing the Downtown Innovation District.
- D. ASU shall coordinate with City on an ongoing basis and regularly meet with City regarding the programming offered by ASU at The Studios to ensure ASU’s programming is consistent with City’s goals for the Downtown Innovation District and does not conflict with programming offered by City.
- E. ASU shall use its expertise in delivery of entrepreneurship and innovation programming and collaboration with corporate and community-based organizations, in support of City’s goals in establishing the Downtown Innovation District and City shall gain the benefit of a collaboration with ASU.

3.02 Consideration for Renewal, Continued Use or Holding Over. In the event of a renewal (Subsection 2.02) or continued use or holding over by ASU set forth in Section 20, then the consideration provided to City under the ASU Obligations (see Section 4) will be apportioned according to the time frame in which ASU will maintain its license of the Licensed Premises based upon the period of the Initial Term.

Section 4. ASU’s Obligations

4.01 ASU’s Obligations. In addition to other rights and obligations of ASU herein, in consideration for City’s grant to ASU of the license contained in Subsection 1.01, ASU, at its sole cost and expense, must perform all the acts and obligations set forth in this Section 4 (collectively, the “ASU Obligations”).

4.02 Public Events. ASU shall host not fewer than twenty-five (25) film or other public events per calendar year to be held at The Studios, ASU Facilities (as that term is defined in the Lease), or City Center (as that term is defined in the Lease).

4.03 Entrepreneurial Events. ASU shall host not fewer than twenty (20) public entrepreneurial workshops or other public entrepreneurial events per calendar year to be held at The Studios, ASU Facilities (as that term is defined in the Lease), or City Center (as that term is defined in the Lease).

4.04 Downtown Innovation District Assessment. ASU shall assist City in assessing the status and needs of the Downtown Innovation District and the steps needed to create, improve, and expand the Downtown Innovation District. ASU shall assess the assets available to City, such as individuals, organizations, agencies, programs, subject matter experts, and service providers which could be utilized by City and ASU to accomplish City's goals of creating, improving, and expanding the Downtown Innovation District.

4.05 Mentoring Program. ASU shall, through its Entrepreneurship and Innovation Mentors Network (a program of ASU), provide mentorship opportunities to entrepreneurs in Mesa and its surrounding communities.

4.06 Incubator and Accelerator Programs. ASU shall create and manage incubator and accelerator programs available to entrepreneurs in Mesa and its surrounding communities that will build upon the academic programming of ASU at City Center (as that term is defined in the Lease), including of the Media and Immersive eXperience Center (MIX) (a program of ASU), and will be designed to assist those entrepreneurs develop, grow, and implement their business concepts and ideas.

4.07 Community Room Reservations. ASU shall serve as the administer of access to and reservations of the Community Room. City's use and reservation of the Community Room, as permitted in Subsection 5.01(B), shall take priority over other users of the Community Room provided that any City requested reservation does not conflict with a previously scheduled use of the Community Room. ASU shall thereafter prioritize reservation of the Community Room to persons, organizations, or groups whose use of the Community Room is consistent with and advances the goals of the Downtown Innovation District, including compliance with Subsection 1.01(A)(ii). See Subsection 1.01(A)(iii) for more information on the reservation of the Community Room.

4.08 Fundraising and Partnerships. ASU shall collaborate with City, Mesa community-based groups, and other persons with the relevant knowledge to advance the goals of City in creating and maintaining the Downtown Innovation District, including supporting City's fundraising efforts for the future build-out of the Non-Licensed Area and collaborating with City in obtaining partnerships with organizations, businesses, and groups to lease, license, or sublicense the Non-Licensed Area.

4.09 Staffing. ASU shall provide at least one (1) full-time staff member for The Studios who shall be an employee of ASU and who shall primarily office at The Studios. The staff member shall be present at The Studios during regular business hours and shall be knowledgeable regarding the purposes and activities of The Studios, including the schedule and location of events, use of spaces, workshops, and programs offered. ASU shall also provide any other necessary staffing, as determined by ASU in its sole discretion, for ASU's operation of the Licensed Premises and conducting the programs at The Studios in accordance with this Agreement. At no time and for no purpose will any ASU staff at The Studios or on the Licensed Premises, including the ASU designated staff member, be considered an employee of City for any purpose.

4.10 Taxes. ASU shall pay, without notice (except as specifically provided), and without abatement, deduction, or setoff, before any fine, penalty, interest, or cost may be added thereto, or become due, or be imposed by operation of law for the nonpayment thereof, all applicable sums, impositions, costs, expenses,

and other payments and all applicable taxes, including personal property taxes and taxes on occupancy, and other governmental or quasi-governmental taxes or charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind or nature whatsoever which, at any time during the Term may be assessed, levied, confirmed, imposed upon, or grow or become due and payable out of or with respect to, or become a lien on or encumbering, the Licensed Premises, or any part thereof, or any appurtenances thereto, or any use or occupation of the Licensed Premises.

4.11 Government Property Lease Excise Tax ("GPLET"). If and to the extent required under A.R.S. § 42-6206, ASU is hereby notified of its potential tax liability under the GPLET provisions of A.R.S. §§ 42-6201, *et seq.* Failure of ASU to pay GPLET (if applicable) is an Event of Default hereunder.

4.12 Operating Costs and Expenses. ASU shall meet its obligations for operating costs and expenses in accordance with Section 6.

4.13 Security. ASU shall meet its security obligations in accordance with Subsection 6.06 and Section 9.

4.14 Improvements Above and Beyond City Improvements. ASU shall be responsible, at its sole cost and expense, for any Improvements (as that term is defined in Subsection 7.03) erected, placed upon, operated, or maintained at the Licensed Premises above and beyond City Improvements (as that term is defined in Subsection 7.01). Pursuant to Subsection 1.06, ASU agrees no such Improvements shall be erected, placed upon, operated, or maintained on the Licensed Premises by ASU, unless approved by City in its sole and absolute discretion.

Section 5. City's Retained Rights

5.01 City's Retained Rights. In addition to other rights of City set forth in this Agreement, City retains the rights set forth in this Subsection 5.01 ("City Retained Rights").

A. Entry by City. City shall, at all times, have the absolute right to enter the Building and all portions thereof, including the Licensed Premises and Non-Licensed Area, provided that City's entry does not have a substantial negative impact on ASU's use of the Licensed Premises. To that end, ASU shall provide City with the keys, keycards, badges, and any other instrumentalities and information required to surpass the security system and to enter the Building, including the Licensed Premises and Non-Licensed Area, and all portions thereof. ASU shall not exclude City or its employees, representatives, or officials from the Building, Licensed Premises, or Non-Licensed Area and shall not change any locks or perform or modify any security measures that limit access to the Building, Licensed Premises, or Non-Licensed Area unless ASU has the prior written permission of City and City receives the information/instrumentalities necessary for City to maintain its open access to the Building, Licensed Premises, and Non-Licensed Area. ASU hereby waives any Claims for damage, injury, or inconvenience to or interference with ASU's operation of the Licensed Premises, any loss of occupancy or quiet enjoyment of the Licensed Premises, and any other loss occasioned by City's entry unless such Claim is a direct result from City's gross negligence or intentional misconduct. In the event of an emergency, City shall have the right to use any and all means which City deems necessary to gain access to the Building, Licensed Premises, and Non-Licensed Area and remedy the emergency situation.

B. Use of Community Room. City shall have the right to, at City's discretion and in consultation with ASU, reserve the Community Room for any purpose that does not unreasonably interfere with ASU's rights contained in Subsection 1.01. City will reserve the Community Room through ASU's reservation system (see Subsection 4.07). City will not be charged for the reservation or use of the Community Room, except for direct costs incurred by ASU and invoiced to City in accordance with Section 1.01(A)(iii).

C. Use of Common Area. ASU acknowledges and agrees that the license granted to ASU for the Common Area is non-exclusive and that City shall have the right to: (i) enter upon and use the Common Area for any purpose, at the sole and absolute discretion of City, which is consistent with and advances the goals of the Downtown Innovation District, including for public meetings, meetings of City employees and representatives, and for City programs and events, provided City's entry and use does not unreasonably conflict with a previously scheduled meeting, class, program, or event in the same space, on the same date and time, does not have a substantial negative impact on ASU's use of the Licensed Premises, and does not unreasonably interfere with ASU's rights contained in Subsection 1.01; and (ii) in consultation with ASU, lease, license, or sublicense any portion of the Common Area to any person, organization, business, or group whose use of the subject area would be consistent with and advance the goals of the Downtown Innovation District and would not unreasonably interfere with ASU's rights contained in Subsection 1.01.

Section 6. Operating Costs and Expenses

6.01 Shared Operating Costs.

A. Definition. The term "Shared Operating Costs" shall mean the costs for: (i) utilities supplied to, used, or consumed at the Building, including all water, sewer, gas, electric, and waste disposal services; and (ii) custodial services and trash removal services for the Building.

B. Responsibility for Shared Operating Costs. The City shall open all accounts for the Shared Operating Costs in City's name, the Shared Operating Costs shall be billed directly to City, and City shall pay the Shared Operating Costs. However, ASU shall reimburse City a pro rata share of the Shared Operating Costs based on the square footage of the Licensed Premises. Based on the square footage of the Licensed Premises, ASU is responsible for one-third of the Shared Operating Costs. ASU's portion of the Shared Operating Costs is calculated based on the following approximate square footages agreed upon by the Parties: (i) the Building is 26,500 square feet, and (ii) the Licensed Premises is 8,905 square feet. City shall submit invoices to ASU on a quarterly basis for ASU's portion of the Shared Operating Costs for each quarter. ASU shall reimburse City the amount billed to ASU within thirty (30) days of receipt of an invoice. If the area constituting the Licensed Premises is modified as set forth in Subsection 1.09, the Parties will agree upon a related modification to ASU's portion of the Shared Operating Costs based on the square footage of the Licensed Premises in an amendment to this Agreement pursuant to Subsection 21.02. The City shall submit invoices to ASU at the following addresses:

ASU:	Arizona State University Attn: Vice President for University Real Estate Development <u>Delivery Address:</u> 777 S. Novus Place, Suite 110 Tempe, AZ 85281-0958 <u>Mailing Address:</u> PO Box 873908 Tempe, AZ 85287-3908 Courtesy Email: ured@asu.edu
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With a required copy to:	Arizona State University Attn: Senior Vice President and University Planner <u>Delivery Address:</u> 300 East University Drive, Ste. 410 Tempe, AZ 85281-2061
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Mailing Address:
PO Box 877705
Tempe, AZ 85287-7705

6.02 WI-FI. Although City has a public WI-FI network that is accessible at the Building, ASU shall be responsible for providing the necessary or desirable WI-FI network and internet connectivity and access to serve all its employees, representatives, officials, invitees, and guests of the Licensed Premises. City has no obligation to provide WI-FI or internet connectivity for the Licensed Premises.

6.03 Telephone Services. ASU shall be responsible for providing the necessary or desirable telephone services to serve the Licensed Premises.

6.04 Software. ASU shall be responsible for all computer and security software necessary for the programs to be conducted in The Studios and the computer software and applications necessary to meet the ASU Obligations set forth in Section 4.

6.05 FF&E and Technology Equipment. As set forth more fully in Section 8, each Party shall be responsible for the procurement, installation, maintenance, repair, and replacement costs of certain items of the FF&E (as that term is defined in Subsection 8.01) and Technology Equipment (see Subsection 8.02).

6.06 Badging System. As set forth more fully in Section 9, each Party shall be responsible for the software, maintenance, repair, and replacement costs of certain portions of the C-Cure ID Badging System.

6.07 Land within the Licensed Premises. City shall be responsible for the operating costs for those certain areas surrounding the outside of the Building on the Land constituting part of the Licensed Premises and for the Improvements thereon, including for utility, maintenance, landscape, and repair costs.

6.08 Other Costs and Expenses. Except the costs and expenses that are specifically the responsibility of City set forth in this Section 6, ASU agrees to pay all costs and expenses incurred by ASU related to this Agreement, ASU's use of the Licensed Premises, and ASU's operation of The Studios, and ASU hereby indemnifies and holds City harmless from any such cost and expense, including any costs and expenses related to the programs, workshops, and events held at The Studios, and taxes and insurance as may be applicable.

Section 7. Improvements

7.01 City Improvements. In anticipation of this Agreement, City designed and constructed the physical improvements, alterations, additions, enhancements, and modifications to the Licensed Premises included in City Project No. CP00880 ("City Improvements"), including mechanical, electrical, and plumbing improvements; a new enclosed entry lobby; exterior glazing improvement; a new restroom addition; and first floor tenant improvements. Completion of construction of City Improvements is evidenced by issuance of the Certificate of Occupancy issued to City and dated May 31, 2022.

7.02 No ASU Alterations. ASU shall make no physical improvements, alterations, additions, enhancements, or modifications during the Term of this Agreement to (A) the Common Area without the prior written consent of City, which consent may be withheld at City's sole and absolute discretion; or (B) the Program Use Area without the prior written consent of City, which consent shall not be unreasonably withheld.

7.03 Title to Alterations and Improvements. Upon the completion/installation of any City Improvements, and of any other physical improvements, alterations, additions, enhancements or

modifications at the Licensed Premises by either Party (collectively, “Improvements”), title to the Improvements shall accrete to City and shall immediately become the exclusive property of City without payment therefor by City, shall be considered a part of the Licensed Premises, shall be surrendered to City upon expiration or other termination of this Agreement. ASU agrees to execute and deliver to City, within ten (10) days after City’s request therefor, a quitclaim deed confirming that title to physical Improvements made by ASU in accordance with Subsection 4.14 and Subsection 7.02 herein, is vested in City.

7.04 Permits Required. ASU’s construction (whether electrical, plumbing, or mechanical construction or reconstruction) involving the Licensed Premises, if consented to by City under Subsection 7.02, shall conform to City Code for the City of Mesa, including the City of Mesa’s construction and technical codes. ASU shall be responsible for determining whether it is subject to any other building/construction codes or permit requirements, and for compliance with them to the extent they are applicable to ASU’s work. No such work shall be commenced without first submitting required plans to and obtaining required permits from the City of Mesa, and City shall, as owner of the Land, sign any documentation to support ASU’s applications for such permits provided that such documentation conforms to City Code for the City of Mesa. All such work shall be permitted, inspected, and approved by the City of Mesa. City represents and warrants to ASU that the City Improvements conform to the City Code of the City of Mesa, including its building construction and technical codes, environmental regulations, and permitting requirements, as well as with federal and state laws and regulations. All Improvements shall be permitted, inspected, and approved by the City of Mesa.

7.05 Mechanics Liens. ASU agrees to keep the Licensed Premises, and all Improvements thereon, free of any mechanics’ and materialman’s liens and other liens of any kind or nature for work done, labor performed, or material furnished thereon at the instance or occasion of ASU, and ASU’s duty to Indemnify (as defined below) set forth in Section 16 and this Agreement includes any and all Claims (as defined below), liens, demands, costs, and expenses, of whatever nature, for any such work done, labor performed, or materials furnished.

7.06 No Agency. ASU is not an agent of City, nor an employee of City, nor is ASU, its agents, or employees authorized to act for or on behalf of City as its agent, employee, representative, or otherwise, for any purpose, including the constructing of any Improvements at the Licensed Premises, and neither City nor City’s interest in the Licensed Premises shall be subject to any obligations incurred by ASU. City is not an agent of ASU, nor an employee of ASU, nor is City, its agents, or employees authorized to act for or on behalf of ASU as its agent, employee, representative, or otherwise, for any purpose, including the constructing of any Improvements at the Licensed Premises, and neither ASU nor ASU’s interest in the Licensed Premises shall be subject to any obligations incurred by City, without specific written agreement, signed by both Parties.

Section 8. Furniture, Fixtures, and Equipment and Technology Equipment

8.01 Furniture, Fixtures, and Equipment. City agrees to procure and install for use at the Licensed Premises, at City’s sole cost and expense, whether obtained through purchase or lease, the furniture, fixtures, and equipment (“FF&E”) identified on pages 1-36, inclusive, of Exhibit C as the responsibility of City (“City FF&E”). ASU agrees to procure and install for use at the Licensed Premises, at ASU’s sole cost and expense, whether obtained through purchase or lease, the FF&E identified on pages 37-39, inclusive, of Exhibit C as the responsibility of ASU (“ASU FF&E”).

8.02 Technology Equipment. City agrees to procure and install for use at the Licensed Premises, at City’s sole cost and expense, whether obtained through purchase or lease, the Technology Equipment identified on pages 1-36, inclusive, of Exhibit C as the responsibility of City (“City Technology Equipment”). ASU agrees to procure and install for use at the Licensed Premises, at ASU’s sole cost and

expense, whether obtained through purchase or lease, the Technology Equipment identified on pages 37-39, inclusive, of Exhibit C as the responsibility of ASU (“ASU Technology Equipment”).

8.03 Provision by ASU. Notwithstanding anything to the contrary in this Agreement, any FF&E and Technology Equipment that ASU, in its sole discretion, determines necessary for ASU’s operation of The Studios or use of the Licensed Premises that is above and beyond the City FF&E or City Technology Equipment shall be procured and installed at the sole cost and expense of ASU and shall be considered ASU FF&E or ASU Technology Equipment, as applicable.

8.04 Procurement. All FF&E and Technology Equipment will be in new or like-new condition. All FF&E and Technology Equipment will be procured by a Party in compliance with the laws, regulations, policies, and procedures applicable to procurements by that Party.

8.05 Use. All FF&E and Technology Equipment shall be used by ASU at the Licensed Premises for operation of The Studios in accordance with the requirements of the permitted uses of the Licensed Premises set forth in Subsection 1.01.

8.06 Indemnity. ASU’s duty to Indemnify (as defined below) set forth in Section 16 and this Agreement includes any third-party Claims relating to or arising out of a person’s use of the FF&E or Technology Equipment purchased or leased pursuant to this Agreement except for City’s grossly negligent or willful acts or failures to act involving the FF&E or Technology Equipment that is the subject of the third-party’s Claims.

8.07 Maintenance and Repair. City shall be responsible for the maintenance, repair, and replacement costs of the City FF&E and City Technology Equipment. ASU shall be responsible for the maintenance, repair, and replacement costs of the ASU FF&E and ASU Technology Equipment.

8.08 Ownership and Treatment. All City FF&E and City Technology Equipment shall be deemed owned exclusively by City without payment therefor. All ASU FF&E and ASU Technology Equipment shall be deemed owned exclusively by ASU without payment therefor. Neither Party shall remove from the Licensed Premises any FF&E or Technology Equipment purchased by the other Party, without the prior written consent of the purchasing Party, which consent may be withheld at the purchasing Party’s sole and absolute discretion.

Section 9. Security

9.01 General. ASU shall be solely responsible for the security and monitoring of the Licensed Premises, including security and monitoring of the areas of the Licensed Premises within the Building, securing the access points to the Licensed Premises (other than the East External Door, as defined below), and maintaining and operating the Badging System for the ASU Doors (as defined below) as set forth in Subsection 9.02. City’s only obligations for security and monitoring at the Licensed Premises are set forth in Subsection 9.02(B) and include: (A) the initial installation of the C-Cure ID Badging System at the Building (“Badging System”), and (B) maintaining and operating the Badging System only for the external door on the east side of the first floor of the Building accessing the Common Area, described in Exhibit B, and hereinafter referred to, as the “East External Door”; ASU acknowledges and agrees that, except for City’s obligations in Subsection 9.02(B), City shall not provide and has no obligation to provide security at or for the Licensed Premises. ASU acknowledges and agrees that City shall not be responsible for any injury or death to persons or damage or theft of property that may occur in, on, or around the Licensed Premises, and that no City employees, agents, or contractors shall be providing or monitoring security anywhere on the Licensed Premises at any time during the Term. ASU’s duty to Indemnify (as defined below) set forth in Section 16 and this Agreement includes any Claims relating to or arising out of: (i)

security (including adequacy of security, lack of security, and types of security installed) for the Licensed Premises; (ii) security (including adequacy of security, lack of security, and types of security installed) for any ASU employee, invitee, or guest on the Licensed Premises or in the Building; and (iii) any ASU employee, invitee, guest, or other person who accesses the Non-Licensed Area from the Licensed Premises. Notwithstanding the foregoing, ASU's duty to Indemnify set forth in Section 16 and this Agreement does not include any Claims relating to or arising out of: (i) security for any City employee, invitee, or guest on the Licensed Premises or in the Building; (ii) security at a City-sponsored or City-hosted event in the Non-Licensed Area; (iii) a person (except for an ASU employee, invitee, or guest) who accesses the Non-Licensed Area through a "City Door" as identified in Exhibit B, if the subject City Door was unlocked due to City's failure to lock such City Door; (iv) a person (except for an ASU employee, invitee, or guest) who accesses the Licensed Premises or the Building through the East External Door outside of the regular business hours of The Studios, if the East External Door was unlocked due to a failure of the Badging System on the East External Door or City's failure to lock the East External Door; (v) a person (except for an ASU employee, invitee, or guest) who accesses the Licensed Premises or the Building through the "West External Door" as identified in Exhibit B, if the West External Door was unlocked due to City's failure to lock the West External Door; or (vi) a person (except for an ASU employee, invitee, or guest) who accesses the Licensed Premises or the Building through the door the "Emergency Door" identified in Exhibit B.

9.02 Badging System.

A. ASU's Obligations. ASU shall, at its sole cost and expense, procure and install the necessary software and supplies to operate the Badging System for the following entrances to the Building: (i) the external door on the north side of the first floor of the Building accessing the Common Area, and (ii) the external door on the south side of the first floor of the Building accessing the Program Use Area, described in Exhibit B, and hereinafter collectively referred to, as the "ASU Doors". ASU shall be responsible for any ongoing costs (such as monthly fees, utility costs, and WI-FI) and maintenance costs (including maintenance of the physical equipment and hardware installed by City pursuant to Subsection 9.02(B) below) to operate the Badging System for the ASU Doors. ASU shall be solely responsible for securing the ASU Doors with the Badging System. ASU may issue badges for the ASU Doors to ASU officers, officials, agents, employees, volunteers, and guests. Until City or a third-party occupies the Non-Licensed Area or portion thereof, the ASU Doors may remain locked during the regular business hours of The Studios and may require a badge to access provided that invitees, guests, and other users of The Studios, including City personnel are able to gain access to The Studios during its regular business hours. Outside of the regular business hours of The Studios, the ASU Doors shall remain locked and require a badge to access. ASU agrees and acknowledges that, in anticipation of, and prior to, City or a third-party occupying the Non-Licensed Area or portion thereof, ASU and City will cooperatively develop and enter into a shared building access plan which will address access to the Building, including when the ASU Doors must remain locked and unlocked.

B. City's Obligations.

i. Initial Installation. City shall, at its sole cost and expense procure and install the necessary initial physical equipment and hardware needed to operate the Badging System at the ASU Doors and the East External Door. For the purposes of this Agreement, the only initial physical equipment and hardware for the Badging System that is the responsibility of City shall be the installation of the Badging System scanners on the ASU Doors and the East External Door, and the initial hardware equipment needed for networking and electrical power to operate the Badging System.

ii. East External Door. City shall, at its sole cost and expense, procure and install the necessary software and supplies to operate the Badging System at the East External Door. City shall be responsible for any ongoing costs (such as monthly fees, utility costs, and WI-FI) and maintenance costs to

operate the Badging System only at the East External Door. City may, through City's badging office, issue badges for the East External Door to City officers, officials, agents, employees, volunteers, and guests.

9.03 Additional Security Measures. Consistent with and in addition to the requirements of Section 9, City agrees ASU may implement security for the Licensed Premises, above and beyond the Badging System, so long as such measures are at no cost to City and ASU provides City with access in accordance with Subsection 5.01.

Section 10. Maintenance and Repairs

10.01 City Maintenance, Repairs, and Replacements. Except as described in Subsections 10.02 and 10.03, City shall keep the Licensed Premises and the Improvements in a neat and clean condition and in good order, condition, and repair, and shall make and perform all maintenance and all necessary repairs and replacements thereto, structural and non-structural, interior and exterior, ordinary and extraordinary, foreseen and unforeseen, of every nature, kind and description at City's expense unless otherwise specifically exempted herein. Without limiting the foregoing, City shall repair and maintain (and replace when necessary) all structures, improvements, landscaping, roofs, HVAC improvements, plumbing and electrical improvements, fixtures, walls, ceilings, floor coverings, parking areas, landscape areas, asphalt, concrete, driveways, and pathways on the Licensed Premises. All repairs made by City shall be substantially the same in quality to the original work, and shall be made in accordance with all laws, ordinances, and regulations whether heretofore or hereafter enacted.

10.02 ASU Responsibility for Repair or Replacement. Any portion of the Improvements damaged or destroyed by ASU, its employees, contractors, agents, invitees, guests, or by any member of the public (except for any City employee, invitee, or guest) using the Licensed Premises, ordinary wear and tear and Casualty (as that term is defined in Subsection 11.01) excepted, shall be promptly repaired or replaced by ASU at ASU's sole cost and expense, to the reasonable satisfaction of City and, in the event City causes the work of repair or replacement to be performed, the reasonable cost of same shall be reimbursed directly to City by ASU within sixty (60) days of City presenting a demand for payment to ASU for such repair or replacement. In lieu of such repair or replacement reimbursement, where required by City, ASU shall pay to City an amount sufficient to compensate for the loss within sixty (60) days of City presenting a demand for payment to ASU for such amount. The terms of this Subsection 10.02 are also applicable to certain types of damage to the Licensed Premises, beyond just damage to Improvements, as set forth in Subsection 11.01.

10.03 ASU Maintenance. ASU shall at all times cooperate with City to keep the Licensed Premises in a neat, clean, safe, sanitary, and orderly condition and shall encourage ASU's invitees, guests, and members of the public using the Licensed Premises to keep such area free of all trash and debris.

10.04 Emergency Repairs. Within fifteen (15) days of the Effective Date, ASU shall provide to City, and thereafter update City's records from time to time, with a list of names and telephone numbers for 24-hour emergency ASU contact for issues involving the Licensed Premises.

Section 11. Damage to and Destruction of Licensed Premises

11.01 Obligations to Restore. If, at any time during the Term, the Licensed Premises is damaged or destroyed by fire, casualty, or other occurrence of any kind or nature, ordinary or extraordinary, foreseen or unforeseen ("Casualty"), City, at its sole cost and expense, to the extent of available insurance proceeds shall repair, alter, restore, replace, or rebuild the same substantially to the Licensed Premises' value, condition, and character that existed immediately prior to such damage or destruction, and City shall proceed and complete such restoration with reasonable diligence; and the restoration shall be performed by

licensed and bondable Arizona contractors. If any Casualty renders the whole or any material part of the Licensed Premises untenable and City determines, in City's reasonable sole discretion, that it cannot make the Licensed Premises occupiable within two-hundred seventy (270) days after the date of the Casualty, then City will so notify ASU within thirty (30) days after the date of the Casualty and, in such event, either Party within thirty (30) days of City's notice, may terminate this Agreement effective on the date of the Casualty. Anything herein to the contrary notwithstanding, City shall immediately secure the Licensed Premises and undertake temporary repairs and work necessary to protect the public and to protect the Licensed Premises from further damage; provided, if the damage or partial destruction is caused due to deliberate or reckless conduct of ASU's employees, contractors, agents, invitees, or guests that is excluded from City's insurance coverage, the terms of Subsection 10.02 above shall apply to such damage of the Licensed Premises.

11.02 Obligations Abated. At such times when ASU is not in default hereunder, if part or all of the Licensed Premises is unoccupiable due to the partial or total destruction thereof, ASU's obligations under this Agreement shall be abated from the date that a portion or all of the Licensed Premises become unoccupiable until such time as it become occupiable, or unless and until City is able to afford ASU substitute space, within ten (10) days following the destruction event, within another building enabling ASU to continue to meet the ASU Obligations. Except as it pertains to Subsection 11.01, ASU shall not have the right to terminate this Agreement due to the temporary inability to occupy a portion or all of the Licensed Premises. In all events, ASU shall resume its full obligations under this Agreement after City obtains a certificate of occupancy (or equivalent clearance) from the City of Mesa for the repairs or restoration and within thirty (30) days of City notifying ASU in writing that the Licensed Premises is available for occupancy.

Section 12. Representations, Warranties, and Covenants of ASU

12.01 Authority of ASU. The Arizona Board of Regents, for and on behalf of ASU, is a body corporate, validly existing under the laws of the State of Arizona and is qualified to do business in the State of Arizona. The person(s) who executed this Agreement on behalf of ASU are duly authorized to do so and to fully and unconditionally bind ASU. ASU's execution, delivery, and performance of this Agreement and the other documents related to the Licensed Premises do not, and will not, violate any provision of law applicable to ASU or its organizational documents, and do not, and will not, conflict with or result in a default under any agreement or instrument to which ASU is a party or by which it is bound.

12.02 No Additional Authorizations or Consents Needed. No authorizations, consents, or approvals are required in connection with the execution and delivery of this Agreement or in connection with the carrying out by ASU of its obligations hereunder.

12.03 No Defaults. To the best of ASU's knowledge, ASU is not in default in: (A) the payment of any of ASU's indebtedness for borrowed money; or (B) any material respect under any order, writ, judgment, injunction, decree, determination, or award or any indenture, agreement, lease, or instrument.

Section 13. Signage

13.01 Signage. City may, at its sole cost and expense, place signage at the Licensed Premises which illustrates the branding and location of City and The Studios. ASU shall not place any signage at the Licensed Premises which illustrates the branding of ASU, without the prior written consent of City. With the prior written consent of City, ASU may, at its sole cost and expense, place signage inside of the Building which provides directions to or labels offices, restrooms, meeting areas, the Community Room, and other spaces occupied as The Studios, and similar signage intended to help users and guests navigate The Studios.

All signage is subject to compliance with the Mesa City Code (when applicable), including its Zoning Ordinance requirements (implicating a process and approvals separate from this Agreement).

Section 14. Assignment, Subletting, and Other Transfers

14.01 Transfer Restrictions.

A. Transfers. ASU shall not transfer, assign, encumber, pledge, or hypothecate its interest in this Agreement or any right or interest hereunder, or sublicense the Licensed Premises or any part thereof, nor permit any other person to occupy the Licensed Premises (each of which events is herein called a “Transfer”), without the prior written consent of City, which consent shall not be unreasonably withheld, conditioned, or delayed. City may, as a condition of approval of a Transfer permitted hereunder, require any potential transferee or sublicensee to submit historical and financial information to City at least thirty (30) days prior to the proposed Transfer date. ASU shall submit any proposed documentation relating to a proposed Transfer for City’s review and approval. Any Transfer entered into without the consent of City shall be void and not voidable. Any City approved Transfer shall require the transferee to assume all of the obligations of ASU under this Agreement that are applicable to the transferred space from the date of the transfer and thereafter and shall not release ASU from any Claims or liability arising prior to the date of Transfer.

B. Non-Transfers. Notwithstanding the foregoing, the following events shall not constitute a “Transfer” as defined in Subsection 14.01(A) and each event shall be referred to as a “Non-Transfer”: (i) ASU sublicensing a portion of the Program Use Area with the prior written consent of City, which consent shall not be unreasonably withheld, conditioned, or delayed; and (ii) ASU assigning a right or interest under this Agreement to a “component unit affiliate” of ASU listed on a financial statement of ASU not including those entities deemed immaterial for financial reporting purposes, provided the component unit affiliate shall use the Licensed Premises only for the permitted uses in Subsection 1.01 and such use shall be consistent with and advance the goals of the Downtown Innovation District; for such assignments, ASU shall provide to City written notice of the assignment at least thirty (30) days prior to the effective date of the assignment. For all Non-Transfers, ASU shall provide to City, commencing on the first anniversary of the Effective Date, an annual written summary of all Non-Transfers for the subject twelve (12) month period, and complete copies of the agreements entered into by ASU, which agreements shall identify the terms of the agreements (subject to the applicable public records law), the users of the Licensed Premises, and the uses conducted by each user of the Licensed Premises. For the avoidance of doubt, Subsections 14.01(A) and (B) do not apply to any: (i) use of the Community Room through ASU’s reservation system; (ii) use of any portion of the Licensed Premises permitted by ASU pursuant to coworking or collaboration agreements that will terminate on or before the termination of this Agreement; or (iii) short-term uses related to program participants in accordance with the programming ASU provides at The Studios in compliance with the Permitted Uses.

14.02 City’s Assignment Prerogatives. City covenants not to assign its rights under this Agreement to a third-party until after the installation of the City FF&E and the City Technology Equipment. Thereafter, City shall be free to assign its rights under this Agreement to any person (A) at any time without ASU’s consent, if the assignee is (i) a current or incoming, education-providing occupant of the Licensed Premises or (ii) concurrently sublicensing the Licensed Premises back to City for financing purposes; or (B) with ASU’s consent during the Term, such ASU’s consent not to be unreasonably withheld or delayed, so long as the proposed assignee commits to operate the Licensed Premises for innovation, technology, and entrepreneurship purposes and for the permitted uses of Subsection 1.01 through the conclusion of the Term. Upon the lapse of the Term, City’s assignment restriction shall no longer bind City for any purpose.

Section 15. Insurance and Risk of Loss

15.01 Coverage Required by ASU. From and after the Effective Date, ASU shall carry, at ASU's sole cost and expense, the following types of insurance, in the amounts specified or in such higher amounts as requested by City and which are customary in the Phoenix, Arizona, metropolitan area:

A. Commercial general liability insurance for personal injury, bodily injury (including wrongful death), and damage to property with a combined single limit of not less than Two Million Dollars (\$2,000,000.00), per occurrence, and Four Million Dollars (\$4,000,000.00), annual aggregate, insuring against any and all liability of the insured with respect to the Licensed Premises, or arising out of the maintenance, use, or occupancy of the Licensed Premises, including Licensed Premises operations, products, and completed operations providing coverage at least as broad as ISO policy form CG 0001, or its equivalent. The commercial general liability insurance policy shall contain a contractual liability endorsement specifically deleting the contractual liability exclusion for Personal Injury. The policy required pursuant to the provisions of this Subsection 15.01(A) shall not have a deductible in excess of Ten Thousand Dollars (\$10,000.00).

B. Business auto coverage for owned, hired, and non-owned vehicles with a combined single limit of not less than One Million Dollars (\$1,000,000.00), per occurrence, and One Million Dollars (\$1,000,000.00), annual aggregate.

C. A policy or policies of workers' compensation insurance with an insurance carrier and in amounts approved by governmental authorities having jurisdiction and a policy of employer's liability insurance with limits of liability not less than One Million Dollars (\$1,000,000.00), each accident, One Million Dollars (\$1,000,000.00), disease policy limit, and One Million Dollars (\$1,000,000.00), disease each employee. Both such policies shall contain waivers of subrogation in favor of City.

D. "Causes of Loss-Special Form" property insurance, including coverage for sprinkler leakage, vandalism, and malicious mischief covering the entire Licensed Premises, including all alterations, additions, or Improvements made pursuant to Section 7, removable personal property from time to time in, on, or upon the Licensed Premises, including FF&E and Technology Equipment, in an amount not less than one hundred percent (100%) of the full replacement cost of the Licensed Premises without depreciation, providing coverage at least as broad as ISO policy form CP 10 30, including earthquake damage, flood, and terrorism coverage, as well as the following endorsements: boiler and machinery, difference in conditions, business income and extra expense (with extended period of indemnity), service interruption, and building ordinance or law and against such other risks or hazards and in such amounts as City shall reasonably require. Any policy proceeds shall be used for the repair or replacement of the property damaged or destroyed unless this Agreement shall cease and terminate due to destruction of the Licensed Premises. Such policy of property insurance shall name City as a "loss payee" and shall not have a deductible in excess of Twenty-Five Thousand Dollars (\$25,000.00).

E. Pollution legal liability insurance coverage insuring City and ASU against any and all liabilities, Claims (as defined below) with respect to the release, transportation and/or use by ASU or any sublicensee of Hazardous Materials (as defined below) during the Lease Term and for such additional periods of time within which City or ASU may be liable with respect to Hazardous Materials under applicable Hazardous Materials Laws. Such insurance shall name City as an additional insured, shall have a per occurrence limit of liability of no less than One Million Dollars (\$1,000,000.00), shall have an aggregate limit of liability of no less than Three Million Dollars (\$3,000,000.00) and shall have a deductible of no more than Ten Thousand Dollars (\$10,000.00).

F. During the course of demolition or construction of any Improvements by ASU on the Licensed Premises, ASU shall procure and maintain (or shall cause ASU's contractor constructing such Improvements to procure and maintain) in full force and effect "causes of loss – special form" builder's risk insurance, including coverage for vandalism and malicious mischief satisfying the requirements of Subsection 15.01(D) above. The policies of builder's risk insurance shall cover the Improvements in place and all material and equipment at the job site furnished under contract, but may exclude contractors', subcontractors' and construction manager's tools and equipment and property owned by contractors' or subcontractors' employees.

G. All policies of insurance to be procured by ASU shall be issued by insurance companies having a claims paying rating ability of not less than NAIC 1 as established by the Securities Valuation Office of the National Association of Insurance Commissioners (or an equivalent Standard & Poors, Moody's or Duff & Phelps rating), qualified to do business in the State of Arizona. All property policies shall be issued in the name of ASU and shall name City as a "loss payee". All liability policies obtained by ASU shall name City as an additional insured. In addition, ASU's liability insurance policies shall be endorsed as needed to provide cross-liability coverage for City, any management company of City and any lender of City and shall provide for severability of interests. Evidence of insurance meeting the requirements of Acord Form No. 27 or 28 (March 1993) or such other evidence as may be reasonably acceptable to City and evidence of required additional insured endorsements on ISO Form CG 20-26 (collectively referred to in this Subsection 15.01(G) as "Certificates") shall be delivered to City within ten (10) days after the Effective Date and thereafter, executed copies of renewal policies or Certificates shall be delivered to City not less than thirty (30) days prior to the expiration of the term of each such policy. All commercial general liability insurance policies shall contain a provision that City, although named as an additional insured, shall nevertheless be entitled to recovery under the policy for any loss occasioned to City by reason of the negligence or willful misconduct of ASU. As often as any such policy shall expire or terminate, renewal or additional policies shall be procured and maintained by ASU in like manner and to like extent. All policies of insurance delivered to City must contain a provision that the company writing the policy will give City twenty (20) days' notice in writing in advance of any cancellation or lapse or the effective date of any material change in the policy, including any reduction in the amounts of insurance. All commercial general liability, property damage and other casualty policies shall be written as primary policies in relation to any insurance carried by City (but may be effected by a combination of primary and umbrella policies) and shall provide that any insurance or self-insured retention which City may carry or has is strictly excess, secondary, and non-contributing with any insurance carried by ASU. The insurance requirements contained in this Subsection 15.01(G) are independent of ASU's waiver, indemnification and other obligations under this Agreement and shall not be construed or interpreted in any way to restrict, limit, or modify ASU's waiver, indemnification, or other obligations or to in any way limit ASU's obligations under this Agreement.

H. The Parties acknowledge that, pursuant to A.R.S. § 41-621, the Arizona Department of Administration ("DOA") is required to obtain insurance against loss for ASU that DOA determines is in the best interest of the State. City agrees that it will accept the DOA certificate of insurance and DOA determined insurance coverages as meeting ASU's insurance requirements set forth in this Agreement so long as: (1) DOA obtains insurance in an amount similar to other, comparable ASU leased/licensed facilities in the Phoenix metropolitan area; and (2) if DOA makes an initial determination that the amount of insurance DOA will obtain pursuant to this Agreement is an amount less than what is required by this Agreement, then ASU and DOA will meet with City to determine in good faith the appropriate amount of additional insurance coverage to be acquired by DOA under this Agreement.

I. It is further expressly understood and agreed between the Parties that, notwithstanding any provision in this Agreement to the contrary, insurance requirements for events within The Studios can be insured through ASU's Tenant Users Liability Insurance Program ("TULIP") for events coverage as long

as City is listed as an additional insured. Such special event coverage must be for at least one million dollars (\$1,000,000.00).

15.02 Adequacy of Insurance. City makes no representation or warranty to ASU that the amount of insurance to be carried by ASU under the terms of this Agreement is adequate to fully protect ASU's interests. If ASU believes that the amount of any such insurance is insufficient, ASU is encouraged to obtain, at its sole cost and expense, such additional insurance as ASU may deem desirable or adequate. ASU acknowledges that City shall not, by the fact of approving, disapproving, waiving, accepting, or obtaining any insurance, incur any liability for or with respect to the amount of insurance carried, the form or legal sufficiency of such insurance, the solvency of any insurance companies, or the payment or defense of any lawsuit in connection with such insurance coverage, and ASU hereby expressly assumes full responsibility therefor and all liability, if any, with respect thereto.

15.03 Coverage Required by City. From and after the Effective Date, City shall maintain the following types of insurance: (A) property insurance for the Building and Land and for City's personal property located at the Building and Land; (B) liability insurance in connection with all maintenance performed by or on behalf of City at or on the Building and Land; and (C) workers' compensation insurance for all City employees. ASU acknowledges and agrees that the insurance coverage required by this Subsection 15.03 may be satisfied by City's self-insurance, evidenced by City Resolution No. 10717.

Section 16. Indemnification

16.01 Definitions.

A. The term "Indemnify" shall mean indemnify, defend (with counsel reasonably acceptable to the indemnified party), pay and hold free and harmless for, from and against.

B. The terms "Bodily Injury," "Personal Injury," and "Property Damage" in this Agreement shall have the same meanings as in the form of commercial general insurance policy issued by Insurance Services Office, Inc. most recently prior to the date of the injury or loss in question.

C. The term "Claims" shall mean any and all liabilities, claims, damages, losses, penalties, litigation, demands, causes of action (whether in tort or contract, in law or at equity or otherwise), suits, proceedings, judgments, disbursements, charges, assessments, and expenses (including attorneys' and experts' fees and expenses incurred in investigating, defending, or prosecuting any litigation, claim, or proceeding).

16.02 Indemnification by City. To the fullest extent permitted by law, from and after the Effective Date, the City will Indemnify ASU and ASU's officers, officials, agents, employees and volunteers with respect to Claims against ASU and ASU's officers, officials, agents, employees and volunteers for Property Damage, Personal Injury, and Bodily Injury occurring on or at the Licensed Premises that are the result of the negligent or intentional acts or omissions of the City and City's officers, officials, agents, employees, and volunteers.

16.03 Indemnification by ASU. To the fullest extent permitted by law, from and after the Effective Date, ASU will Indemnify the City and the City's officers, officials, agents, employees, and volunteers with respect to Claims against the City and the City's officers, officials, agents, employees, and volunteers for Property Damage, Personal Injury, and Bodily Injury occurring on or at the Licensed Premises that are the result of the negligent or intentional acts or omissions of ASU and ASU's officers, officials, agents, employees, and volunteers.

Section 17. Hazardous Materials and Environmental Indemnification

17.01 Definitions.

A. The term “Hazardous Materials” shall mean any chemical, compound, material, substance, or other matter that: (i) is a flammable explosive, asbestos, petrochemical, radioactive material, nuclear medicine material, drug, vaccine, bacteria, virus, hazardous waste, biohazard, toxic substance, petroleum product, or related injurious or potentially injurious material, whether injurious or potentially injurious by itself or in combination with other materials; (ii) is controlled, designated in or governed by any Hazardous Materials Law; (iii) gives rise to any reporting, notice or publication requirements under any Hazardous Materials Law; or (iv) gives rise to any liability, responsibility or duty on the part of City or ASU with respect to any third person under any Hazardous Materials Law.

B. The term “Hazardous Materials Law” shall mean any and all presently existing or enacted in the future federal, state or local laws, ordinances, rules, regulations, final decrees and orders (including the so-called “common law” of the State of Arizona) relating to hazardous substances, hazardous materials, hazardous waste, or toxic substances on, under, or about any of the improved real properties comprising the Licensed Premises, or soil and ground water conditions, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”), as amended, 42 U.S.C. § 9601, et seq., the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §6901, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq., Title 49 of Arizona Revised Statutes, any amendments to the foregoing, and any similar federal, state or local laws, ordinances, rules, regulations, final decrees and orders.

C. The term “Remedial Work” shall mean any monitoring, investigation, clean-up, removal, and other Remedial Work.

17.02 Use of Hazardous Materials. ASU shall not allow any Hazardous Material to be used, generated, released, stored, or disposed of on, under or about, or transported from, any of the Licensed Premises, unless such use is conducted in compliance with the Hazardous Materials Laws. ASU shall be permitted to store and use on the Licensed Premises such Hazardous Materials in quantities as are reasonable, necessary, and incidental to business operations on the Licensed Premises as described in this Agreement so long as ASU complies with applicable Hazardous Materials Laws.

17.03 Compliance with Hazardous Materials Laws. ASU shall comply with and shall maintain its operations on the Licensed Premises in compliance with all Hazardous Materials Laws. ASU shall obtain and maintain in full force and effect all permits, licenses, and other governmental approvals required for ASU’s operations on the Licensed Premises under any Hazardous Materials Laws and shall comply with all terms and conditions thereof. At City’s reasonable request, ASU shall deliver copies of, or allow City to inspect, all such permits, licenses, and approvals at a mutually convenient time and place. In the event ASU, any assignee or sublicensee of ASU or their respective agents, contractors, employees, or licensees releases or discharges a Hazardous Material on, in, or under the Licensed Premises in violation of any Hazardous Materials Law, ASU shall perform or cause to be performed the Remedial Work reasonably required by such Hazardous Materials Laws as a result of such release or discharge. City shall have the right to intervene in any governmental action or proceeding involving any Remedial Work, provided any such intervention shall be at City’s cost (notwithstanding any contrary provision of this Agreement) if there shall exist no Event of Default during such intervention.

17.04 Compliance with Insurance Requirements. ASU shall comply with the requirements of ASU’s insurers regarding Hazardous Materials and with such insurers’ recommendations based upon prudent industry practices regarding management of Hazardous Materials.

17.05 Notice; Reporting. ASU shall notify City, in writing, within five (5) days after any of the following: (A) the day on which ASU knew or should have known of a release or discharge of any Hazardous Material in violation of Hazardous Materials Laws; (B) ASU's receipt of any order of a governmental agency requiring any Remedial Work to the Licensed Premises pursuant to any Hazardous Materials Laws; (C) ASU's receipt of any warning, notice of inspection, notice of violation, or alleged violation, or ASU's receipt of notice or knowledge of any proceeding, investigation of enforcement action, relating to the Licensed Premises pursuant to any Hazardous Materials Laws; or (D) ASU's receipt of notice or knowledge of any Claims made or threatened by any third-party against ASU or the Licensed Premises relating to any loss or injury resulting from Hazardous Materials. ASU shall deliver to City copies of all test results, reports and business or management plans required to be filed with any governmental agency pursuant to any Hazardous Materials Laws, not less than ten (10) days in advance of any filing, or as soon as is practicable if the governmental agency's deadline for such filing is less than ten (10) days from ASU's receipt of such notice or knowledge.

17.06 Termination; Expiration. Upon the termination or expiration of this Agreement, ASU shall remove any equipment, improvements, and storage facilities constructed or installed by ASU in connection with any Hazardous Materials and shall, clean up, detoxify, repair, and otherwise restore the Licensed Premises to a Hazardous Materials condition reasonably comparable to such condition as existed on the Effective Date.

17.07 Environmental Indemnification. To the fullest extent permitted by law, ASU shall Indemnify City for, from, and against any and all Claims arising out of or in connection with any breach by ASU or any assignee or sublicensee of ASU, or their respective agents, servants, contractors, or employees of any provisions of this Section 17 (excluding Subsection 17.09) or directly or indirectly arising out of the use, generation, storage, release, disposal, or transportation of Hazardous Materials by ASU or any sublicensee or assignee of ASU, or their respective agents, contractors, employees, licensees, or invitees, on, under or about the Licensed Premises during the Term or ASU's occupancy of the Licensed Premises, including all foreseeable damages (but not consequential damages) and the cost of any Remedial Work. Neither the consent by City to the use, generation, storage, release, disposal, or transportation of Hazardous Materials nor the compliance with all Hazardous Material Laws shall excuse ASU from ASU's obligation to Indemnify pursuant to this Subsection 17.07. The foregoing indemnity shall be in addition to and not a limitation of the indemnification provisions of Section 16.

17.08 Entry and Inspection; Cure. City and its agents, employees, and contractors shall have the right, but not the obligation, to enter the Licensed Premises at all reasonable times during normal business hours and with twenty-four (24) hours advanced notice to ASU to inspect the same and ASU's compliance with the terms and conditions of this Section 17, or to conduct investigations and tests. No prior notice to ASU shall be required in the event of imminent danger to public health or the environment, or if City has reasonable cause to believe that violations of this Section 17 have occurred, or if ASU consents at the time of entry. In all other cases, City shall give at least twenty-four (24) hours prior notice to ASU. Such entry by City shall not interfere with the operation of the Licensed Premises by ASU or the business conducted on the Licensed Premises by ASU. In the event ASU refuses to perform Remedial Work without reasonable justification, City shall have the right, but not the obligation, to perform any Remedial Work which is necessary or appropriate as a result of any governmental order, investigation, or proceeding attributable to the acts or omissions of ASU or any sublicensee or assignee or their respective agents, servants, contractors, or employees. ASU shall pay, within thirty (30) days of receipt of a demand for payment for such Remedial Work, all costs incurred by City in remedying such violations or performing all Remedial Work, plus interest thereon at the Default Rate (as that term is defined in the Lease) from the date of demand until the date received by City.

17.09 Environmental Compliance by City. City represents that the Licensed Premises, as of the Effective Date, complies with all Hazardous Materials Laws. City will Indemnify ASU for, from, and against any and all Claims arising out of or in connection with any breach by City of any provisions of this Subsection 17.09.

Section 18. Default and Remedies

18.01 Default of ASU. The occurrence of any of the following shall constitute an event of default on the part of ASU (“ASU Default”):

A. Failure in the performance of any of ASU’s material agreements or obligations under this Agreement which shall continue for at least thirty (30) days after written notice of such failure from City to ASU. In the event the failure is such that more than thirty (30) days would reasonably be required to cure the default or otherwise comply with any term or provision herein, then ASU shall notify City of such and the timeframe needed to cure such default, so long as ASU commences performance or compliance or gives notice of additional time needed to cure within said thirty (30) day period and diligently proceeds to complete such performance or fulfill such obligation; provided, however, that no cure period may exceed one hundred and twenty (120) days.

B. Abandonment by ASU of the Licensed Premises without City’s prior written consent (which consent may be granted or withheld in City’s sole and absolute discretion); provided that any cessation of operations for purposes of remodeling, refurbishment, reconstruction, or repair of any damage or destruction or any other temporary vacancy or cessation of operations for a period of sixty (60) days or less shall not be deemed to constitute an abandonment.

C. The occurrence of a default by ASU under any material provision of the IGA or Lease (with any required notice having been given and any applicable cure period having expired; provided, however, that the giving of notice and the passage of time with respect to any act or omission constituting a default under the IGA or Lease, does not give rise to an additional requirement of notice and opportunity to cure under this Agreement).

D. The failure to comply with the GPLET provisions of A.R.S. §§ 42-6201, et seq. (if applicable), as set forth in Subsection 4.11.

18.02 Notice of ASU Default. In the event ASU commits an ASU Default then City may provide written notice to perform to ASU. ASU shall have the period of time specified in Subsection 18.01 from receipt of the notice to cure the ASU Default. Any written notice shall specify the nature of the ASU Default and how the ASU Default may be satisfactorily cured, if possible. In the case of an ASU Default described in Subsection 18.01(C) if notice has been given in accordance with the terms of the IGA or Lease (as applicable), no additional notice is required under this Agreement with respect to such ASU Default.

18.03 Remedies for ASU Default. City’s sole remedies for an uncured ASU Default shall be:

A. To seek specific performance of this Agreement, which means the enforcement of all of ASU’s material agreements and obligations under this Agreement, including the maintenance of programs and events at The Studios. City may seek and obtain specific performance (whether characterized as special action, mandamus, injunction or otherwise), requiring ASU to use best and all efforts to fully and timely perform its obligations under this Agreement. ASU stipulates that a Maricopa County Superior Court, or Federal Court, may impose specific performance requirements on ASU for an uncured default of this Agreement.

B. To terminate this Agreement; provided, however, that before City may pursue termination of this Agreement as a remedy, City must first provide a notice to ASU indicating that City has elected to pursue termination of this Agreement as a remedy for an uncured breach or ASU Default in existence at the time the notice is sent, and stating that if the specific breach or default is not cured within thirty (30) days following the delivery to ASU of the notice, then City may proceed to terminate this Agreement.

C. To seek any remedies available at law or in equity except City specifically waives the right to seek any damages from ASU characterized as special, incidental, indirect, consequential, punitive, or other similar types of damages.

18.04. Default of City. In the event City shall neglect or fail to perform or observe any of the material covenants, provisions, or conditions contained in this Agreement on its part to be performed or observed, and such failure continues for thirty (30) days after written notice of default from ASU which shall specify the nature of the default and how the default may be satisfactorily cured, if possible (or if more than thirty (30) days shall be required because of the nature of the default, if City shall fail to commence the curing of said default within the thirty (30) day period and proceed diligently thereafter to complete the curing of the default), then ASU's sole remedies for an uncured breach or default of this Agreement by City shall be:

A. To seek specific performance of this Agreement, which means the enforcement of all of City's agreements and obligations under this Agreement. ASU may seek and obtain specific performance (whether characterized as special action, mandamus, injunction or otherwise), requiring City to use best and all efforts to fully and timely perform its obligations under this Agreement. City stipulates that a Maricopa County Superior Court, or Federal Court, may impose specific performance requirements on City for an uncured default of this Agreement.

B. To terminate this Agreement; provided, however, that before ASU may pursue termination of this Agreement as a remedy, ASU must first provide a notice to City indicating that ASU has elected to pursue termination of this Agreement as a remedy for an uncured breach or default of this Agreement by City in existence at the time the notice is sent, and stating that if the specific breach or default is not cured within thirty (30) days following the delivery to City of the notice, then ASU may proceed to terminate this Agreement.

C. To seek any remedies available at law or in equity except ASU specifically waives the right to seek any damages from City characterized as special, incidental, indirect, consequential, punitive, or other similar types of damages.

Section 19. Surrender of Licensed Premises and Sale of Licensed Premises

19.01 Surrender of Licensed Premises; Normal Wear and Tear. Upon expiration of the Term, an ASU Default, or termination of this Agreement by ASU or City, ASU's right to occupy the Licensed Premises and exercise the privileges and rights granted under this Agreement shall cease, and ASU shall surrender the same and leave the Licensed Premises free of trash and debris, broom cleaned, and in good condition, except for normal wear and tear or as otherwise provided for in this Agreement. Should City so demand, within thirty (30) days after receiving written notice from City, ASU must commence the removal of all personal property from the Licensed Premises and must complete the removal of those personal items within sixty (60) days. All City FF&E, City Technology Equipment, trade fixtures, equipment, and other property at the Licensed Premises purchased by City, regardless of who installed the subject equipment and property, shall remain the property of City. All ASU FF&E, ASU Technology Equipment, trade fixtures, equipment, and other property at the Licensed Premises purchased by ASU, regardless of who installed the subject equipment and property, shall remain the property of ASU. Any personal items of ASU not removed

by ASU within sixty (60) days after the expiration or termination of this Agreement may, if City so chooses in its sole and absolute discretion, become a part of the Licensed Premises, and thereof shall vest in City.

19.02 Voluntary Surrender. ASU must, on the last day of the Term of this Agreement, or upon any termination of this Agreement, truly surrender and deliver the Licensed Premises along with any fixtures and Improvements not owned by ASU, whether temporary or permanent, then located at the Licensed Premises, into the possession and use of City, without fraud or delay and in good order, condition and repair, free and clear of all liens and encumbrances other than those existing on the Effective Date of, if any, without any payment or allowance whatsoever by City.

19.03 Sale of the Licensed Premises. If there is a sale or other conveyance by City of its interest in the Licensed Premises, City will provide ASU prior notice of the effective date of the sale/conveyance and this Agreement will automatically terminate upon such date, with ASU no longer having any right to use the Licensed Premises following the termination date.

Section 20. Continued Use and Holding Over

20.01 Holdover. It is agreed that the date of termination of this Agreement and the right of City to recover immediate possession of the Licensed Premises upon the termination of this Agreement is an important and material matter affecting the Parties and the rights of third-parties, all of which have been specifically considered by City and ASU. In the event of any continued use or occupancy of the Licensed Premises by ASU, whether in whole or in part, without an amendment to this Agreement signed by the Parties extending the Term, or ASU failing to surrender the Licensed Premises as required by this Agreement, then such continued use or holding over shall be considered on a month-to-month term and governed by the same conditions and covenants as contained in this Agreement.

20.02 No Waiver. Nothing in this Section 20 shall be deemed a waiver of any of City's rights under this Agreement nor shall it be considered City's authorization for an extension of the Term.

Section 21. General Provisions

21.01 Notices. All notices to be given by either Party to the other, shall be given in writing and shall be addressed to the Parties at the addresses hereinafter set forth or at such other address as the Parties may hereafter designate. Notices and payments to City, and notices to ASU shall be deemed properly served when sent by certified or registered mail or hand delivered to the addresses stated below. Any notice shall be deemed to have been received two (2) business days after the date of mailing, if given by certified mail, or upon actual receipt if personally delivered. Additionally, as a courtesy, the Parties may send copies of notices provided under this Section to the email addresses (if any) provided below; the email notices shall only be a courtesy and the failure to provide copies of any notice by email shall not affect the effectiveness of the notice.

To ASU:

Arizona State University
Attn: Senior Vice President and University Planner
Delivery Address:
300 East University Drive, Ste. 410
Tempe, AZ 85281-2061
Mailing Address:
PO Box 877705
Tempe, AZ 85287-7705

With a required copy to: Arizona State University
Attn: Vice President for University Real Estate Development
Delivery Address:
777 S. Novus Place, Suite 110
Tempe, AZ 85281-0958
Mailing Address:
PO Box 873908
Tempe, AZ 85287-3908
Courtesy Email: ured@asu.edu

With a required copy to: Arizona State University
Attn: Senior Vice President and General Counsel
Delivery Address:
300 East University Drive, Ste. 335
Tempe, AZ 85281-2061
Mailing Address:
PO Box 877405
Tempe, AZ 85287-7405
Courtesy Email: ogcmail@asu.edu

To City: The City of Mesa
Attn: City Manager
20 East Main Street
P.O. Box 1466 (USPS mail only)
Mesa, Arizona 85211
Courtesy Email: jeff.mcvay@mesaaz.gov

With a required copy to: The City of Mesa
Attn: City Attorney
20 East Main Street
P.O. Box 1466 (USPS mail only)
Mesa, Arizona 85211
Courtesy Email:

21.02 Amendments. This Agreement sets forth all the agreements and understandings of the Parties and is not subject to modification except in writing, signed by the Parties.

21.03 Successors; Joint Liability. The covenants herein contained will, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators, and assigns of all the Parties hereto; and all of the Parties hereto will be jointly and severally liable hereunder.

21.04 Time of the Essence. Time is of the essence with respect to the obligations to be performed under this Agreement.

21.05 Independent Legal Relationship. Nothing contained in this Agreement shall create any partnership, joint venture, or other arrangement between City and ASU. Except as expressly provided herein, no term or provision of this Agreement is intended to or shall be for the benefit of any person not a Party hereto, and no such other person shall have any right or cause of action hereunder.

21.06 Governing Law. Any dispute with respect to this Agreement and the rights and duties created by this Agreement will be governed by the laws of the State of Arizona and litigated in a court of competent

jurisdiction in Maricopa County, Arizona. Pursuant to A.R.S. § 12-1518, the Parties agree to make use of arbitration in all disputes which are subject to mandatory arbitration pursuant to A.R.S. § 12-133. The Parties will not raise, and hereby waive, any defenses based on venue, inconvenience of forum, or lack of personal jurisdiction in any action or suit brought in accordance with this Agreement. The Parties acknowledge that they have read and understand this clause and agree voluntarily to its terms.

21.07 Termination under A.R.S. § 38-511. This Agreement is subject to termination under A.R.S. § 38-511.

21.08 Binding Agreement. This Agreement shall be considered the only agreement between the Parties hereto pertaining to the Licensed Premises. It is understood that there are no oral agreements between the Parties affecting this Agreement, and this Agreement supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements, and understandings, if any, between the Parties with respect to the subject matter hereof, and none shall be used to interpret or construe this Agreement; provided, however, that nothing in this Agreement shall be deemed to supersede, modify, amend, or cancel the IGA or Lease.

21.09 Survivability. All warranties, representations, and duties to Indemnify shall survive the termination, cancellation, or expiration of this Agreement. Additionally, all obligations to restore the Licensed Premises shall survive the termination or expiration of this Agreement, as well as any other Section or Subsection which reasonably should survive shall survive.

21.10 E-Verify Requirement. To the extent A.R.S. §§ 41-4401 and 23-214 are applicable, ASU represents and warrants compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements of A.R.S. § 23-214(A). A breach of ASU's warranty under this Subsection 21.10 will be deemed a breach of this Agreement and may result in the termination of this Agreement by City; however, ASU will not be deemed to have materially breached this warranty if it establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. § 23-214(A). Pursuant to A.R.S. §§ 41-4401 and 23-214, City retains the legal right to randomly inspect the papers and records of any employee who works under this Agreement or on the Licensed Premises to ensure compliance with the above-mentioned laws.

21.11 Non-Discrimination. ASU, for itself, its officers, agents, employees, and assigns, as a part of the consideration hereof, does hereby covenant and agree that ASU will not discriminate against any person on the grounds of race, color, national origin, age, disability, religion, sex, sexual orientation, gender identity and expression, veterans' status, marital status, or genetic information (A) in the use of the Licensed Premises, or (B) in the construction of any Improvements on, over, or under the Licensed Premises and the furnishing of services thereon.

21.12 Litigation. ASU must notify City within ten (10) days after ASU receives notice of the commencement of any action, suit, proceeding, or arbitration against ASU, or any material development in any action, suit, proceeding, or arbitration pending against ASU if ASU has reason to believe such action, suit, proceeding, or arbitration would materially and adversely affect the Licensed Premises, the validity of this Agreement, or the performance of ASU's obligations under this Agreement.

21.13 Governmental Capacity. Any approvals ASU is required to obtain from City under this Agreement are in addition to and separate from approvals ASU must obtain from the City of Mesa in its governmental capacity, including applicable approvals required under the City of Mesa Building Code or Zoning Ordinance. Notwithstanding anything in this Agreement to the contrary, this Agreement does not affect the City of Mesa in its governmental capacity.

21.14 No Personal Liability of Officials of City or ASU. None of the covenants, stipulations, promises, agreements, or obligations of City or ASU contained herein shall be deemed to be covenants, stipulations, promises, agreements, or obligations of any official, officer, agent, or employee of City or ASU in his or her individual capacity, and no recourse shall be had for the payment for any Claims based thereon or any Claim hereunder against any official, officer, agent or employee of City or ASU.

21.15 Severability. If any provision of this Agreement is declared void or unenforceable (or is construed as requiring City to do any act in violation of any applicable law, including any constitutional provision, law, regulation, City Code, or City Charter), such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits to the Parties as if such severance and reformation were not required. Unless prohibited by any applicable law, the Parties further shall perform all acts and execute, acknowledge and/or deliver all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

21.16 Non-Waiver of Rights. No waiver or default by either Party of any of the terms, conditions, covenants, or agreements hereof to be performed, kept, or observed by the other Party shall be construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions, or agreements herein contained to be performed, kept, or observed by the other Party, and the waiving or defaulting Party shall not be restricted from later enforcing any of the terms and conditions of this Agreement.

21.17 Drug Free Workplace. ASU shall require a drug free workplace for all employees working at the Licensed Premises. Specifically, all ASU employees who are working at the Licensed Premises or under this Agreement shall be notified in writing by ASU that they are prohibited from the manufacture, distribution, dispensation, possession, or unlawful use of a controlled substance in the workplace. ASU agrees to prohibit the use of intoxicating substances by all employees at the Licensed Premises and shall ensure that employees do not use or possess illegal drugs while in the course of performing their duties on the Licensed Premises.

21.18 Failure of Legislature to Appropriate. Notice is given of A.R.S. § 35-154.

21.19 Incorporation of Recitals and Exhibits. The recitals and Exhibits set forth herein are acknowledged by the Parties to be true and correct and are incorporated herein by this reference.

21.20 Construction. Unless otherwise specified in this Agreement, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings. In this Agreement, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The use of the term “shall” in this Agreement means a mandatory act or obligation. The term “including” means including without limiting the generality of any description that precedes such term, and will be deemed to be followed by the phrase “but not limited to” or words of similar import. The Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party who prepared or whose attorney prepared the executed Agreement or any earlier draft of the same.

21.21 Counterparts. This Agreement and any addendum may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from the counterparts and the signature

pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document. The Parties agree that they may reflect and confirm their agreement to be bound hereby, and their execution and delivery of this Agreement, by transmitting a signed copy of the signature page hereof, by facsimile, email, or document transmission (such as DocuSign or Adobe Sign), to the other Party hereto.

[Signatures on the following page]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date noted beneath their respective signatures.

CITY:

The City of Mesa, Arizona,
an Arizona municipal corporation

By: _____
Christopher J. Brady
City Manager

Date Signed: _____

ASU:

Arizona Board of Regents, a body corporate,
for and on behalf of Arizona State University

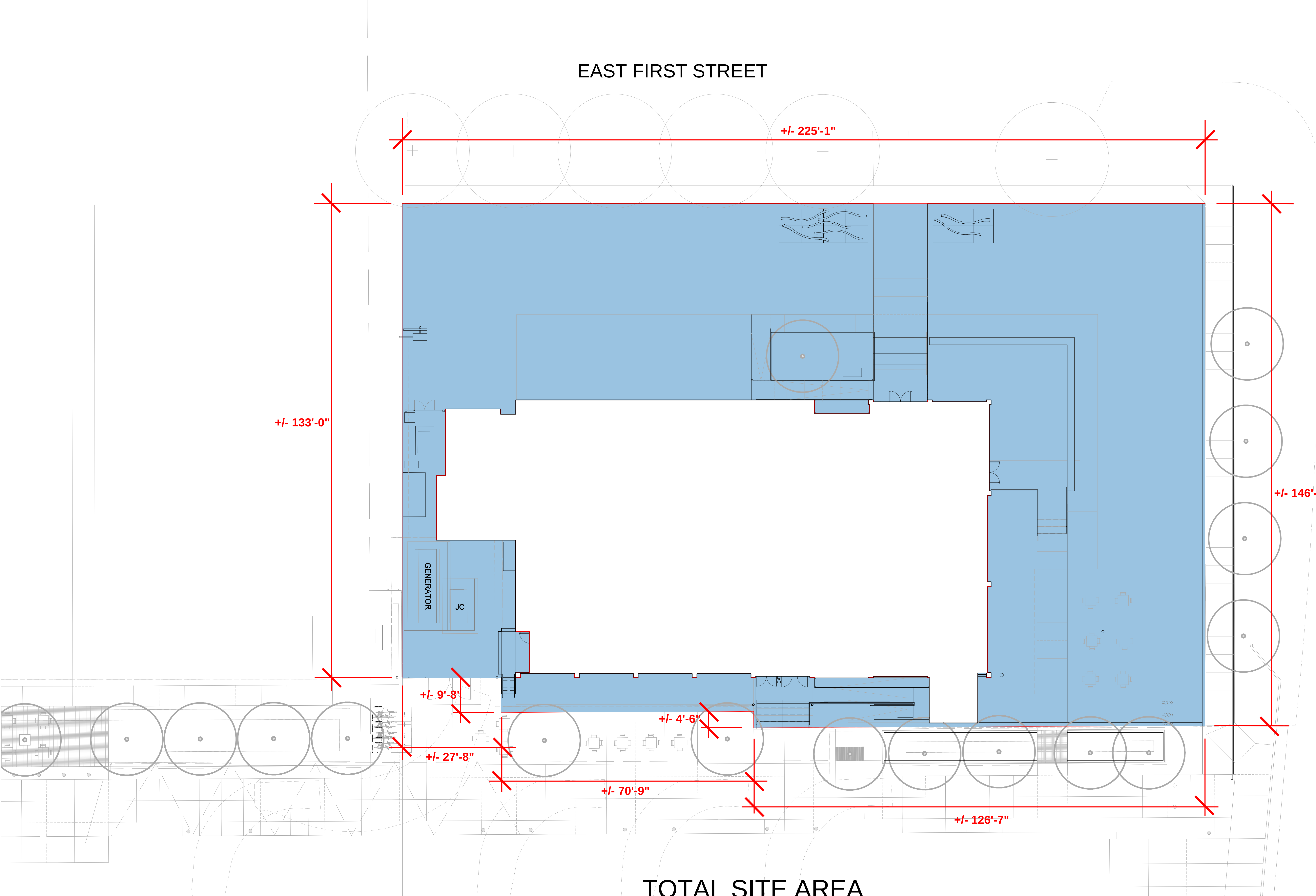
By: _____
Name: _____
Its: _____

Date Signed: _____

Exhibit A
Depiction of Land

EXHIBIT A - DEPICTION OF LAND

 SITE AREA



TOTAL SITE AREA
32,370 sf

NORTH CENTENNIAL

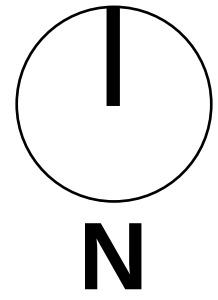
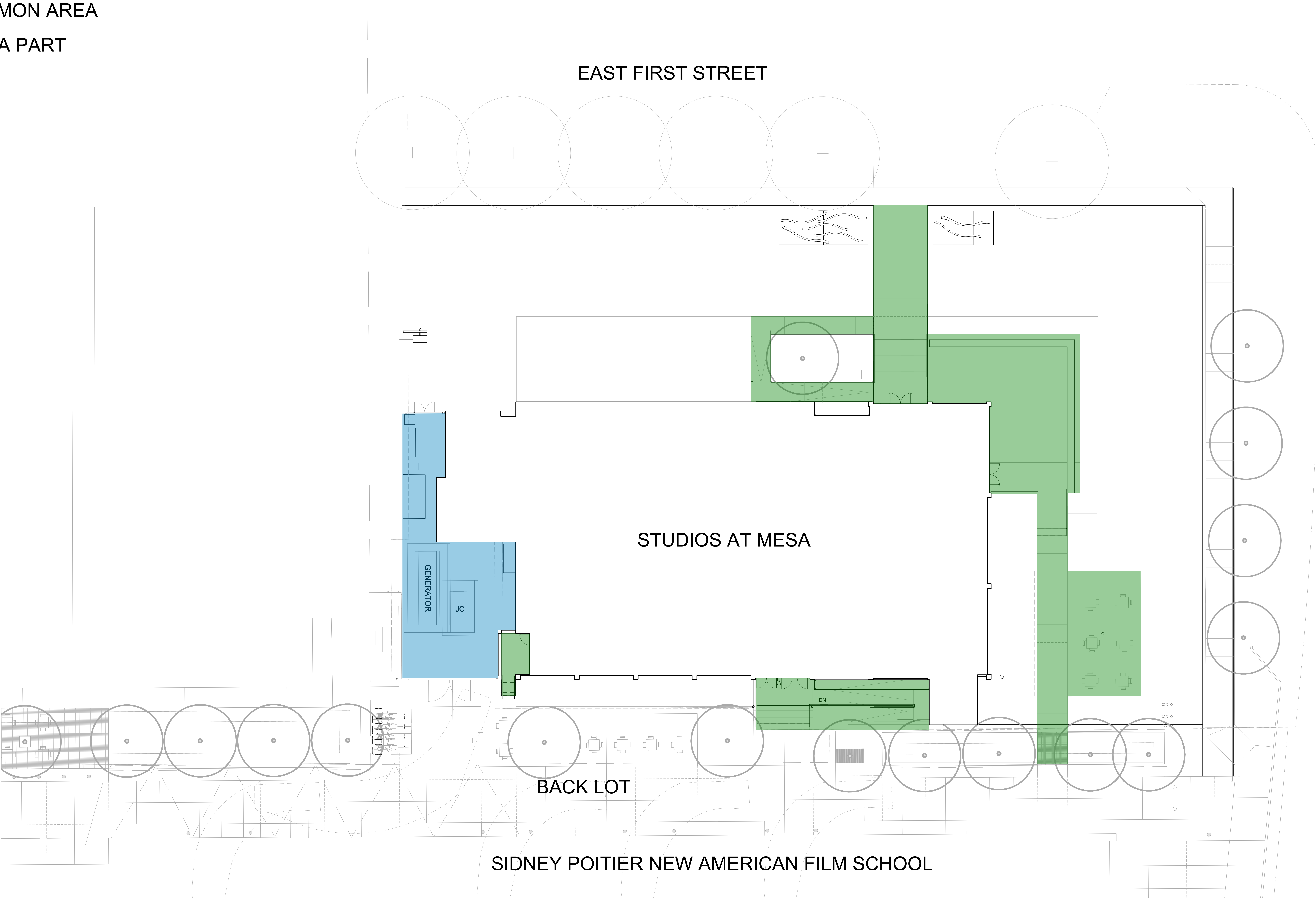


Exhibit B

Depiction of Licensed Premises

EXHIBIT B - DEPICTION OF LICENSED PREMISES - EXTERIOR

- PROGRAM USE AREA
- COMMON AREA
- NOT A PART



NORTH CENTENNIAL

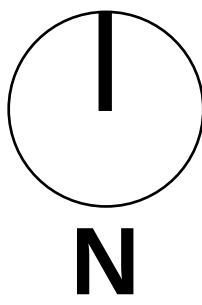


EXHIBIT B - DEPICTION OF LICENSED PREMISES - 1ST FLOOR

- PROGRAM USE AREA
- COMMON AREA
- NOT A PART

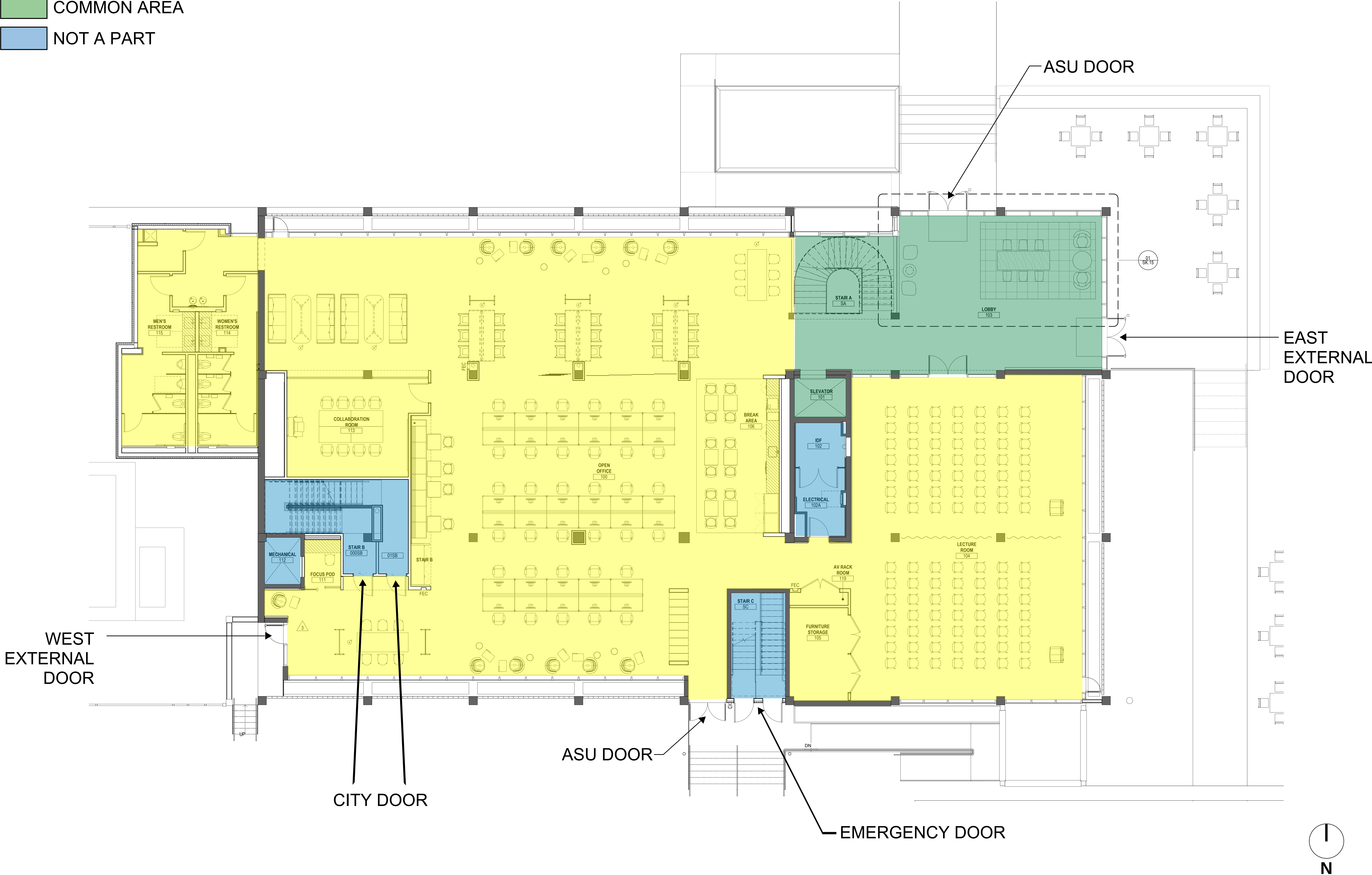


EXHIBIT B - DEPICTION OF LICENSED PREMISES - BASEMENT

- PROGRAM USE AREA
- COMMON AREA
- NOT A PART

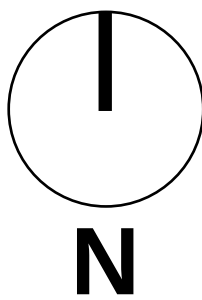
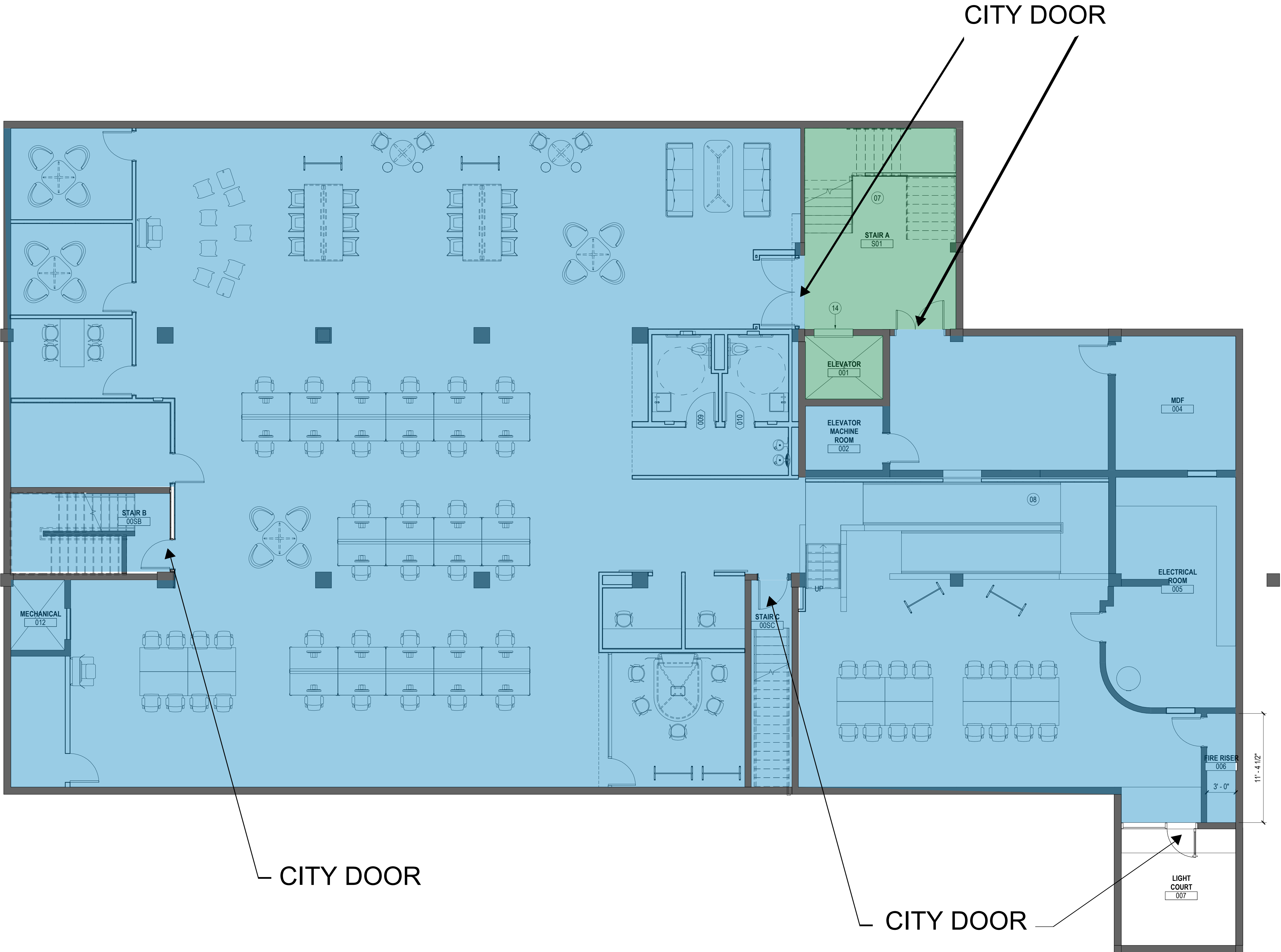


EXHIBIT B - DEPICTION OF LICENSED PREMISES - 2ND FLOOR

- PROGRAM USE AREA
- COMMON AREA
- NOT A PART

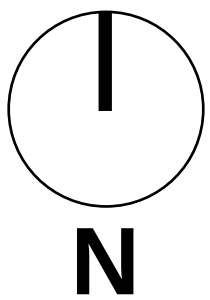
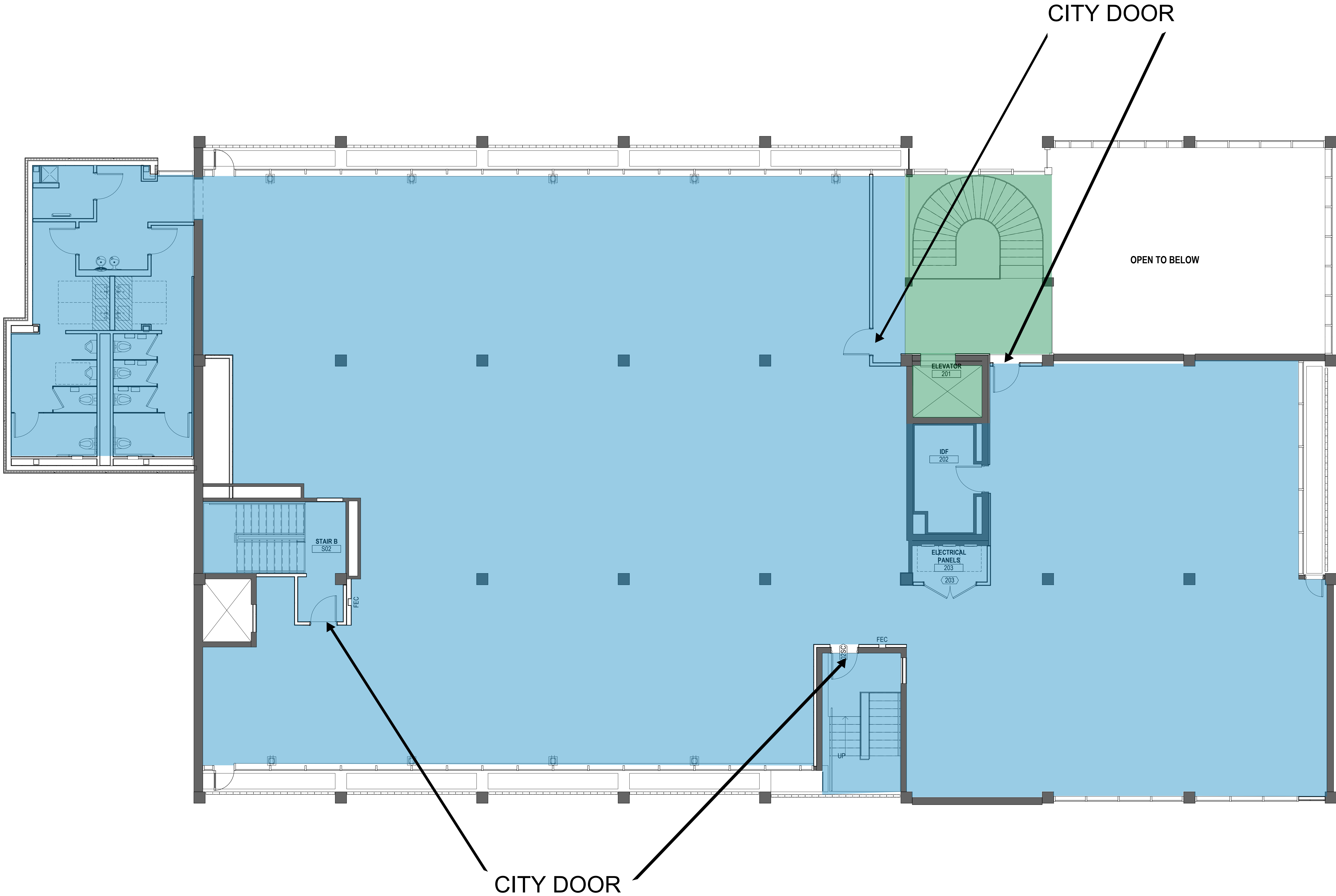


Exhibit C
FF&E and Technology Equipment

A-O1 – Mobile Whiteboard



Arcadia, Flirt

- Material options include whiteboard surface, laminate, upholstered with tackable surface in any combination
- Available in 39", 48" or 71" tall
- Die-cast aluminum legs available in standard and premium finishes and feature four locking casters
 - Polished Aluminum Leg
 - Black Frame
 - Whiteboard One Side
 - Upholstered One Side
 - Kvadrat Melange 0191

CITY OF MESA

A-02, Mobile AV Display



Herman Miller, AV/VC One

- Easy-to-use audio and visual support unit
- High-capacity media storage capability and an optional front shelf
- Mobile

QUANTITY (1)

A-03, Lectern



Surfaceworks, Dewey Lectern & Buddy

- Human centered top design
- Pneumatic lift
- Standard casters
- 20" d x 27" l x 27"- 43" h
- Black frame, folkstone melamine, urethane edge in black bear

CITY OF MESA

A-05, Power Hub



OFS, Vesta

- Power station or battery operated
- 1 15 amp outlet
- 2 2.1 amp USB charging ports
- 1 18 watt USB-C charging port
- Available in black, fog, storm, or white
 - Black Finish

C-01, Lobby Meeting Chair



Vitra, Standard

- Seat and backrest of this understated, iconic chair are available in various types of wood and metal frame that comes in different colors

- Walnut Seat and Back
- Black Legs

C-02, Collaboration Chair

Exhibit C, Page 6 of 39



HAY, Dorso Swivel

- Inspired by the shifting curves of a human torso in motion, it is a functional yet relaxing chair
- Sleek, space-savvy modern swivel chair
- Rotates a full 360 degrees
- Rounded form for enveloping comfort
- Variety of upholstery available
- Solid oak, steel, or chrome legs
- Steel and plywood frame
 - Mode Jetty Fabric
 - Black Legs

C-04, Task Chair



Herman Miller, Verus

- Efficient design offers ergonomic support that's affordable
- Built-in sacral reinforcement keeps the spine properly aligned
- TriFlex back offers ergonomic performance with more durability: engineered flex patterning made from easy-to-clean polymer to form, ventilate, and move with body for strong, comfortable fit
- +no additional support
+polished aluminum base/ black frame
+dark carbon
+2 1/2" hard caster, black yoke, carpet only
+dex-Pr Cat 1
+dex charcoal

CITY OF MESA

C-05, Stool

Vitra, Cork Family



Exhibit C, Page 8 of 39

QUANTITY (8)



CITY OF MESA

C-o6a, Stacking Chair, armless

VIA Seating, Eclipse



- Continuous curved line
- Available with arms or armless
- Chair shell offer in 7 poly colors
- Variety of frames available
- Stacks 15 high on cart
 - Chrome Legs
 - 50% Black Seat
 - 25% Dark Mint
 - 25% Cherry Red

CITY OF MESA

C-o6b, Stacking Chair, upholstered seat and armrest

VIA Seating, Eclipse



- Continuous curved line
- Available with arms or armless
- Chair shell offer in 7 poly colors
- Variety of frames available
- Stacks 15 high on cart
 - Chrome Legs
 - COM – HBF Quill 1011-90 Porcupine
 - Grey Armpads

CITY OF MESA

C-07, Stool

Exhibit C, Page 11 of 39



HAY, About A Stool

- Gently curved seat, balanced on slender legs, creating a simple yet strong visual presence
 - Polypropylene shell with upholstered seat
 - Sled steel bent tube base with plastic glides
 - Variety of poly colors available
-
- Silver/Chrome Legs
 - Black Seat/Back

CITY OF MESA

C-07a, Chair,



HAY, About A Chair

- Clean, curved lines, and slim symmetrical legs
- Polypropylene shell with upholstered seat
- 4 leg steel tube base
- Variety of poly colors available
- Stackable
- Silver/Chrome Legs
- Black Seat/Back

QUANTITY (6)

C-o8, Molded Shell Conference Chair



Herman Miller, Eames Molded Plastic

- Timeless design of molded shell shape providing comfort, aesthetic, and durability
- 100% recyclable polypropylene shell
- Variety of poly shell colors available
- Wire Eiffel base
 - Chrome Legs
 - Black Shell

CITY OF MESA

C-10, Lobby Chair



Herman Miller, Swoop

- Swoop's modular seating is casual, comfortable, and modular
 - Accommodates a variety of postures and positions
 - Plywood back available in a variety of finishes
 - Variety of upholstery options
-
- Chrome Legs
 - Walnut Shell
 - Sync Dark Carbon Seat

CITY OF MESA

C-12a, High Back, Lounge Chair, Lobby



National, Idara

- Sweeping curves designed to embrace comfort and draw attention
- Mid and high back options
- Variety of base finishes
 - Portabello Base
 - Knoll Mélange Henna K18824

C-14, Stacking Rocking Chair

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Vitra, Tip Ton

- An all plastic chair with a distinctive contemporary design
- Alternative forward-tilt position, it also provides ergonomic seating
- Is 100% recyclable
- Stacking capabilities
- White Finish

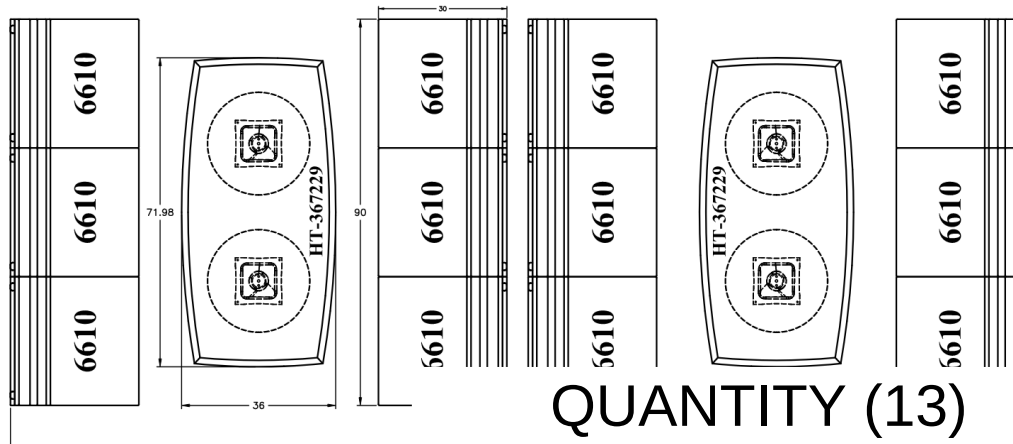
S-o1, High Back, Collaborative Sofa

Exhibit C, Page 17 of 39



Arcadia, ISO with Fabric Screen

- Added screen to privacy or division of space and help reduce noise
- Variety of modular seating options and combinations
- Variety of metal platform bases available
- Elevated from ground for easy cleaning
- Various under-seat mount power units available for staying charged and connected
- Upholstered frame wraps behind back and below the seat continuously
- *Side screens not represented in photo, but included in quote
- Chrome/Silver Base
- No Side Screens
- Back Panel: Maharam Prime Popsicle 466436-014
- Seat and Seat Back: Maharam Prime Tulip 466436-013



S-02, Banquette

Exhibit C, Page 18 of 39



240							
30							
6620		6620		6620		6620	

Arcadia, ISO with Fabric Screen

- Added screen to privacy or division of space and help reduce noise
 - Variety of modular seating options and combinations
 - Variety of metal platform bases available
 - Elevated from ground for easy cleaning
 - Various under-seat mount power units available for staying charged and connected
 - Upholstered frame wraps behind back and below the seat continuously
 - *Side screens not represented in photo, but included in quote
- Chrome/Silver Base
 - No Side Screens
 - Seat and Seat Back: Maharam Prime Marble 466436-003

QUANTITY (3)

T-01, Lobby Meeting Table

Vitra, EM Table

- Aesthetic appearance adheres to structural principles, illustrating the flow of forces and stresses in its construction
- Wide selection of finishes and sizes available
- Walnut Top
- Black Leg



Exhibit C, Page 19 of 39

T-02b, Collaboration Table



Herman Miller, Headway

- Set things in motion with Headway communal tables designed for seamless technology to connect, collaborate, and move ideas forward
 - Variety of finishes, shapes, sizes, and configurations available allowing it to fit into any aesthetic
 - 42" d x 96" w standing height
 - Includes power modules
 - Easily accommodates technology
 - Hides technology components, routes wires, and tucks away outlets
- Folkstone Grey
 - Graphite Logic Mini

T-02c, Collaboration Table



Herman Miller, Headway

- Set things in motion with Headway communal tables designed for seamless technology to connect, collaborate, and move ideas forward
- Variety of finishes, shapes, sizes, and configurations available allowing it to fit into any aesthetic
- 42" d x 96" w seated height
- Includes power modules
- Easily accommodates technology
- Hides technology components, routes wires, and tucks away outlets
 - Folkstone Grey
 - Graphite Logic Mini

T-03, Flip Top Table with casters



Herman Miller, Everywhere

- Versatile enough to be used anywhere
 - Supports a range of activities
 - Quick setup with modular and mobile tables
 - Nesting and flip top tables
-
- Folkstone Grey Laminate Top
 - Chrome/Silver Legs

CITY OF MESA

T-04, Rectangle Café Table



Naughtone, Ali Dining Table

- Perfectly supports and abundance of environments
- Die cast aluminum base in a variety of powder coated finishes
- Square or circular surface in a variety of finishes
- Laminate surface

- Black Top
- Black Base

CITY OF MESA

T-o4b, Round Café Table

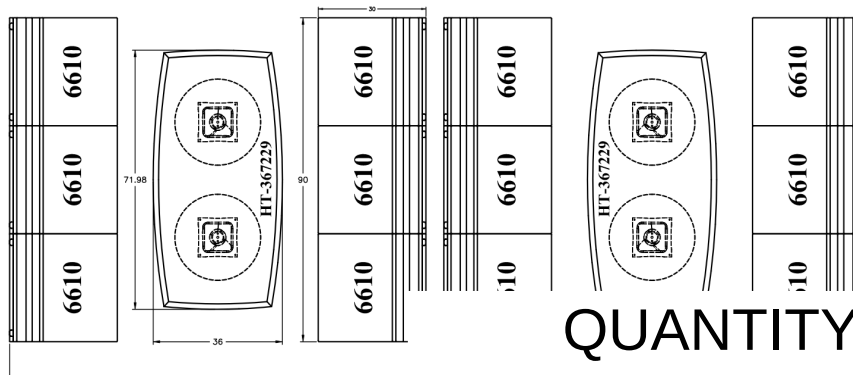


Naughtone, Ali Dining Table

- Perfectly supports and abundance of environments
- Die cast aluminum base in a variety of powder coated finishes
- Square or circular surface in a variety of finishes
- Laminate surface

- Black Top
- Black Base

T-07, Sofa Work Table



QUANTITY (2)

Arcadia, Hush Table

- Refined shapes and understated simplicity of the Hush makes them relevant to any setting
- Available in round, convex square, and convex rectangle top shapes
- Custom heights available
- Variety of standard and custom wood and laminate finishes available
- Bases feature adjustable black glides
- Metal base available in standard and premium finish selections

- Folkstone Grey Top
- Silver/Chrome Base

T-o8, Round Side Table



Herman Miller, Swoop Table

- Swoop tables are freestanding
 - Variety of finishes available including writable laminate surface
 - 16"dia x 25.5"h
-
- White Writeable Laminate Top
 - Walnut Edge Band
 - Silver/Chrome Base/Legs

T-11, Collaboration Table



Herman Miller, Eames Conference

- Graceful and versatile, it offers a variety of sizes, top shapes, materials, and base options
- Optional power
- 36" d x 96" w
- Dark Walnut Laminate Top
- Metallic Silver Columns
- Polished Aluminum Base
- Black Grommet

CITY OF MESA

T-12, Coffee Table



National, Wixler

- Wixler collection of occasional tables offers elegance and modern style
- Variety of sizes, shapes, and top surfaces available
 - 36" dia x 16"h
 - Portabello Finish

CITY OF MESA

T-14, Laptop Table



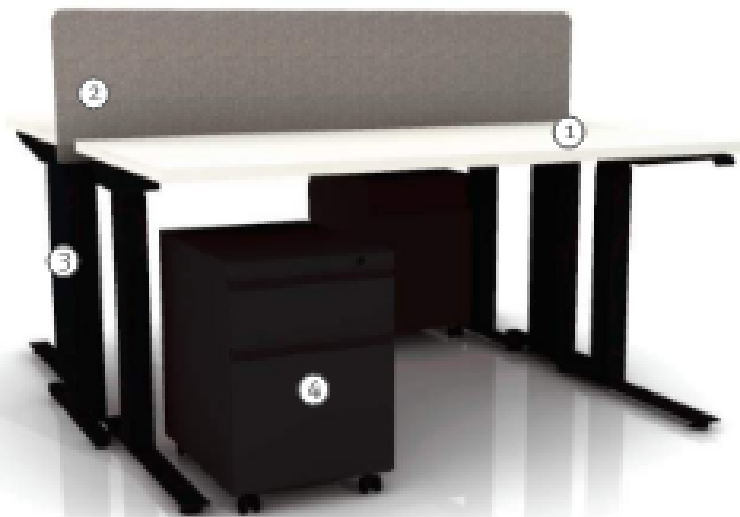
Hightower, Kona

- Kona Laptop Table combines natural and industrial elements that you can easily move
 - Variety of tops and base choices
 - Available in many unique powder coat and finish options
-
- Folkstone Grey Top
 - Black Powdercoat Base

CITY OF MESA

WS-o1, Workstations

Exhibit C, Page 30 of 39



Herman Miller, Canvas Vista

- ① Height adjustable work surface
- ② Tackable space division
- ③ Spline built to support power and data
- ④ Mobile box file

Adding 1" cushion to peds and researching keyless lock options and adding a divider panel.

- Folkstone Grey Laminate Top/Edge
- Black Legs
- Black Storage, KD
- Twist Carbon Dark Screens
- Twist Carbon Dark Cushion Top



- Personal Side Scree
- Twist Carbon Dark

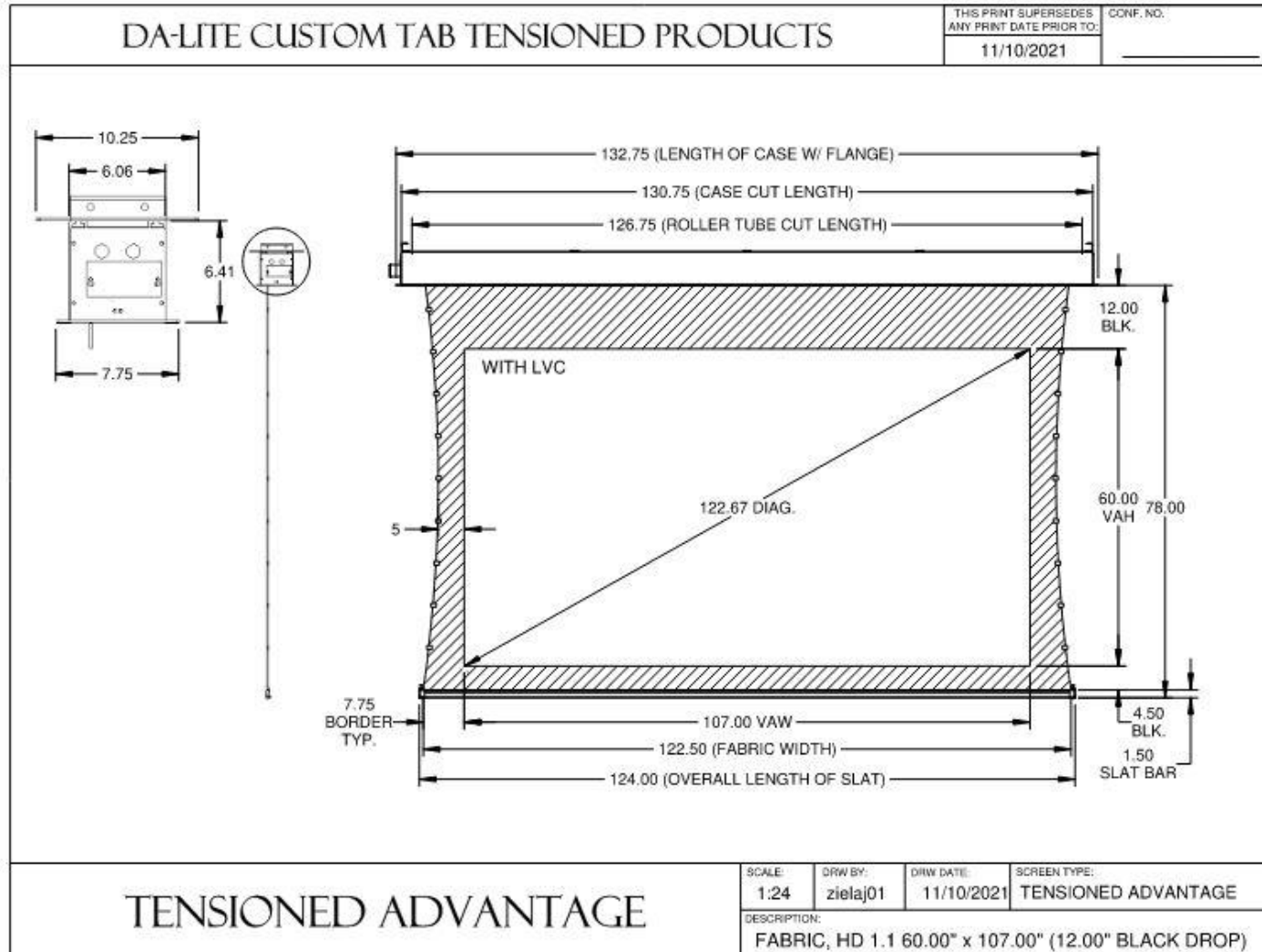
QUANTITY (34)



CITY OF MESA

Projection Screens

Exhibit C, Page 31 of 39



QUANTITY (2)

Refrigerator




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COLOR

Fingerprint Resistant Stainless Steel


MSRP: \$1,999.00

QUANTITY (2)

Microwave



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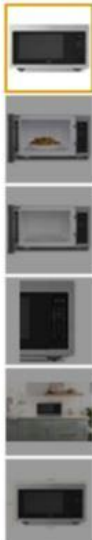
Whirlpool Brand U.S.A. > Kitchen Appliances > Cooking Appliances With Advanced Technology > Microwaves > Countertop Microwaves > WMC30516HZ

1.6 cu. ft. Countertop Microwave with 1,200-Watt Cooking Power

Model: WMC30516HZ ★★★★★ 3.6 (1060) [Write a review](#)

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- Microwave Built-In Trim Kit (Optional)

Color

Fingerprint Resistant Stainless Steel



Sale: \$260.00

MSRP: \$340.00 Save \$89.00 (25%)

QUANTITY (2)

CITY OF MESA

Dishwasher

Exhibit C, Page 34 of 39

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REVIEWS ★★★★★ 4.0 (2)

SERIES 9 ⓘ CONTEMPORARY

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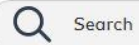
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QUANTITY (1)

CITY OF MESA

Coffee maker (OR SIMILAR)

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COMMERCIAL



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QUANTITY (1)

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FOLLETT

FOODSERVICE ▼

HEALTHCARE ▼

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Product Type

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15 Series Countertop 125 lb dispensers

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QUANTITY (1)

Projector

Panasonic PT-MZ770U 8000-Lumen WUXGA 3LCD Laser Projector (White, with 1.6 to 2.8:1 Lens)

BH #PAPTMZ770U • MFR #PT-MZ770U | ★★★★★ 2 reviews | 2 Questions, 2 Answers



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Key Features

- Brightness of 8000 Lumens
- WUXGA (1920 x 1200) Native Resolution

QUANTITY (2)

Computer tower

Exhibit C, Page 38 of 39

The screenshot displays the Dell Technologies website interface. At the top, the Dell logo is on the left, and navigation links for 'Contact Us', 'Cart', 'Sign In', and 'US/EN' are on the right. A search bar is positioned below the logo. A horizontal menu contains links for 'APEX', 'Products', 'Solutions', 'Services', 'Support', 'Deals', 'Financing', and 'About Us'. A promotional banner below the menu states 'TOP SELLERS Save up to 40% on PCs. View the Deals | Call 1-855-882-0505 or Click to Chat'. The breadcrumb trail reads: 'United States > For Business > Desktops & All-in-One PCs > Precision Fixed Workstations > Precision 3640 Tower Workstation'. On the right, there are links for 'Get to know Windows 10 Pro', 'Intel® Core™ Processors Compare', and three 'Intel CORE' processor icons. The main heading is 'Precision 3640 Tower Workstation'. Below it, a dropdown menu shows 'Also Available: Current Model (Not Available)'. A yellow alert box contains an information icon and the text: 'Product Unavailable We're sorry that this product isn't currently available. However, we've got great options in stock to meet your needs today.' Below the alert is a blue button labeled 'Shop All Business Products'. The product image shows a black tower workstation with a 'View 360°' button overlaid. Below the image is a '360°' icon and a play button icon. A descriptive paragraph states: 'Small but mighty VR-ready creation Harness the power of workstation performance, VR content creation and reliability in an affordable, scalable mini tower.'

QUANTITY (20)

Computer monitor



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