

The University BOARD OF REGENTS
BRIEFING PAPER

1. AGENDA ITEM TITLE: University of Nevada, Reno- Third Amendment to Lease Agreement with Nevada Center for Biomedical Research

MEETING DATE: September 6 & 7, 2018

2. BACKGROUND & POLICY CONTEXT OF ISSUE:

The University of Nevada, Reno and the Nevada Center for Biomedical Research (NVCBR), formerly known as the Whittemore Petersen Institute for Neuro-Immune Disease, seek to enter into a Third Amendment to the Lease Agreement between the Board of Regents of the Nevada System of Higher Education on behalf of the University of Nevada, Reno and the Nevada Center for Biomedical Research. (Exhibit 1). NVCBR and the University entered into a Lease Agreement governing certain space in the Center for Molecular Medicine (CMM) on the University of Nevada, Reno campus in December 2010. (Exhibit A to Exhibit 1). The lease was amended in 2011 and 2013 (Exhibits B and C to Exhibit 1). The space is also subject to a space use agreement for certain space on the second floor of CMM (Exhibit D to Exhibit 1, "Space Use Agreement"). UNR, the University of Nevada, Reno School of Medicine (UNR Med) and NVCBR have agreed to amend the relationship between the parties which requires an additional amendment to the lease (Exhibit E to Exhibit 1, "Agreement to Amend Lease and Allocate Funds"). Under the Agreement to Amend Lease and Allocate Funds, UNR Med will take primary responsibility for research into chronic fatigue syndrome and related conditions while NVCBR will maintain space for education, advocacy and clinical research. With this change, UNR Med will require certain space currently occupied by NVCBR and NVCBR has reduced needs for space in CMM. Because of these changes, NVCBR will forever relinquish and UNR Med will assume responsibility for certain space in CMM as described in the Third Amendment to Lease Agreement. (Exhibit 1).

General Terms of the proposed Third Amendment (Exhibit 1F):

- **Space:** NVCBR forever relinquishes any rights and claims to Rooms 211, 211A & 211B in the Center for Molecular Medicine on the University of Nevada Reno campus. Permitted activities of NVCBR in the space it will continue to occupy is amended consistent with the terms of (Agreement to Amend Lease and Allocate Funds, Exhibit E to Exhibit 1). UNR agrees to waive certain operating costs for the space that will be occupied by NVCBR for the period after June 30, 2019 through the end of the lease.
- **Term:** Remaining term of the lease (approximately 32 years)

University of Nevada, Reno General Counsel has reviewed and approved the lease agreement.

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

University of Nevada, Reno President Marc Johnson requests Board of Regents approval for amendment of the Lease between UNR and NVCBR for space in the Center for Molecular Medicine on the University of Nevada Reno campus.

4. IMPETUS (WHY NOW?):

Under the Agreement to Amend Lease and Allocate Funds (Exhibit E to Exhibit 1), UNR Med will take responsibility for primary research into chronic fatigue syndrome and related conditions while NVCBR will maintain space for education, advocacy and clinical research. The Third Amendment amends the existing lease agreement to reflect the needs of the amended relationship between the parties.

5. CHECK THE NSHE STRATEGIC PLAN GOAL THAT IS SUPPORTED BY THIS REQUEST:

- Access (Increase participation in post-secondary education)
- Success (Increase student success)
- Close the Achievement Gap (Close the achievement gap among underserved student populations)
- Workforce (Collaboratively address the challenges of the workforce and industry education needs of Nevada)
- Research (Co-develop solutions to the critical issues facing 21st century Nevada and raise the overall research profile)
- Not Applicable to NSHE Strategic Plan Goals

INDICATE HOW THE PROPOSAL SUPPORTS THE SPECIFIC STRATEGIC PLAN GOAL

The proposed lease amendment supports expansion of the UNR Med research program and research capabilities by arranging for additional research space inside of CMM. UNR Med plans to use this space to research chronic fatigue syndrome and related conditions.

6. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- UNR Med is seeking to expand its research program and research capabilities and believes that capitalizing on the opportunity to incorporate research into chronic fatigue syndrome and related conditions supports this goal.
- Space is needed for UNR Med research activities.
- Space in CMM will be returned to control of UNR subject to the terms of applicable agreements.

7. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

Waiver of operating costs after June 30, 2019 outweighs the benefits of UNR obtaining the space in the Center for Molecular Medicine on a permanent basis.

8. ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED:

Allow the status quo relationship between UNR, UNR Med and NVCBR without amendment of the lease.

9. RECOMMENDATION FROM THE CHANCELLOR'S OFFICE:

Approved as to form by James Martines.

10. COMPLIANCE WITH BOARD POLICY:

- Consistent With Current Board Policy: Title # 4 Chapter # 10 Section # 1.9
- Amends Current Board Policy: Title # _____ Chapter # _____ Section # _____
- Amends Current Procedures & Guidelines Manual: Chapter # _____ Section # _____
- Other: _____
- Fiscal Impact: Yes _____ No X
- Explain: _____

Exhibit 1

THIRD AMENDMENT

to

LEASE AGREEMENT

between

**THE BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION
on behalf of the UNIVERSITY OF NEVADA, RENO**

And

THE NEVADA CENTER FOR BIOMEDICAL RESEARCH

Formerly known as the Whittemore Peterson Institute for Neuro-Immune Disease

The Parties to this Third Amendment to Lease Agreement between the Board of Regents of the Nevada System of Higher Education on behalf of the University of Nevada, Reno and the Nevada Center for Biomedical Research, formerly known as the Whittemore Peterson Institute for Neuro-Immune Disease, (the "Third Amendment") are the Board of Regents of the Nevada System of Higher Education ("Landlord") on behalf of the University of Nevada, Reno ("University" or "UNR") and Nevada Center for Biomedical Research, a Nevada nonprofit corporation, formerly known as Whittemore Peterson Institute for Neuro-Immune Disease ("NVCBR" or "Tenant" and with Landlord, collectively, "the Parties").

1. Recitals.

1.1 Whereas Landlord and Tenant entered into a Lease Agreement ("Lease") (Exhibit A) on or about June 2008 for certain space in the Research Building and in the Medical Office Building ("MOB") in the Center for Molecular Medicine ("CMM") on the UNR Campus;

1.2 Whereas Landlord and Tenant entered into a First Amendment To Lease Agreement Between the Board of Regents of the Nevada System of Higher Education on behalf of the University of Nevada, Reno And Whittemore Peterson Institute for Neuro-Immune Disease ("First Amendment") (Exhibit B) on or about March 2011;

1.3 Whereas Landlord and Tenant entered into a Second Amendment To Lease Agreement Between the Board of Regents of the Nevada System of Higher Education on behalf of the University of Nevada, Reno And Whittemore Peterson Institute for Neuro-Immune Disease ("Second Amendment") (Exhibit C) on or about December 2013;

1.4 Whereas Landlord and Tenant entered into a Space Use Agreement (Exhibit D) related to the Lease on or about July 2018;

1.5 Whereas Landlord and Tenant entered into an Agreement to Amend Lease and Allocate Funds (the "Agreement to Amend and Allocate") (Exhibit E) related to the Lease on or about July 2018, by which the Parties agreed, among other things, that Tenant would release certain space as defined in Section 2.1 herein (the "Additional Released Space"); and

1.6 Whereas Landlord and Tenant now seek to reaffirm all terms and provisions of the Lease and to amend that Lease as stated herein.

Now, therefore, the Parties agree as follows:

2.0 Release of Space.

2.1 Tenant forever relinquishes and releases any rights, including the right of occupancy, and/or claims to the Additional Released Space, defined as

The space identified in blue with hash marks (the "Second Floor Space") on Exhibit F of the MOB Second Floor; Rooms 211, 211A, and 211B (the "Office Suite") of the MOB (as shown in blue with hash marks on Exhibit G), and the space identified in purple (the "Research Space") on Exhibit H, of the Third Floor of the Research Building of the CMM.

From the date of this Third Amendment, the Additional Released Space as defined above shall no longer be considered part of the "Premises" under the Lease.

2.2 The first sentence of Section 2.10 of the Lease is amended to read as follows:

Tenant shall use the Premises for patient care, clinical research, medical offices, educational purposes, and all uses incidental thereto.

3.0 The Premises.

3.1 The definition of Premises as used throughout the Lease is amended to exclude the Additional Released Space.

3.2 The total leased space, the Premises, will now consist of approximately 5,805_sf as described on Exhibit I hereto (all areas shaded in purple on Exhibit I) (the "Third Floor Space"). Any future renewal options and/or other terms of the Lease are hereby amended to only include the estimated 5,805sf described in Exhibit I as the Third Floor Space and Common Areas associated therewith.

4.0 Payment of Operating Costs.

4.1 Section 6.3 of the Lease is amended to add at the end of the section, the following language:

This notwithstanding, beginning July 1, 2018, Tenant is not and shall not be obligated to pay Operating Costs for the Second Floor Space as defined in the Third Amendment, the Office Suite as defined in the Third Amendment, or for the Research Space as defined in the Third Amendment; Tenant shall pay its Pro Rata Share of Operating Costs for the Third Floor Space, defined in Section 3.2 herein, through June 30, 2019, after which date Tenant shall not be obligated to pay any Operating Costs in connection with its occupancy of the Third Floor Space.

5.0 Permitted Use and Compliance.

5.1 Section 7.4 of the Lease is amended to add at the end of the section, the following language:

This notwithstanding, Tenant retains the right to signage in the MOB for the Third Floor Space and may make changes necessary to reflect changes it may make in its name. Landlord has the right to add signage identifying the presence of a clinical research center on the Second Floor Space.

5.2 Section 7 of the Lease is amended to add a new section 7.5 as follows:

7.5 Third Floor Space Conference Room.

Landlord shall have access to the conference room located in the Third Floor Space, subject to the scheduling approval of Tenant, which approval shall not be unreasonably conditioned, restricted or denied. Landlord shall pay a one-time usage fee of \$2,250.00 to Tenant for access to the conference room from July 1, 2018, through June 30, 2019, after which time the conference room may be utilized by Landlord at no cost, subject to the scheduling approval of Tenant as stated in this Section 7.5; in the event Landlord pays the usage fee prior to this Third Amendment being approved by the Board of Regents, no additional usage fee shall be paid.

6.0 Utilities.

6.1 Section 12.2 of the Lease is amended to add at the end of the section, the following language:

This notwithstanding, beginning July 1, 2018, Tenant is not and shall not be obligated to pay any utility costs for utilities provided by the Landlord for the Second Floor Space as defined in the Third Amendment, the Office Suite as defined in the Third Amendment, or for the Research Space as defined in the Third Amendment; Tenant shall pay utility costs for utilities provided by Landlord for the Third Floor Space as defined in the Third Amendment through June 30, 2019, after which date Tenant shall not be obligated to pay any utility costs for utilities provided by Landlord in connection with its occupancy of the Third Floor Space.

Landlord and Tenant reaffirm all terms and provisions of the Lease that are not inconsistent with this Third Amendment. Landlord and Tenant hereby terminate the Space Use Agreement, Exhibit D to this Third Amendment.

Recommended by:



July 31, 2018

Marc A. Johnson, President Date:
University of Nevada, Reno
Landlord:

BOARD OF REGENTS OF THE
NEVADA SYSTEM OF HIGHER EDUCATION
ON BEHALF OF THE
UNIVERSITY OF NEVADA, RENO

Thom Reilly, Chancellor Date:

Tenant:

NEVADA CENTER FOR BIOMEDICAL RESEARCH,
Formerly known as the Whittemore Peterson Institute for Neuro-Immune Disease



Annette Whittemore, President and CEO

Exhibit A

LEASE AGREEMENT

BETWEEN

THE BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION

ON BEHALF OF THE UNIVERSITY OF NEVADA, RENO

AND

WHITTEMORE PETERSON INSTITUTE FOR NEURO-IMMUNE DISEASE

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LEASE AGREEMENT

This Lease Agreement (“Lease”) is made as of the ___ day of _____, 2008, by and between the BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION (“Landlord”), on behalf of the University of Nevada, Reno (“University” or “UNR”), and WHITTEMORE PETERSON INSTITUTE FOR NEURO-IMMUNE DISEASE, a Nevada non-profit corporation (“WPI” or “Tenant”).

1. RECITALS.

1.1 Whereas, the University of Nevada School of Medicine (“UNSOM”) and Annette and Harvey Whittemore (collectively, the “Whittemores”), founders of WPI, recognize the need for a new research and patient care facility at the campus of the University (commonly known as, the “Center for Molecular Medicine”).

1.2 Whereas, the parties agree that a strong public-private collaboration to fund and operate the Center for Molecular Medicine will enhance the goals of and mission of the University.

1.3 Whereas, the parties jointly and successfully pursued funding and authorization from the State of Nevada during the 2005 and 2007 sessions of the Nevada Legislature for the Center for Molecular Medicine.

1.4 Whereas, the Whittemores, through The Whittemore Family Foundation (the “Whittemore Foundation”), have previously donated One Million Dollars (\$1,000,000) toward the construction costs of the WPI portion of the Center for Molecular Medicine, and the Whittemores have pledged to donate and/or raise another Four Million Seventy-Four Thousand One Hundred Thirty-Five Dollars (\$4,074,135.00), plus reasonable and customary loan fees and costs, including but not limited to origination fees, funding fees, document fees, and legal fees for the construction loan obtained by the University for the construction of the Whittemore Peterson Institute for Neuro-Immune Disease within the Center for Molecular Medicine on the University of Nevada, Reno campus (collectively, the “Fees”), in that Pledge Agreement dated May 12, 2008, attached hereto as Exhibit “A” (“Pledge Agreement”).

1.5 Whereas, the private funding and state appropriation to WPI for construction of the WPI portion of the Center for Molecular Medicine presently totals in excess of Nine Million Five Hundred Thousand Dollars (\$9,500,000).

1.6 Whereas, the necessary funding for construction of the Center for Molecular Medicine, comprised of two buildings and related common areas, on the campus of UNR (the “Campus”) is in place. Attached hereto as Exhibit “B” is a site plan reflecting the location of the buildings on the Campus. The two buildings and related common areas of the Center for Molecular Medicine are collectively referred to in this Lease as the “Project”. The two buildings are referred to herein as the “Research Building” and the “Medical Office Building” or jointly as the “Building”.

1.7 Whereas, the collaboration of UNSOM, UNR, and WPI is crucial to the success of the Project, and the parties desire to continue to work together to pursue new ways to fund and

enhance the continued successful operation of the Project. In furtherance of this goal, the parties have executed that certain Operating Agreement dated May 12, 2008, attached hereto as Exhibit "C" ("Operating Agreement").

1.8 Whereas, the Whittemore Foundation has already given One Hundred Thousand Dollars (\$100,000) to support the collaborative work between WPI and UNSOM faculty member Dr. William Murphy as part of a gift to UNSOM of a total of One Million Dollars (\$1,000,000), to be given in installments of One Hundred Thousand Dollars (\$100,000) per year for ten (10) years, and plans for an additional One Million Dollar (\$1,000,000) endowment for such work within the Whittemore Foundation at the end of the initial ten (10) year term;

1.9 Whereas, this Lease desires to reflect the unique contributions of the parties and the important nature of the continued partnership.

1.10 Whereas, Tenant desires to lease from Landlord a portion of the Project (the "Premises"), a portion of which shall be located in the Research Building and a portion of which shall be located in the Medical Office Building as further described herein.

1.11 Whereas, in recognition of Tenant's contribution to the Project, Landlord desires to lease to Tenant the Premises on the terms and conditions set forth herein and in the Exhibits referred to herein and attached to this Lease.

Now therefore, the parties agree as follows:

2. BASIC LEASE PROVISIONS.

2.1 **Medical Office Building.** Attached hereto as Exhibit "D" are copies of the currently proposed floor plans for the Medical Office Building, which shall be a multi-story office building consisting of approximately _____ gross square feet, a portion of which shall be used exclusively by Tenant for those purposes described in Section 2.10.

2.2 **Research Building.** Attached hereto as Exhibit "E" are copies of the currently proposed floor plans for the Research Building which, shall be a multi-story research facility and vivarium consisting of approximately _____ gross square feet, a portion of which shall be used exclusively by Tenant for those purposes described in Section 2.10.

2.3 **The Premises.** The Premises consist of approximately _____ square feet of office space in the Medical Office Building as outlined in [color] on Exhibit "D" and approximately _____ square feet of laboratory space in the Research Building as outlined in [color] on Exhibit "E".

2.4 **Term.** The initial term of this Lease shall be for a period of forty (40) years beginning on the Rent Commencement Date (as defined below); provided that if the Rent Commencement Date is not the first day of a calendar month, the Initial Term shall be for forty (40) years plus the period between the Rent Commencement Date and the first day of the next succeeding calendar month (as applicable, the "Initial Term").

2.5 Option to Extend. After expiration of the Initial Term, Tenant shall have four (4) options to extend the Lease (the "Option"), each such option to be for a period of ten (10) years; provided that if the Rent Commencement Date is not the first day of a calendar month, the Option Term shall be for ten (10) years plus the period between the Rent Commencement Date and the first day of the next succeeding calendar month (as applicable, the "Option Term"). For convenience, the "Initial Term" and "Option Term" are at times collectively referred to herein as, the "Term".

The Options to extend the Lease shall be exercised, if at all, pursuant to the following provisions:

1. Written notice of exercise duly executed on behalf of Tenant shall be given to Landlord by Tenant at least one hundred (180) days prior to the expiration of the Lease Term (determined without regard to such Option to extend). Such written notice shall be effective only if it is timely given and includes statements as follows:

a. Tenant hereby exercises its option to extend that certain Lease between BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION, on behalf of the University of Nevada, Reno ("Landlord"), and WHITTEMORE PETERSON INSTITUTE FOR NEURO-IMMUNE DISEASE, a Nevada non-profit corporation ("WPI" or "Tenant") dated as of [insert date of Lease].

b. By giving this notice of exercise and upon acceptance by Landlord, Tenant agrees that the Lease is extended for the period of ten (10) years and the terms and conditions of the Lease shall continue to have full force and effect through the Lease Term as extended hereby, without any further action on the part of Tenant.

2. If Tenant shall give notice of exercise prior to determination of the Option Rent, Tenant may, by written notice to Landlord within thirty (30) days after determination of such Option Rent, elect to void its exercise of the Option.

3. Tenant agrees that no Option to extend may be exercised while there exists a Tenant Event of Default. An uncured Tenant Event of Default shall be deemed to exist during any period of time following an event listed in Section 22.1 until the Event of Default specified therein has been fully cured. Any attempt to exercise an Option to extend or any notice of exercise sent while any uncured Event of Default exists shall be deemed a nullity and no Option shall be deemed exercised until notice as herein provided has been given after fully curing any such Tenant Event of Default. The period for the giving shall not be extended as a result of any inability to give valid notice pursuant to the provisions hereof.

4. If there shall have occurred three (3) or more Events of Default (determined without regard to any applicable cure period) during the any five (5) consecutive Lease Years of the Initial Term or during any Option Term, even though Tenant shall fully cure each such Event of Default, there shall be no further right or option to extend the Lease Term and any Option to extend theretofore exercised which extension has not yet commenced shall be void and the Lease Term shall expire without regard to the exercise of such Option.

2.6 Base Rent. Beginning on the Rent Commencement Date of the Initial Term and on the first day of each Lease Year thereafter during the Initial Term, Tenant shall pay Landlord rent in the amount of One Dollar (\$1.00) per year, plus any Cost of Living Adjustment pursuant to Section 2.7 below ("Initial Rent"). Beginning on the Rent Commencement Date of any Option Term Tenant shall pay Landlord Fair Market Rent (as determined herein), and beginning on the first day of each Lease Year thereafter during such Option Term, plus any Cost of Living Adjustment pursuant to Section 2.7 below ("Option Rent"). For convenience, the Initial Rent and Option Rent are at times collectively referred to herein as, the "Base Rent". Notwithstanding the foregoing, if the University allows a similarly situated tenant on the University Campus to pay a more favorable rent, Landlord shall adjust Tenant's Base Rent accordingly so that Tenant receives the same benefit as such similarly situated tenant.

2.7 Cost of Living Adjustment. Except as otherwise provided herein, commencing on each anniversary date of the Rent Commencement Date, or if the Rent Commencement Date shall be any day other than the first day of a calendar month, on each anniversary date of the first day of the calendar month next following the Rent Commencement Date (a "Rent Adjustment Date"), during the Term, Rent shall increase by the percentage increase in the CPI (as defined herein) from the immediately preceding Lease Year. For purposes of this Lease, "CPI" shall mean the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor (San Francisco – Oakland – San Jose, CA) (1982-84=100), or any successor index thereto, appropriately adjusted, provided that if there is no successor index, a substitute index shall be reasonably selected by Landlord. The new Base Rent payable as of any Rent Adjustment Date shall be computed by determining the product arrived at by multiplying (A) the Base Rent due for the month immediately preceding such Rent Adjustment Date times (B) a fraction, the numerator of which is the CPI for the month which is three (3) months prior to the Rent Adjustment Date and the denominator of which is the lesser of (i) CPI for the month which is three (3) months prior to the previous Rent Adjustment Date, or (ii) the numerator (i.e. this formula shall not be applied to result in a decrease in the Base Rent as of any Rent Adjustment Date). The product so determined shall be the Base Rent for the 12-month period commencing on such Rent Commencement Date. Notwithstanding the foregoing, there shall be no Cost of Living Adjustment during the Initial Term.

2.8 Notice Address:

Landlord's Address for Notices:

Board of Regents of the Nevada System of Higher Education
c/o University of Nevada, Reno
17th Street and West Stadium Way
Reno, NV 89503
Attn: Director of Purchasing
Fax: 775.784.1130

With a copy to:

General Counsel
University of Nevada, Reno
2601 Enterprise Road
Reno, Nevada 8951

Landlord's Address for Payments:

Board of Regents of the Nevada System of Higher Education
c/o University of Nevada, Reno
17th Street and West Stadium Way
Reno, NV 89503
Attn: Director, Student Union
Fax: 775.784.1858

Tenant's Address for Notices:

Whittemore Peterson Institute for Neuro-Immune Disease
6600 N. Wingfield Pkwy.
Sparks, NV 89436
Attn. Annette Whittemore
Fax: 775.348.2300

With a copy to:

Carli West Kinne
Associate General Counsel
Wingfield Nevada Group
6600 N. Wingfield Pkwy.
Sparks, NV 89436
Fax: 775.626.8654

2.9 **Tenant Improvements:** Landlord, at its sole cost and expense, will use commercially reasonable efforts to perform Landlord's Work in accordance the Construction Drawings attached hereto as Exhibit "F" ("Landlord's Work") subject to the Total Premises Budget provisions set forth in Section 14.1(b). The parties acknowledge that the Construction Drawings as attached may not be in final form as of the date on which this Lease is executed and that Tenant may request changes to the scope and nature of the Landlord's Work. Any such changes shall be subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed; provided, however, such changes shall remain subject to the Total Premises Budget provisions as set forth in Section 14.1(b). Tenant, at its sole cost and expense, shall use commercially reasonable efforts to perform Tenant's Work in accordance with the mutually agreed upon Exhibit "G" ("Tenant's Work").

2.10 **Permitted Use:** Tenant shall use the Premises for patient care, research, medical offices, educational purposes, and all uses incidental thereto. The foregoing shall not permit any use which is otherwise inconsistent with any provision of this Lease. Tenant shall

engage in no use that jeopardizes or places at risk Tenant's or Landlord's status as exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986.

3. DEFINITIONS.

3.1 The foregoing Basic Lease Provisions and these Definitions are an integral part of this Lease and each reference in the body of this Lease to any of the Basic Lease Provisions shall be construed to incorporate all of the terms set forth above with respect to such references.

3.2 **Specific Definitions.** As used herein, the following terms shall have the following meanings:

(a) **"Building Service Equipment"** means all apparatus, machinery, devices, fixtures, appurtenances, equipment and personal property now or hereafter located in or on the Premises and owned by Landlord.

(b) **"Effective Date"** shall mean the date on which both the Landlord and Tenant shall have executed this Lease.

(c) **"Lease Term"** shall have the meaning given it in Sections 2.3 and 2.5.

(d) **"Lease Year"** shall mean each twelve (12) month period commencing on (i) the first day of the month after the Rent Commencement Date during the Lease Term, or (ii) the Rent Commencement Date if the Rent Commencement Date is the first day of a month. In the case of (i) above, the first Lease Year shall include the period from the Effective Date through the Rent Commencement Date.

(e) **"Option Rent"** shall be determined by the agreement of the parties at least sixty (60) days prior to the last date for giving of notice of exercise of the Option as herein provided. Failing agreement by such date, either party (the **"Noticing Party"**) may cause Market Rent to be determined by appraisal by giving written notice thereof (**"Appraisal Notice"**) to the other party (the **"Responding Party"**) which notice shall contain the name phone number and business address of the Noticing Party's appraiser (**"First Appraiser"**). The Responding Party may, by written notice to the Noticing Party within twenty (20) days after the Appraisal Notice, appoint a second appraiser (the **"Second Appraiser"**), such notice to contain the name phone number and business address of the Second Appraiser. If the Second Appraiser is not timely appointed, the Option Rent shall be determined by the First Appraiser who shall give written notice thereof to the parties within thirty (30) days after appointment. If two appraisers shall be appointed, the Option Rent shall be determined by them jointly. If the two appraisers do not give written notice of their agreement regarding the Option Rent within thirty (30) days after the Second Appraiser is appointed, each party may thereafter give written notice (its **"Notice of Market Rent"**) to the other party of such noticing party's opinion of the fair market rental, such Notice to be given within forty (40) days after the appointment of the Second Appraiser. If neither party shall give such Notice of Market Rent timely, either party may thereafter give such its Notice of Market Rent which will be deemed timely and the other party will be deemed to have given a timely Notice of Market Rent if such Notice is given within twenty (20) days thereafter. If only one party shall give timely Notice of Market Rent, the Option Rent shall be

the amount set forth in such party's Notice of Market Rent. If both parties give timely Notice of Market Rent, and the lower Market Rent is equal to or greater than ninety percent (90%) of the higher Market Rent in such notices, the Option Rent for purposes of this Lease shall be the average of such amounts. If both parties give timely Notice of Market Rent and the lower Market Rent is less than ninety percent (90%) of the higher Market Rent in such notices, the two appraisers shall jointly agree on a third appraiser within twenty (20) days after the 2nd of such Notices of Market Rent and such third appraiser shall determine the Option Rent by selecting the Market Rent in one of the two Notices of Market Rent which most closely approximates such third appraiser's opinion of the fair market rent for the Premises. If the two appraisers fail to agree on a 3rd appraiser within the twenty (20) days provided above, either party may thereafter, by notice to the other party, petition the senior judge in the Second Judicial District Court of Nevada to appoint such third appraiser who, upon appointment shall thereafter determine the Option Rent as hereinabove provided. All appraisals required hereunder shall be performed by an impartial MAI qualified appraiser who has a minimum of five (5) years experience in commercial real estate and who is knowledgeable of the market for similar space in the Reno metropolitan area. Notwithstanding the foregoing, if Landlord allows a similarly situated tenant on the University Campus to pay a more favorable rent, Landlord shall adjust Tenant's Option Rent accordingly so that Tenant receives the same benefit as such similarly situated tenant.

(f) **"Person"** means a natural person, a trustee, a corporation, a limited liability company, a partnership and/or any other form of legal entity.

(g) **"Premises"** shall consist of the portions of the Project in both the Research Building and the Medical Office Building as reflected on **Exhibit "D"** and **Exhibit "E"**.

(h) **"Rent Commencement Date"** shall be one hundred twenty (120) days after Landlord delivers the Premises to Tenant for the commencement of Tenant's Work, or the day Tenant opens for business, whichever first occurs. Landlord will deliver to Tenant, for execution by Tenant, a certificate establishing the Rent Commencement Date (the **"RCD Certificate"**), and Tenant shall execute and deliver an executed original thereof to Landlord or its written objection to the Rent Commencement Date specified therein, together with the date which Tenant believes is the correct Rent Commencement Date and a detailed explanation of its reasons therefor, within ten (10) days of receipt of such certificate from the Landlord, (such written objection and detailed explanation is referred to herein as the **"RCD Objection Notice"**). Failure by the Tenant to timely deliver to Landlord an RCD Objection Notice shall be conclusively deemed to constitute Tenant's agreement to and acceptance of the Rent Commencement Date set forth in the RCD Certificate for all purposes of this Lease.

(i) **"Substantial Completion"**, **"Substantially Complete"** or similar capitalized terms shall mean the stage in the progress of each portion (A) of Landlord's Work when the last of the following have occurred with respect to the applicable portion of the Premises: (i) Landlord's Work is sufficiently complete in accordance with the applicable plans so that Tenant may occupy the applicable portion of the Premises and utilize the same for its permitted business, subject to the completion of any punchlist items that do not unreasonably interfere with Tenant's occupancy and use, including quiet enjoyment, of the applicable portion of the Premises; and (ii) a certificate of occupancy or its equivalent permitting the use and

occupation of the applicable portion of the Premises shall have been issued by the appropriate approving authority; or (B) of Landlord's Work when the Work is sufficiently complete in accordance with the applicable plans so that Tenant may enter into or take possession of the applicable portion of the Premises for the purpose of commencing Tenant's Work.

(j) "University" has the same meaning as the "Landlord"

(k) "WPI" has the same meaning as "Tenant".

3.3 **Other Terms.** Any other term to which meaning is expressly given in this Lease shall have such meaning.

4. **TERM.**

4.1 **Confirmation of Commencement and Termination.** As hereinabove provided, Landlord and Tenant shall, at Landlord's request, execute a RCD Certificate reflecting the Rent Commencement Date. Tenant shall also, at Landlord's written request, execute a Certificate acknowledging (a) the Effective Date and/or (b) the expiration of the Lease Term or any termination of this Lease by action of law or in any other manner, certifying such commencement, or such termination has occurred. If Tenant shall object to the date(s) specified in any such written request, Tenant shall, within ten (10) days after receipt of such request, give written notice to Landlord of its objection, which notice shall contain a detailed explanation of its objection and the basis therefor. Failure of Tenant to timely provide such written notice of its objections and the detailed basis therefor shall be conclusively deemed to be Tenant's agreement with the date(s) set forth in Landlord's notice.

4.2 **Surrender.** Tenant, at its expense at the expiration of the Lease Term or any earlier termination of this Lease, shall (a) promptly surrender to Landlord possession of the Premises (including any fixtures or other improvements which are owned by Landlord) in good order and repair (ordinary wear and tear excepted) and broom clean, (b) remove therefrom all signs, goods, effects, machinery, fixtures and equipment used in conducting Tenant's trade or business which are neither part of the Building Service Equipment nor owned by Landlord, and (c) repair any damage caused by such removal. For purposes of this Lease, all improvements to the Premises which are part of Landlord's Work shall be deemed to be the property of Landlord.

4.3 **Holding Over.** If Tenant continues to occupy the Premises after the expiration of the Term or any earlier termination of this Lease after obtaining Landlord's express, written consent thereto, then:

(a) such occupancy (unless the parties hereto otherwise agree in writing) shall be deemed to be under a month-to-month tenancy, which shall continue until either party hereto notifies the other in writing, at least thirty (30) days before the end of any calendar month, that the notifying party elects to terminate such tenancy at the end of such calendar month, in which event such tenancy shall so terminate;

(b) anything in this Section 4.3 to the contrary notwithstanding, the Base Rent payable for each monthly period after the expiration of the Lease Term or earlier termination of

the Lease shall be calculated as 125% of Option Rent or 125% of the Rent for the previous Lease Year, whichever is greater; and

(c) except as provided in this **Section 4.3**, such month-to-month tenancy shall be on the same terms and subject to the same conditions as those set forth in this Lease; provided, however, that if Landlord gives Tenant, at least thirty (30) days before the end of any calendar month during such month-to-month tenancy, written notice that such terms and conditions (including any thereof relating to the amount and payment of Base Rent) shall, after such month, be modified in any manner specified in such notice, then such tenancy shall, after such month, be upon the said terms and subject to the said conditions, as so modified.

(d) Notwithstanding the foregoing, if Tenant continues to occupy the Premises after the expiration of the Lease Term or any earlier termination of this Lease without obtaining Landlord's express, written consent thereto, then the Rent shall be calculated as 150% of Option Rent or 150% of the Rent for previous Lease Year, whichever is greater.

5. RENT.

5.1 **Rent.** The term "**Rent**" shall mean all Base Rent, Tenant's Pro Rata Share of Operating Expenses and Taxes, and any other amounts that Tenant is or becomes obligated to pay Landlord under this Lease.

5.2 **Rentable Area.** The measurement of the number of square feet of the Premises shall be conducted by Landlord pursuant to this **Section 5.2**. As soon as reasonably practicable after Substantial Completion of Landlord's Work, Landlord shall actually measure the useable area of the Premises and the Project and shall deliver to Tenant an architect's certificate confirming the useable square footage of the Premises and the useable square footage of the Project. All measurements will be made in accordance with the most recent standards established by the Building Owners and Managers Association (commonly known as "**BOMA**") for the measurement of retail and/or civic space as appropriate. The area as so computed is referred to herein as the "**Net Usable Area**". The Net Usable Area shall be multiplied by a factor, equal to the gross building area of the Project divided by total useable square footage in the Project (load factor) to determine the Gross Rentable Area of the Premises. If the Premises gross rentable area is different than as set forth above, then any Rent (if based on such area) and Tenant's Pro Rata Share will be appropriately adjusted based on such actual gross rentable area. The parties hereto recognize that the Premises for all purposes herein shall be deemed to be as set forth herein; provided, that if at any time hereafter any portion of the Premises becomes no longer subject to this Lease "**Premises**" shall thereafter mean so much thereof as remains subject to this Lease.

5.3 **Payment of Rent.** Tenant shall pay to Landlord, as Base Rent, the sums set forth in **Section 2.5**, not later than the first (1st) day of each Lease Year commencing on the Rent Commencement Date. All other Rent due to Landlord under this Lease shall be due and payable within thirty (30) days after Landlord gives Tenant written notice that such amount is due and owing. If the Lease Term commences or terminates on other than the first day of a calendar month, then the Rent for said partial month shall be prorated on a per diem basis (based on a 30-day month), and shall be paid in full on the first day of such partial month in which the

Lease Term commences or terminates. Rent shall be paid to Landlord without deduction or offset, prior notice or demand, in lawful money of the United States of America, at Landlord's Payment Address set forth in **Section 2.8** above, or at such other place as Landlord may, from time to time, designate in writing.

5.4 Late Charge. Tenant acknowledges and agrees that in the event that Tenant fails to make payment on or before the tenth (10th) day after any Rent or other amount or charges to be paid by Tenant hereunder are due, Tenant shall pay to Landlord a late fee in the amount of five percent (5%) of the unpaid amount, which Tenant agrees is a reasonable estimate of the costs which Landlord will incur as a result of and in order to process such late payment, and such unpaid amount shall bear interest from the due date thereof to the date of payment at the rate of ten percent (10%) per annum. Any payment made by Tenant to Landlord on account of Rent may be credited by Landlord to the payment of any Rent then past due, late charge incurred and unpaid, or accrued and unpaid interest before being credited to Rent currently falling due, regardless of any attempt by Tenant to cause such partial payment to be credited otherwise. Any such payment, or portion thereof received by Landlord and credited against Rent then due and owing which is less than the amount of Rent then due shall constitute a payment made on account thereof, the parties hereto hereby agreeing that Landlord's acceptance of such payment (whether or not with or accompanied by an endorsement or statement that such lesser amount or Landlord's acceptance thereof constitutes payment in full of the amount of Rent then due) shall not alter or impair Landlord's rights hereunder to be paid all of such amount then due, or in any other respect.

6. OPERATING COSTS AND TAXES.

6.1 Tenant's Pro Rata Share. For purposes of determining Tenant's Pro Rata Share of Operating Costs (and any other payment for which Tenant is responsible for its Pro Rata Share), Tenant's Pro Rata Share shall be equal to a fraction (expressed as a percentage), the numerator of which is the Net Useable Area of the Premises and the denominator of which is the Net Usable Area of the Project. For purposes of determining Tenant's Pro Rata Share of Operating Costs, but subject to Landlord's right to re-determine the rentable area of the Building from time to time pursuant to this **Section 6.1**, Landlord has calculated the rentable area in the Premises and the Project in its reasonable discretion with respect to the layout of multi-tenant floors. The rentable area in the Premises as set forth in **Section 2.3** is hereby stipulated to be the rentable area of the Premises for all purposes under this Lease, whether the same should be more or less as a result of minor variations resulting from actual construction and completion of the Premises and for actual occupancy; provided, however, in the event Landlord re-measures the Premises in accordance with commercially reasonable procedures and if the rentable area of the Premises is different than above stated, Landlord will give Tenant written notice of the change and the new number of square feet shall become the rentable area of the Premises for all purposes effective as of the date of such notice.

6.2 Prorations. If the Effective Date, Rent Commencement Date and/or Termination Date are on a day other than the first date of a calendar month, the Rent and any other amounts payable on a monthly basis shall be prorated on a per diem basis for each such partial calendar month.

6.3 Payment of Operating Costs. Tenant shall pay, as additional Rent, its Pro Rata Share of Operating Costs incurred by Landlord during each calendar year. Landlord shall charge to Tenant its Pro Rata Share of the Operating Costs on a monthly basis based on Landlord's estimate of Tenant's annual Pro Rata Share. Landlord shall reconcile such Operating Costs on an annual basis and shall either bill Tenant for underpaid amounts, which shall be paid by Tenant within thirty (30) days after the date of Landlord's invoice, or shall credit Tenant's account for the amount of any overpayment. Any such underpayment or overpayment due and payable for the calendar year in which this Lease terminates shall be prorated and adjusted between Landlord and Tenant. Nothing contained herein shall be construed to apply Tenant's obligation to pay Tenant's Pro Rata Share of Operating Costs as a credit against any obligation of Tenant to pay so-called indirect costs associated with grants received by Tenant in connection with its research activities at the Premises.

6.4 Operating Costs Defined. Operating Costs shall mean all amounts paid or payable, whether by Landlord or by others on behalf of Landlord, resulting from the ownership, management, maintenance, operation, repair, replacement, and administration of the Project, including, without limitation:

- (a) The cost of premiums with respect to public liability, property damage, and rental insurance carried on or with respect to the Project.
- (b) The cost of providing for security and fire protection services, alarm systems and equipment, landscaping, window cleaning, garbage removal, and janitorial services, and all such similar services provided to Tenant and other tenants of the Project by Landlord and the comparable provisions of other tenant leases (other than any services which are separately billed to Tenant or any other tenants);
- (c) The cost of heating, ventilating and air conditioning of the (i) Common Areas of the Building ("Common Areas" being defined for purposes of this Lease as areas of the Building that provide service to Project tenants but that are not part of any tenant's leased premises, possibly including but not limited to lobbies, atria, security desks, conference rooms, vending areas, lounges, food service facilities, locker or shower facilities, mail rooms, courtyards, mechanical or equipment rooms, washrooms, public corridors, elevators and stairwells, sidewalks, entryways and landscaping directly adjacent to the Project) and (ii) the Premises and other rentable space in the Project, if the Project is equipped with a central or any shared heating, ventilating and air-conditioning system;
- (d) The cost of all gas, water, sewer, electricity and any other utilities used in the maintenance, operation, use and occupancy and administration of the Project (including all rentable space in the Project), excepting, however, any such utilities separately metered or separately sub-metered to Tenant or any other tenants of the Project unless the cost of which separately metered or separately sub-metered utilities is the responsibility of Landlord;

- (e) Salaries, wages and other amounts paid or payable for all personnel involved in the management, repair, maintenance, operation, leasing, security, supervision or cleaning of the Project, including unemployment and workmen's compensation insurance premiums, payroll taxes, and unemployment taxes, as well as the reasonable cost of engaging independent contractors to perform any of the foregoing services;
- (f) Reasonable auditing, accounting and legal fees and costs benefiting the Project;
- (g) The cost of repairing, replacing, operating and maintaining the Project and its systems and cost of labor, materials and supplies, painting, striping, and depreciation of or rentals of machinery and equipment used in connection with or a part of the Project;
- (h) Customary and reasonable management and administrative costs and fees; and
- (i) All other expenses, costs and disbursements of every kind and nature which Landlord shall pay or become obligated to pay resulting from the operation and maintenance of the Building and which are usually considered "operating expenses" and are generally passed on to tenants in commercial office buildings in the Reno metropolitan area under lease provisions similar to this Section 6.4, as determined and expensed in accordance with generally accepted accounting practices consistently applied.

6.5 Exclusions. Except to the extent otherwise provided, in no event shall "Operating Costs" include costs for (i) capital improvements made to the Project, except for items which are generally considered maintenance and repair items, such as painting of Common Areas, and the like; provided, however, that the Operating Costs may include the amortized amount of capital improvements based on straight-line amortization over the useful life of the improvement; (ii) repair, replacements and general maintenance paid by proceeds of insurance or by Tenant or other third parties; (iii) interest, amortization or other payments on loans to Landlord; (iv) depreciation, except as provided in (i) of this Section 6.5; (v) leasing commissions or legal fees incurred in connection with matters related to an individual tenant; (vi) costs associated with the operation of the business of Landlord, as the same are distinguished from the costs of the operation of the Building, including, but not limited to, legal expenses for services, other than those that benefit the Building tenants generally (e.g., tax disputes); (vii) renovating or otherwise improving space for occupants of the Building or vacant space in the Building; (viii) federal income taxes imposed on or measured by the income of Landlord from the operation of the Building; (ix) any cost incurred to test, survey, clean-up, contain, abate, remove or otherwise remedy Hazardous Materials (including asbestos containing materials) located in, on or under the Building if caused by Landlord's gross negligence or willful misconduct, or if present in connection with the original construction of the Building, (x) costs incurred in connection with the original construction of the Building and accompanying site improvements; (xi) the cost of correcting defects (structural or latent) in, or inadequacy of the original design or construction of, the Building; (xii) any bad debt loss, rent loss, or reserves for bad debts or rent loss; (xiii)

expenses resulting from the gross negligence or willful misconduct of Landlord, its agents, servants or employees, or another tenant; (xiv) costs incurred by Landlord due to the violation by Landlord or any tenant of the terms and conditions of any lease of space in the Building; (xv) costs not billed to Tenant within six (6) months of delivery of the annual reconciliation of the Operating Costs; (xvi) costs for which Landlord is required to indemnify Tenant under the terms of this Lease; (xvii) costs of compliance with Title III (Public Accommodations) of The Americans With Disabilities Act of 1990, 42 U.S.C. §§ 12181-12189 and the rules and regulations promulgated thereto effective January 26, 1992, as they exist as of the date hereof; or (xviii) costs recouped from any individual tenant by way of fees or fines collected pursuant to the Rules and Regulations or any individual lease.

Notwithstanding the foregoing, if any portion of the Operating Costs are furnished or directly payable by an individual tenant or occupant as opposed to Landlord, the cost of the item(s) furnished or payable by such tenant, owner or occupant shall not be included in the Operating Costs, and the square footage of the tenant or occupant by or for which such item(s) are paid shall not be included in the calculation of Tenant's Pro Rata Share of such item(s).

Tenant acknowledges that Landlord, through UNR, will be a principal occupant of the Project and will for purposes of computing Operating Expenses, be treated as a tenant of the Project with respect the portion of the Project which it occupies.

6.6 Operating Costs Books and Records. Notwithstanding anything to the contrary set forth above, originals, or copies certified by Landlord to be complete and correct, of all books and records reasonably relating to the calculation of the Operating Costs shall be made available to Tenant and its representatives at the location of the Building's records during normal business hours following at least five (5) business days prior written notice for examination, copying and audit. Any such audit shall be made, if at all, within ninety (90) days after receipt by Tenant of the reconciliation of the Operating Costs for any given year. Each year's Operating Costs may be audited only one time. Costs of copies shall be paid by Tenant. If Tenant's audit discloses that the certification of actual Operating Costs submitted by Landlord is more than three percent (3%) over the audited amount, then the audited amount shall be used as the actual Operating Costs and Landlord shall pay all reasonable costs of the audit. In no event shall Tenant use any auditor that bases any portion of its fee on the amount that the Operating Costs may have been overstated. In the event of any dispute as to the Operating Costs, the dispute shall be submitted to arbitration, and Tenant shall not be held to be in default in payment to its Pro Rata Share of the increase in the Operating Costs over the preceding Lease Year if the portion of such payment as is in dispute is not made, so long as Tenant shall pay to Landlord all accrued unpaid disputed sums for which Tenant is found to be liable, if any, within thirty (30) days of receipt of notice of the final award of the arbitrators.

6.7 Additional Rent for Taxes. Tenant shall pay to Landlord, as additional Rent, any rent tax, sales tax, gross receipts tax, excise tax, service tax, transfer tax, value added tax, and personal property tax, real property tax or any other applicable tax (whether or not such tax exists on the Effective Date or is hereinafter enacted), directly or indirectly on the Rent, the Premises, the Project (in which case Tenant shall pay its Pro Rata Share). Tenant shall also pay, prior to the time the same shall become delinquent or payable with penalty, all taxes imposed on

its inventory, furniture, trade fixtures, apparatus, equipment, leasehold improvements installed in or around the Premises by Tenant or by Landlord on behalf of Tenant.

Notwithstanding anything to the contrary contained in this **Section 6.7**, Tenant shall not be liable for any inheritance tax, estate taxes, gift taxes, income taxes, transfer taxes and excess profit taxes of Landlord.

7. PERMITTED USE AND COMPLIANCE.

7.1 Permitted Use. Tenant shall use the Premises only for the use set forth in **Section 2.10**. Tenant acknowledges that Landlord shall be permitted to lease all or any portion of the Project to third parties that will be involved in providing medical services and conducting medical and scientific research. Such other tenants and UNR, to the extent it occupies a portion of the Project, shall have the right to conduct research and to solicit grants to conduct research which is similar to or competes with research which Tenant intends to or does conduct in the Premises or otherwise, or for which Tenant it is seeking or intends to seek grants to conduct, on the Premises or otherwise.

7.2 Compliance with Laws and Covenants. During the Lease Term, Tenant, at its sole expense, in its use and possession of the Premises, shall:

- (a) comply promptly and fully with (i) all laws, ordinances, notices, orders, rules, regulations, codes and requirements of all federal, state and municipal governments and all departments, commissions, boards and officers thereof, including but not limited to The Americans with Disabilities Act, 42 U.S.C. Section 12101 et. seq., and the ADA Disability Guidelines promulgated with respect thereto, and (ii) all requirements imposed by any policy of insurance covering any or all of the Premises, and (iii) all covenants and restrictions which may encumber the title to any or all of the Premises, all if and to the extent that any of such requirements relate to any or all of the Premises or to any equipment, pipes, utilities or other parts of the Premises which exclusively serve the Premises, whether any of the foregoing are foreseen or unforeseen, or are ordinary or extraordinary;
- (b) keep in force at all times all licenses, consents and permits necessary for the lawful use of the Premises for the purposes herein provided;
- (c) pay when due all personal property taxes, income taxes, license fees and other taxes assessed, levied or imposed upon Tenant or any other Person in connection with the operation of its business upon the Premises or its use thereof in any other manner;
- (d) not obstruct, annoy or interfere with the rights of other tenants or occupants of the Project;
- (e) not allow the transmission of any unreasonably loud or objectionable sounds or noises or vibration from the Premises;

- (f) not cause or allow any objectionable fumes or odors to disseminate from the Premises that might unduly impact on the occupancy of the Project by other tenants or occupants and others including but not limited to their guests, invitees, licensees, employees, agents, subtenants or assignees; and
- (g) maintain the Premises in good condition and repair.

7.3 **Parking.** Tenants shall have, on a limited and shared, first-come, first-served basis, loading dock access at the Building for temporary loading and unloading, but shall abide by University parking procedures at all times. All of Tenant's employees who are not students, faculty or staff of UNR may purchase university parking permits to park at a university parking area. Any reserved parking spaces in the Building's parking lot shall be in locations designated by Landlord from time to time. Tenant shall pay to Landlord's University Parking Services Department, for each such space monthly, an amount equal to the then prevailing rate for use of such spaces. Landlord shall notify Tenant of any increase in said rate at least ten (10) days prior to the date on which the first payment of such increased rate shall be due. Tenant shall, upon request, furnish to Landlord the make, model, year, color and license number of cars operated by Tenant and its employees. Landlord may, at any time close, parking areas to make repairs or changes (provided the closure does not unreasonably impede access to the Premises by patrons and employees of Tenant). Tenant shall not at any time interfere with the right of Landlord, other tenants, its and their agents, employees, servants, contractors, subtenants, licensees, customers and business invitees to use any part of the parking areas.

7.4 **Signs.** The directory of the Building, if any, shall be provided exclusively for the display of the names and locations of tenants only and other matters relating to the Building, and Landlord reserves the right to exclude any other names therefrom and otherwise limit the number of listings thereon. Signage near the main entry door to the Premises shall be provided by Tenant at Tenant's expense, subject to the approval of Landlord. Tenant will be provided space for signage on the Building facing McCarran Boulevard and on the Building monument sign located on the ground level of the Building to designate the Whittemore Peterson Institute or similar business entity as an occupant of the Building. All sign design, fabrication, installation and maintenance costs shall be paid by Tenant for the signs. All signage shall be subject to Landlord's prior written approval as to size, materials, content and location, which approval shall not be unreasonably withheld, conditioned or delayed.

8. MECHANICS' LIENS.

8.1 **Creation of Lien.** Tenant shall not create or permit to be created, and if created shall discharge or have released, any mechanics' or materialmen's lien arising during the Lease Term and affecting any or all of the Premises or the Project, and Tenant shall not permit any other matter or thing whereby Landlord's estate, right and interest in any or all of the Premises or the Project might be impaired. Tenant shall defend, indemnify and hold harmless Landlord against and from any and all liability, claim of liability or expense (including but not limited to that of reasonable attorneys' fees) incurred by Landlord on account of any such lien or claim.

(a) If Tenant fails to discharge any such lien within fifteen (15) days after it first becomes effective against any of the Premises or the Project, then, in addition to any other right or remedy held by Landlord on account thereof, Landlord may (a) discharge it by paying the amount claimed to be due or by deposit or bonding proceedings, and/or (b) in any such event compel the prosecution of any action for the foreclosure of any such lien by the lienor and pay the amount of any judgment in favor of the lienor with interest, costs and allowances. Tenant shall reimburse the Landlord for any amount paid by Landlord to discharge any such lien and all expenses incurred by Landlord in connection therewith, together with interest thereon at the rate of twelve percent (12%) per annum from the respective dates of Landlord's making such payments or incurring such expenses (all of which shall constitute Rent).

(b) Nothing in this Lease shall be deemed in any way (a) to constitute Landlord's consent or request, express or implied, that any contractor, subcontractor, laborer or materialmen provide any labor or materials for any alteration, addition, improvement or repair to any or all of the Premises, the Project and/or the Campus, or (b) to give Tenant any right, power or authority to contact for or permit to be furnished any service or materials, if doing so would give rise to the filing of any mechanics' or materialmen's lien against any or all of the Premises or the Project, or Landlord's estate or interest therein, or (c) to evidence Landlord's consent that the Premises or the Project be subjected to any such lien.

9. COMMON AREAS.

9.1 **"Common Areas"** shall mean those areas of the Project which may be designated by Landlord, from time to time, as Common Areas. Common Areas shall include all footways, sidewalks, general public lobbies, elevators, stairwells, corridors, restrooms, excluding any such feature located on rentable square footage or within any rented Building square footage.

9.2 **Non-exclusive License.** Landlord hereby grants to Tenant and its officers, directors, agents, employees, subcontractors, licensees, and business invitees the nonexclusive right, in common with Landlord and the other tenants or occupants of the Project and their respective officers, directors, agents, employees, subcontractors, licensees and business invitees, to use Common Areas as are designated from time to time by Landlord, subject to the Rules and Regulations as found in **Exhibit "H"**.

9.3 **Common Areas Alterations.** Notwithstanding anything to the contrary, Landlord reserves the right at any time and from time to time, in consultation with Tenant, to (i) to change or alter the location, layout, nature, or arrangement of the Common Areas or any portion thereof, including but not limited to the arrangement and/or location of entrances, passageways, doors, corridors, stairs, restrooms, elevators, parking areas, and other public areas of the Building; and (ii) construct additional improvements on the Project and make alterations thereof or additions thereto and build additional stories on or in any such buildings adjoining the same; provided, however, that no such change or alteration shall deprive Tenant of access to or unreasonably hinder or burden Tenant's operation in the Premises; provided, however, that all preserved, relocated or additional footways, sidewalks, general public lobbies, elevators, stairwells, corridors, restrooms, excluding any such feature located on rentable square footage or within any rented Project square footage, will become Common Areas.

9.4 **Use of Common Areas.** Landlord shall at all times have full and exclusive control, management and direction of the Common Areas. Landlord shall maintain and operate lighting facilities for all of the Common Areas and police and provide other security to the Common Areas. Landlord may at any time close any Common Area to make repairs or changes (provided the closure does not unreasonably impede access to the Premises by patrons and employees of Tenant), or to prevent the acquisition of public rights in such areas. Landlord, Tenant, and any other tenants of the Building shall have the right to jointly use and close off the Common Areas for special events from time to time. Advance notice will be provided for any special events and a fee may be required to hold such special events as determined by the Building Committee in its reasonable discretion.

10. **HAZARDOUS MATERIALS.** Tenant warrants and agrees that Tenant shall not cause or permit any Hazardous Material in excess of legally permitted amounts to be brought upon, kept or used in or about the Premises by Tenant, its agents, employees, contractors or invitees. Tenant shall indemnify, defend and hold Landlord harmless from and against any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the Premises or the Building, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Building or the Premises generally, damages from any adverse impact on marketing of space in the Building, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arise during or after the Term as a result of such contamination. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any governmental authority because of Hazardous Material present in the soil or ground water or under the Premises or the Building generally. As used herein (i) "**Environmental Laws**" means the Clean Air Act, the Resource Conservation Recovery Act of 1976, the Hazardous Material Transportation Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Occupational Safety and Health Act, the Consumer Product Safety Act, the Clean Water Act, the Federal Water Pollution Control Act, the National Environmental Policy Act, as each of the foregoing shall be amended from time to time, and any similar or successor laws, federal, state or local, or any rules or regulations promulgated thereunder, and (ii) "**Hazardous Materials**" means and includes asbestos; "oil, petroleum products and their by-products" "hazardous substances;" "hazardous wastes" or "toxic substances," as those terms are used in Environmental Laws; or any substances or materials listed as hazardous or toxic in the United State Department of Transportation, or by the Environmental Protection Agency or any successor agency under any Environmental Laws.

11. **INSURANCE.**

11.1 **Tenant's Insurance.** Tenant shall, at Tenant's sole expense, procure, maintain, and keep in force for the duration of the Lease the following insurance conforming to the minimum requirements specified below. Unless specifically noted herein or otherwise agreed to by Landlord, the required insurance shall be in effect on or before the date on which Landlord delivers the premises to Tenant and shall continue in force as appropriate until the Lease expires or terminates and Tenant vacates the Premises.

11.2 **Workers' Compensation and Employer's Liability Insurance.** Tenant shall carry and provide proof of workers' compensation insurance if such insurance is required of Tenant by NRS 616B.627 or shall provide proof that compliance with the provisions of NRS, Chapter 616A-D and all other related chapters is not required. Each workers' compensation policy shall provide for a waiver of subrogation in favor of Landlord using National Council of Compensation Insurance endorsement WC 00 03 13 04 or a substantially similar form.

11.3 **Commercial General Liability Insurance.** Coverage shall be on an occurrence basis and shall be at least as broad as ISO form CG 00 01 10 01 and shall cover liability arising from Premises, operations, independent contractors, completed operations, personal injury, products, and liability assumed under contract. The following minimum limits are required:

\$2,000,000 General Aggregate
\$2,000,000 Products & Completed Operations Aggregate
\$1,000,000 Personal and Advertising Injury
\$1,000,000 Each Occurrence

11.4 **Property Insurance.** Tenant shall carry property insurance on an all-risk basis for loss to any tenant improvements, contents or betterments and the personal property of others in Tenant's possession in, upon or about the Premises. This coverage shall be written on a replacement cost basis and Landlord shall be named as a loss payee on the policy. Tenant further agrees to waive its right of subrogation against Landlord and to require that its property insurer do the same.

11.5 **General Requirements.**

(a) **Additional Insured.** Landlord shall be named as an additional insured by endorsement to Tenant's Commercial General Liability policy using ISO form CG 20 26 07 04 or an endorsement providing equally broad coverage.

(b) **Waiver of Subrogation.** The Commercial General Liability Policy shall provide for a waiver of subrogation in favor of Landlord using ISO form CG 24 04 or a substantially similar form.

(c) **Cross-Liability.** All required liability policies shall provide cross-liability coverage.

(d) **Policy Cancellation Endorsement.** Except for ten (10) days written notice to Landlord for non-payment of premium, each insurance policy shall be endorsed to specify that without thirty (30) days prior written notice to Landlord, the policy shall not be canceled, non-renewed, or coverage and/or limits reduced or materially altered, and shall provide

that notices required by this Section shall be sent by certified mail to the address specified herein.

(e) **Deductibles and Self-Insured Retentions.** Insurance maintained by Tenant shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by Landlord. Such approval shall not relieve Tenant from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000.00 per occurrence.

11.6 Approved Insurer and Notice of Insurance. All insurance provided for in this Article 11 shall be effected under valid and enforceable policies issued by insurance companies rated not lower than "A-" and in the Class IX Financial Size category in Best's Insurance Reports (current edition) and authorized to do business in the State of Nevada. Such policies shall be endorsed to indicate that Tenant's coverage shall not be invalid due to any act or omission by Landlord. The policies shall further be endorsed to indicate that such policies shall cover Tenant's obligations up to the limits of such policies. The insurance companies issuing such insurance shall agree to notify Landlord in writing of any cancellation, reduction in coverage, changing types of coverage, or non-renewal of said insurance at least thirty (30) days prior thereto. Tenant shall deliver to Landlord, within thirty (30) days after execution of this Lease, or prior to entering the Premises for any purpose, whichever is first to occur, certificates (in the form of Acord 25 Certification of Insurance or a form substantially similar) evidencing the insurance coverage required herein and confirming that the premiums therefor have been paid in full. Said certificates shall also include a footnote referring to this Lease and certifying that the policy or policies issued to Tenant comply with all of the provisions of this Article 11. All coverages for Tenant's assignees and subtenants shall be subject to the requirements stated herein. If Tenant fails to obtain the insurance required herein and deliver said certificates to Landlord as provided above, Landlord shall be entitled, but without obligation, to obtain said policies at Tenant's expense. All coverages for Tenant's assignees and subtenants shall be subject to the requirements stated herein.

11.7 Policy Requirements. Landlord and Tenant agree that on January 1 of the second (2nd) full calendar year during the Term and on January 1 of every second (2nd) calendar year thereafter, Landlord will have the right to request commercially reasonable changes in the character and/or amounts of insurance required to be carried by Tenant pursuant to the provisions of this Article 11, and Tenant shall comply with any commercially reasonable requested change in character and/or amount within thirty (30) days after Landlord's request therefor.

11.8 Increase in Insurance Premiums. Tenant shall not do or suffer to be done, or keep or suffer to be kept, anything in, upon or about the Premises or the Building which will contravene Landlord's policies of hazard or liability insurance or which will prevent Landlord from procuring such policies from companies acceptable to Landlord. If anything done, omitted to be done, or suffered by Tenant to be kept in, upon or about the Premises or the Building shall cause the rate of fire or other insurance on the Premises or the Building to be increased beyond the minimum rate from time to time applicable to the Premises or to any such other property for the use or uses made thereof, Tenant shall pay to Landlord, as Additional Rent, the amount of any such increase upon Landlord's demand therefor.

11.9 Tenant's Indemnity. Tenant shall and hereby does indemnify and hold Landlord harmless from and against any and all claims arising from any intentional, willful or negligent acts or omissions of Tenant, or of Tenant's employees, agents, contractors, guests, licensees or invitees. Tenant shall and hereby does further indemnify, defend and hold Landlord harmless from and against all costs, attorneys' fees, expenses and liabilities incurred in connection with any such claim or any action or proceeding brought thereon. In case any action or proceeding is brought against Landlord by reason of any such claim, Tenant upon notice from Landlord, shall defend same at Tenant's expense by counsel reasonably satisfactory to Landlord. This obligation hereunder shall survive the termination or expiration of this Lease.

11.10 Landlord's Indemnity. To the extent limited by NRS 41.0305 to 41.039, Landlord shall and hereby does indemnify and hold Tenant harmless from and against any and all claims arising from: any accident or occurrence occurring within the Building or the Common Areas and facilities, arising out of the negligence or willful misconduct of Landlord, or of Landlord's agents, employees, contractors or invitees. Landlord shall and hereby does further indemnify, defend and hold Tenant harmless from and against all costs, attorneys' fees, expenses and liabilities incurred in connection with any such claim or any action or proceeding brought thereon. In case any such claim, action or proceeding is brought against Tenant, Landlord, upon notice from Tenant, shall defend same at Landlord's expense by counsel reasonably satisfactory to Tenant. This obligation shall survive the termination or expiration of this Lease. Notwithstanding that this paragraph is written in the form of an agreement to indemnify Tenant agrees that Landlord's obligation under this **Section 11.10** is based on the underlying acts or omissions described above and that NRS 41.0305 et seq. currently apply to limit Landlord's liability to \$75,000 per cause of action. Landlord does not waive and will assert the defense of sovereign immunity in all cases.

11.11 Landlord Limitation of Liability. Neither Landlord nor its agents shall be liable for any for loss of or damage to any property by theft or otherwise, nor for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the Project or from the pipes, appliances or plumbing works therein or from the roof, street or subsurface, or from any other place or resulting from dampness or any other cause whatsoever, except where caused by the willful act or omission or negligence of Landlord or Landlord's agents, employees or contractors; provided, however, that if Tenant shall notify Landlord in writing of repairs which are the responsibility of Landlord under this Lease, Landlord shall commence and diligently prosecute to completion said repairs within a reasonable time after such notice.

11.12 Landlord Not Responsible For Acts of Others. Landlord shall not be responsible or liable to Tenant, or to those claiming by, through or under Tenant, for any loss or damage which may be occasioned by or through the acts or omissions of persons occupying or using space adjoining the Premises or any part of the premises adjacent to or connecting with the Premises or any other part of the Building, or for any loss or damage resulting to Tenant (or those claiming by, through or under Tenant) or its or their property, from (a) the breaking, bursting, stoppage or leaking of electrical cable and/or wires, or water, gas, sewer or steam pipes, (b) falling plaster, or (c) dampness, water, rain or snow in any part of the Building, except where caused by the negligence or intentional wrongful acts of Landlord or its agents occupying any portion of the Project as a tenant. To the maximum extent permitted by law, Tenant agrees to

use and occupy the Premises, and to use such other portions of the Building as Tenant is herein given the right to use, at Tenant's own risk.

11.13 Waiver of Liability. Neither Landlord nor its agents shall be liable for any damage to property entrusted to employees of UNR for loss of or damage to any property by theft or otherwise, nor for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the Project or from the pipes, appliances or plumbing works therein or from the roof, street or subsurface, or from any other place or resulting from dampness or any other cause whatsoever; unless directly caused by and due to the negligence or intentional wrongful acts of Landlord or its agents. Tenant shall give prompt notice to Landlord in case of fire or accidents in the Premises or in the Project or of defects therein or in the fixtures or equipment.

12. UTILITIES.

12.1 Utilities Provided by Tenant. Tenant shall: (i) make application in Tenant's own name for all utilities not provided by Landlord, (ii) comply with all utility company regulations for such utilities, including requirements for the installation of meters, and (iii) obtain such utilities directly from, and pay for the same when due directly to the applicable utility company. The term "utilities" for purposes hereof shall include but not be limited to electricity, gas, water, sewer, steam, fire protection, telephone, Ethernet and other communication and alarm services, and all taxes or other charges thereon. Tenant shall install and connect all equipment and lines required to supply such utilities to the extent not already available at or serving the Premises, or at Landlord's option shall repair, alter or replace any such existing items. Tenant shall maintain, repair and replace all such items, operate the same, and keep the same in good working order and condition. Tenant shall not install any equipment or fixtures, or use the same, so as to exceed the safe and lawful capacity of any utility equipment or lines serving the same. The installation, alteration, replacement and connection of any utility equipment and lines shall be subject to the requirements for alterations of the Premises set forth in **Article 14**.

12.2 Utilities Provided by Landlord. Landlord reserves the right from time to time to provide any or all utilities to the Premises. In such case, Tenant shall pay such charges as Landlord may reasonably establish from time to time, which Landlord may determine on a per-square-foot basis applicable to the square footage of the Premises as a monthly charge, or which Landlord may determine based on the quantity of utilities used or consumed at the Premises on a monthly or other regular basis. In addition, if Landlord establishes charges based on consumption or use: (i) such charges shall not be in excess of the rate that Tenant would be charged directly by the utility company serving the general area in which the Premises is located, (ii) if the Premises are separately metered for such utilities, Tenant shall pay for amounts of such utilities based on such meters, and (iii) if the Premises are not separately metered for such utilities, Tenant shall pay for amounts of such utilities based on the reasonable estimates of Landlord's engineer or consultant, or, at Landlord's election, shall pay Landlord's cost for installing separate meters, and shall thereafter pay based on such meters. Except to the extent prohibited by applicable law, Landlord may also impose a reasonable administrative charge to cover meter-reading and other overhead expenses. All such charges shall not exceed the rates, if any, that Landlord is permitted to charge pursuant to applicable law or the rates charged to other

tenants similarly situated to Tenant, which ever is less. All charges shall be payable as Rent pursuant to **Section 5.3**. Landlord may discontinue providing any utilities then being provided by Landlord upon thirty (30) days' advance written notice to Tenant (in which case Tenant shall obtain such utilities directly from the applicable utility company). If Landlord supplies ventilated air or chilled or heated air or water for air-conditioning or heating of the Premises, Landlord may nevertheless require that Tenant, at Tenant's expense, maintain, repair and replace any portion of the systems and equipment therefor exclusively serving the Premises, including without limitation any air handling equipment, ductwork and lines.

12.3 Interruptions in Utilities. Landlord does not warrant that any utilities provided by any utility company or Landlord will be free from shortages, failures, variations or interruptions caused by repairs, maintenance, replacements, improvements, alterations, changes of service, strikes, lockouts, labor controversies, accidents, inability to obtain services, fuel, steam, water or supplies, governmental requirements or requests, or other causes beyond Landlord's reasonable control. None of the same shall be deemed an eviction or disturbance of Tenant's use and possession of the Premises or any part thereof, or render Landlord liable to Tenant for abatement of Rent, or relieve Tenant from performance of Tenant's obligations under this Lease. Landlord in no event shall be liable for damages by reason of such shortage, failure or variation, including without limitation loss of profits, business interruption or other incidental or consequential damages.

13. REPAIRS AND MAINTENANCE.

13.1 Landlord's Duty to Maintain Structure. Landlord shall maintain or cause to be maintained in good operating condition the Building, including the Common Areas, University/civic areas, and the structure of the Building, and shall be responsible for maintenance of such and structural repairs to the exterior walls, load bearing elements, foundations, roofs, structural columns and structural floors with respect thereto, and Landlord shall make all required repairs thereto, provided, however, that if the necessity for such repairs shall have arisen, in whole or in part, from the negligence or willful acts or omissions of Tenant, its agents, concessionaires, officers, employees, licensees, invitees or contractors, or by any unusual use of the Premises by Tenant, then Landlord may collect the cost of such repairs, as additional rent, upon demand, accompanied by a reasonably detailed explanation of the same.

13.2 Tenant's Duty to Maintain Premises.

(a) Tenant shall keep and maintain the Premises and all fixtures, equipment, light fixtures and bulbs, doors (including, but not limited to, entrance doors, patio doors and balcony doors), door hardware, carpeting, floor and wall tiles, window and door glass, security systems, ventilation fans, window and door treatments (including, but not limited to, blinds, shades, screens and curtains), plumbing fixtures and drains, ceiling tiles and grids, counters, shelving, light switches, base cove and moldings, locks, bathroom and kitchen equipment and appliances (including, but not limited to, tissue dispensers, handrails, mirrors, cabinets, disposals, dishwashers, sinks, faucets, drinking fountains and water purifiers) located therein in a good, safe, clean and sanitary condition consistent with the operation of a first-class operation at a University building, and in compliance with all legal requirements with respect thereto. All injury, breakage and damage to the Premises (and to any other part of the Project, if caused by

any act or omission of Tenant, its agents, concessionaires, officers, employees, licensees, invitees or contractors) shall be repaired or replaced by Tenant at its expense (unless included in and charged to Tenant as part of the Operating Expenses). Tenant shall keep and maintain all pipes and conduits and all mechanical, electrical and plumbing systems contained within the Premises in good, safe, clean and sanitary condition and shall make all required repairs thereto (unless such repairs are the responsibility of Landlord under this Lease and costs for repairs are included in and charged to Tenant as part of the Operating Expenses). In the event Landlord agrees, upon request by Tenant, to repair or maintain any of the items listed in this **Section 13.2(a)**, Tenant shall pay all costs and expenses in connection with Landlord's repair or maintenance services (unless already included in and charged to Tenant as part of the Operating Expenses), including, but not limited to, wages, materials and mileage reimbursement.

(b) Tenant agrees to use the areas designated for waste disposal and not to place anywhere within the Building or elsewhere, other than within the areas which may be designated from time to time as refuse collection areas, any trash, garbage or other items, except as may otherwise be expressly permitted by this Lease.

14. IMPROVEMENTS.

14.1 **Cost of Improvements.** Landlord and Tenant hereby agree to following regarding the construction of the Project and the Premises:

(a) The budgeted cost ("**UNR Project Budget**") for the construction of the Project, exclusive of the portion thereof consisting of the Premises and that which Landlord expects to lease to Nevada Cancer Institute ("**NVCI**") and Landlord's Work associated therewith (the "**UNR Project**"), shall not exceed _____ Dollars (\$ _____);

(b) The budgeted cost ("**Total Premises Budget**") for the construction of the Premises (including both the cost of the portion of the Research Building and Medical Office Building included within the Premises together with the Landlord's Work) shall not exceed _____ Dollars (\$ _____) unless otherwise agreed as hereinafter provided;

(c) The budgeted cost ("**Total NVCI Budget**") for the construction of the premises to be leased to NVCI (including both the cost of the portion of the Medical Office Building included within such premises together with the Landlord's Work for such premises) (the "**NVCI Project**") shall not exceed _____ Dollars (\$ _____) unless otherwise agreed as hereinafter provided;

(d) The total cost for the Project is the sum of the amounts set forth in subsections a, b and c ("**Total Project Budget**");

(e) Landlord shall, through appropriate agencies of the State of Nevada initiate proceedings to let a contract for construction of the Project and upon receipt of bids shall select an acceptable bidder and use its best efforts to proceed to contract with such bidder. The parties agree that a mutually acceptable cost analyst will be engaged to review such bid and determine the portion of the total bid which is allocable to the UNR Project, the NVCI Project and the Premises.

14.2 Reduction of Scope. If the portion of the bid for construction of the Project, which under **Section 15.1(e)** is allocable to the cost of constructing the UNR Project, is greater than the UNR Project Budget, Landlord may, in its sole and absolute discretion reduce the scope of the Work to be constructed as part of the UNR Project, defer completion of the entire UNR Project or take other measures to reduce the current and/or total cost thereof. Tenant agrees that such reductions or other measures shall in no way limit Tenant's obligations under this Lease.

14.3 Funding for Construction of the Premises. Landlord has entered into certain agreements with certain foundations to supplement funds appropriated by the State of Nevada to fully fund the Total Premises Budget. If the portion of the bid allocable to the cost of constructing the Premises as provided in **Section 14.1(e)** is greater than the Total Premises Budget, Landlord shall use its reasonable efforts to obtain additional funding for such excess from such foundations or from other sources. However, if Landlord is unable to obtain such funding, Landlord may, in its sole and absolute discretion reduce the scope of the Work to be constructed for the Premises, defer completion of the Premises or take other measures to reduce the current and/or total cost thereof to the Total Premises Budget plus any additional funding which Landlord is able to obtain for the construction of the Premises. If such reductions are required, Landlord shall consult with Tenant to determine such reductions, the scope of which shall be predicated on revised cost determinations made through Landlord obtaining new bids for construction of the Project and allocations of such new bids as provided in **Section 14.1(e)**.

14.4 Landlord Approval. Tenant shall not make any alteration, improvement, change or addition which would affect any electrical, mechanical, plumbing or other Project systems or would be considered structural in nature (collectively "Alterations") without first presenting to Landlord plans, drawn and sealed by a licensed architect or space planner of a reasonable scale and amount of detail to clarify the work to be done and specifications therefor and obtaining Landlord's written consent thereto, which consent shall not be unreasonably withheld so long as such alterations will not violate applicable law or the provisions of this Lease or impair the value of the Premises or the Building or be visible from the exterior of the Building. Landlord shall respond to Tenant in writing within not less than thirty (30) days of receipt of an Alterations request from Tenant, notifying Tenant whether the request is granted or denied, or requesting additional information. Landlord agrees to make a decision within not less than thirty (30) days on any Alterations request resubmitted by Tenant with the requested additional information. For all approved Alterations, (a) Tenant must obtain any and all governmental permits or approvals for such Alterations, which are required by applicable law, (b) all work must be performed in a good and workmanlike manner in compliance with all applicable codes, rules, regulations and ordinances, (c) all persons, contractors, tradesman or workman performing such Alteration work shall be a licensed tradesman for the type of work they are doing on the property, evidence of which shall be submitted to Landlord prior to the commencement of the work, and (d) Tenant shall restore the Premises to its condition immediately before such Alterations were made, free of Tenant's fixtures and furniture by not later than the date on which Tenant vacates the Premises or the Termination Date, whichever is earlier, with the exception of all Landlord approved partitions or other specified Alterations. Tenant, at its own expense, shall repair promptly any damage to the Building caused by bringing therein any property for its use, or by the installation or removal of such property, regardless of fault or by whom such damage is caused. As a further condition for approving any Alteration,

Landlord shall have the right to require Tenant and/or its contractor(s) to execute a copy of Landlord's "Design Construction Standards and /or Appendices Design/ Construction Standards."

14.5 Acceptance of Premises. After Substantial Completion of Landlord's Work and Tenant's entering upon and occupying the Premises, Tenant shall be deemed to have accepted the Premises AS-IS and WHERE-IS, subject to completion by Landlord of punch-list items, and Landlord shall not be liable for any latent or patent defect therein, except those arising in whole or part from Landlord's gross negligence or intentional misconduct.

14.6 Construction. Subject to Section 26.6, Landlord shall, in the exercise of reasonable diligence, perform the construction and/or installation work which is part of Landlord's Work, if any. In no event will Landlord be responsible for performing any other work or installing any other improvements except for the work which is part of Landlord's Work.

14.7 Fixtures. Any and all improvements, repairs, alterations and all other property attached to, used in connection with or otherwise installed within the Premises by Landlord or Tenant shall become Landlord's property, without payment therefor by Landlord, immediately on the completion of their installation; provided that any machinery, equipment or fixtures installed by Tenant and used in the conduct of Tenant's trade or business (rather than to service the Premises or the Building) and not part of the Building Service Equipment shall remain Tenant's property; but further provided that if any leasehold improvements made by Tenant replaced any part of the Premises, such leasehold improvements that replaced any part of the Premises shall be and remain Landlord's property.

15. LANDLORD'S RIGHT OF ENTRY. Landlord and its authorized representatives shall be entitled to enter the Premises at any reasonable time during Tenant's usual business hours, after giving Tenant at least forty-eight (48) hours' written notice thereof, (a) to inspect the Premises, (b) to exhibit the Premises (i) to any existing or prospective purchaser or mortgagee thereof, or (ii) to any prospective tenant thereof, provided that in doing so Landlord and each such invitee observes all reasonable safety standards and procedures which Tenant may require, and (c) to make any repair thereto and/or to take any other action therein which Landlord is permitted to take by this Lease or applicable law (provided, that in any situation in which, due to an emergency or otherwise, Landlord reasonably believes the physical condition of the Premises or the Building would be unreasonably jeopardized unless Landlord were to take such action immediately, Landlord shall not be required to give such notice to Tenant and may enter the same at any time). Nothing in this Article 15 shall be deemed to impose any duty on Landlord to make any such repair or take any such action unless otherwise required under the Lease, and Landlord's performance thereof shall not constitute a waiver of Landlord's right hereunder to have Tenant perform such work. Landlord shall not in any event be liable to Tenant for any inconvenience, annoyance, disturbance, loss of business or other damage sustained by Tenant by reason of such inspection, the making of such repairs, the taking of such action or the bringing of materials, supplies and equipment upon the Premises during the course thereof, and Tenant's obligations under this Lease shall not be affected thereby.

16. DAMAGE OR DESTRUCTION. If during the Term either the Premises or any portion of the Project, the Common Areas, the total leased area, or the Property are Substantially Damaged or Destroyed by fire or other casualty, Landlord shall have the option (which it may exercise by giving written notice thereof to Tenant within sixty (60) days after the date on which such Substantial Damage or Destruction occurs) to terminate this Lease as of the date specified in such notice (which date shall not be earlier than the ninetieth (90th) day after such notice is given). In event of Substantial Damage or Destruction to the Building, but to the event causing the Substantial Damage or Destruction to the Building does not cause Substantial Damage or Destruction to buildings on the Campus, during the Initial Term, Landlord agrees at its discretion to either (i) restore the Building and/or Premises as soon thereafter as is reasonably possible, to their condition on the date of completion of Landlord's Work, taking into account any delay experienced by Landlord in recovering the proceeds of any insurance policy payable on account of such damage or destruction and in obtaining any necessary permits; or, if the insurance proceeds are not of the amount necessary to rebuild/restore the Building/Premises, Landlord shall relocate Tenant to a space on or near the Campus similar to the Premises as soon thereafter as is reasonably possible, or (ii) return to Tenant the amount of Tenant's contribution (whether contributed by Tenant or the Whittemore Foundation) to the cost of the Project. "**Substantial Damage and Destruction**" and "**Substantially Damaged or Destroyed**" shall mean serious damage or destruction rendering unusable 33% or more of the rentable square feet of the Premises, and/or the total square footage of the Project or if the total of all insurance proceeds receivable with respect to such damage or destruction shall be less than 90% of the cost to restore the Premises, Common Area or Project as herein required. In the event of termination pursuant to this **Section 16**, Tenant shall pay to Landlord all Rent and other sums and charges payable by Tenant hereunder and accrued through such date (as justly apportioned to the date of such termination). If Landlord does not terminate this Lease under the conditions of this **Section 16**, Landlord shall restore the Building and/or Premises as soon thereafter as is reasonably possible, to their condition on the date of completion of Landlord's Work, taking into account any delay experienced by Landlord in recovering the proceeds of any insurance policy payable on account of such damage or destruction and in obtaining any necessary permits. Tenant may terminate this Lease if any restoration required under this **Section 16** is not completed within ninety (90) days after the later of Landlord obtaining both (i) all applicable insurance proceeds with respect to such damage or destruction, and (ii) all required permits for completing such restoration, or if any relocation required under this **Section 16** is not completed within ninety (90) days of the event causing such damage or destruction, by giving at least thirty (30) days written notice of such termination with such termination to take effect on the date specified in such notice unless the restoration or relocation shall be completed prior to such date. Until the Premises are so repaired or Tenant is so relocated, the Rent and any other amounts or charges due under this Lease shall abate in proportion to the floor area of so much, if any, of the Premises as is rendered substantially unusable by Tenant by such damage or destruction.

17. CONDEMNATION.

17.1 Termination. If the Premises, Building, Common Areas or any portion thereof are taken under power of eminent domain or conveyed by Landlord under the threat thereof (a "**Condemnation**"), this Lease shall automatically terminate as to the part so taken as of the date of Condemnation. If a portion of the floor area of the Premises, Building or Common Areas, is taken by Condemnation, and as a result, Tenant, in its sole but reasonable discretion,

concludes that the Premises is no longer reasonably adequate for the operation of Tenant's business (even after Landlord's completion of repairs or alterations and provided that Landlord has a reasonable amount of time to complete such repairs or alterations), Tenant shall have the option to terminate this Lease as of the date of Condemnation by giving written notice to Landlord on or before ninety (90) days after said date. If such partial taking does not terminate this Lease, this Lease shall continue in full force and effect, but the Rent shall be reduced in accordance with **Section 17.2**. If more than twenty-five percent (25%) of the floor area of the Building (regardless of whether or not any portion of the Premises is taken) is taken, then Landlord shall be entitled to terminate this Lease as of the date of Condemnation by written notice to Tenant on or before ninety (90) days after said date, except that if such taking occurs during the Initial Term, then Landlord shall not terminate this Lease and shall either restore the Premises and/or the Building in accordance with **Section 17.4** if the Condemnation award is sufficient to do so or, if the Condemnation award is insufficient, then Landlord shall relocate Tenant to a space on or near the Campus similar to the Premises as soon as is reasonably possible after the Condemnation date. In event of termination of this Lease, Tenant shall pay to Landlord all Rent and other sums and charges payable by Tenant hereunder and accrued through such date (as justly apportioned to the date of such termination).

17.2 Rent Adjustment. In the event of Condemnation of only a portion of the Premises, Rent and other sums and charges payable by Tenant hereunder shall also be reduced in proportion to the amount of rentable square footage taken.

17.3 Award. If Condemnation occurs during the Initial Term, Landlord shall be entitled to the entire share of the Condemnation award for any partial or entire taking of the Premises and/or the Building, including any award for the leasehold estate created hereby; provided that Landlord shall reinvest the Condemnation award to restore the Premises and/or the Building to their previous condition as nearly as is reasonable under the circumstances in accordance with **Section 17.4** if the Condemnation award is sufficient to do so or, if the Condemnation award is insufficient, then Landlord shall relocate Tenant to a space on or near the Campus similar to the Premises as soon as is reasonably possible after the Condemnation date. Tenant hereby waives any claim with respect to such Condemnation award, except to the extent necessary to enforce Landlord's obligation during the Initial Term to use such award to restore the Premises and/or the Building to a condition similar to the condition prior to such Condemnation if such award is sufficient to do so; provided that Tenant may seek a separate award from the taking authority (and not from Landlord), in Tenant's own name, for any damages to Tenant's business (excluding the loss of its leasehold estate) and any costs incurred by Tenant in removing Tenant's property.

17.4 Restoration. If this Lease is not terminated pursuant hereto, then Landlord shall, in the exercise of reasonable diligence and its own cost, restore the Premises and/or the Building to their previous condition as nearly as is reasonable under the circumstances. In no event, however, shall Landlord be obligated to commence such restoration until it has received the entire Condemnation award and in no event shall Landlord be obligated to incur restoration expenses in an amount greater than such award, less costs, expenses and fees (including attorneys' fees and costs) incurred by Landlord in collecting such award.

17.5 **Date of Condemnation.** The date of Condemnation, for the purposes hereof, is the earlier of the date (i) possession of the property subject to Condemnation is delivered to the taking authority, or (ii) title is vested in the taking authority.

18. ASSIGNMENT AND SUBLETTING.

18.1 **Landlord's Consent Required.** Tenant shall not assign this Lease, in whole or in part, nor sublet all or any part of the Premises, nor license concessions or lease portions therein, nor otherwise permit any other person to occupy or use any portion of the Premises (collectively, a "Transfer"), without in each instance first obtaining the written consent of Landlord. For purposes of this Article 18, Tenant is permitted to have researchers, physicians and other consultants perform services within the Premises in collaboration with Tenant and to further Tenant's mission without such activities being considered a Transfer and without such activities being subject to the provisions of Section 18.4. Landlord's consent to a Transfer will not be unreasonably withheld or delayed, provided that, among other things as reasonably required by Landlord, the net worth and financial condition of the proposed assignee or transferee is provided to Landlord, in writing, with Tenant's request for Landlord's consent. This prohibition includes any subletting or assignment which would otherwise occur by operation of law, merger, consolidation, reorganization, transfer or other change of Tenant's corporate or proprietary structure (including, without limitation, the transfer of partnership interests, the creation of additional partnership interests or the transfer of corporate shares or beneficial interests), or an assignment or subletting to or by a receiver or trustee in any federal or state bankruptcy, insolvency or other similar proceedings. Consent by Landlord to any assignment, subletting, licensing or other transfer shall not (i) constitute a waiver of the requirement for such consent to any subsequent assignment, subletting, licensing or other Transfer, (ii) relieve Tenant from its duties, responsibilities and obligations under the Lease, or (iii) relieve any guarantor of this Lease from such guarantor's obligations under its guaranty agreement, if any, except that any of the above may be waived upon agreement by Landlord. Any proposed assignment, subletting or transfer of Tenant's status arising under this Lease shall be subject to the prior approval of the Chancellor of the Nevada System of Higher Education which approval may be granted or withheld by said Chancellor in his/her sole and absolute discretion. Notwithstanding the foregoing, Tenant, without further Landlord consent, shall be allowed to Transfer this Lease to a Tenant affiliated entity upon showing to Landlord evidence of such transferee affiliate's ownership structure, financial condition and assumption of Tenant's obligations hereunder.

18.2 **Acceptance of Rent from Transferee.** The acceptance by Landlord of the payment of Rent from any person following any act, assignment or other Transfer prohibited by this Article 18 shall not constitute a consent to such act, assignment or other Transfer, nor shall the same be deemed to be a waiver of any right or remedy of Landlord's hereunder.

18.3 Conditions of Consent.

(a) If Tenant receives consent to a Transfer under Section 18.1 above, then, in addition to any other terms and conditions imposed by Landlord in the giving of such consent, Tenant and the transferee shall execute and deliver, on demand, an agreement prepared by Landlord providing that the transferee shall be directly bound to Landlord to perform all

obligations of Tenant hereunder including, without limitation, the obligation to pay all Rent and other amounts provided for herein; acknowledging and agreeing that there shall be no subsequent Transfer of this Lease or of the Premises or of any interest therein without the prior consent of Landlord pursuant to **Section 18.1** above; acknowledging that, unless otherwise agreed by Landlord and Tenant, Tenant as originally named herein shall remain fully liable for all obligations of the tenant hereunder, including the obligation to pay all Rent provided herein and including any and all obligations arising out of any subsequent amendments to this Lease made between Landlord and the transferee (whether or not consented to by Tenant), jointly and severally with the transferee; and such other provisions as Landlord shall require.

(b) All costs incurred by Landlord in connection with any request for consent to a Transfer, including costs of investigation and the reasonable fees of Landlord's counsel, shall be paid by Tenant on demand as a further condition of any consent which may be given.

18.4 Profits from Use or Transfer. Tenant agrees that in the event of a Transfer, Tenant shall pay Landlord, within ten (10) days after receipt thereof, one hundred percent (100%) of the excess of (i) any and all consideration, money or thing of value, however characterized, received by Tenant or payable to Tenant in connection with or arising out of such Transfer, over (ii) all amounts otherwise payable by Tenant to Landlord pursuant to this Lease.

19. BUILDING COMMITTEE. The Center for Molecular Medicine Building Committee (the "**Building Committee**") shall have three (3) voting members: (i) Dean of UNSOM or his designee, (ii) President of WPI or his designee, and (iii) President of NVCI or his designee. Other representatives of these organizations may attend meetings to offer staff support, information or guidance on issues of concern to the Building Committee. The Building Committee will serve as a mechanism to enhance the joint operation of the Project and its programs, and as a forum to discuss issues such as scheduling of Common Areas, lecture and meeting rooms; priority of building uses by the tenants of the Building and outside entities; joint public relations and outreach efforts; building operating issues such as regular hours and after-hours access by staff or patients, building security, parking management and overall maintenance; food service issues in the building café; workplace safety and training issues of mutual concern; and such other issues as may be identified by the Building Committee as beneficial for consideration by the tenants of the Building. Policies and operational guidelines adopted by the Building Committee must not conflict with applicable policies of the University or NSHE or any terms or conditions of the Building leases or other contracts involving the tenants of the Building.

20. RULES AND REGULATIONS. Landlord shall have the right to prescribe, at its sole discretion, and in consultation with the Building Committee, reasonable rules and regulations (the "**Rules and Regulations**") having uniform applicability to all tenants of the Project (subject to their respective leases) and governing their use and enjoyment of the Project; provided, that the Rules and Regulations shall not materially interfere with Tenant's use and enjoyment of the Premises in accordance with this Lease. The Rules and Regulations may govern, without limitation, the use of sound apparatus, noise or vibrations emanating from machinery or equipment, obnoxious fumes and/or odors, the parking of vehicles, lighting and storage and disposal of trash and garbage. Tenant shall adhere to the Rules and Regulations and shall cause its agents, employees, invitees, visitors and guests to do so. Landlord shall have the right to

amend the Rules and Regulations from time to time. The Rules and Regulations, as promulgated and amended from time to time, are incorporated here by reference as though fully set forth.

21. SUBORDINATION AND ATTORNMENT.

21.1 **Subordination.** Unless a Mortgagee otherwise shall elect as provided in **Section 21.2**, and subject to the covenant of quiet enjoyment under **Section 24** hereof, Tenant's rights under this Lease are and shall remain subject and subordinate to the operation and effect of any mortgage, deed of trust or other security instrument constituting a lien upon the Premises, and/or the Building, whether the same shall be in existence on the date hereof or created hereafter (any such lease, mortgage, deed of trust or other security instrument being referred to herein as a "**Mortgage**," and the party or parties having the benefit of the same, whether as beneficiary, trustee or noteholder, being referred to hereinafter collectively as "**Mortgagee**"). Tenant's acknowledgment and agreement of subordination as provided for in this **Section 21.1** is self-operative and no further instrument of subordination shall be required; however, Tenant shall execute, within ten (10) days after request therefor, a document providing for such further assurance thereof and for such other matters as shall be requisite or as may be requested from time to time by Landlord or any Mortgagee.

21.2 **Mortgagee's Unilateral Subordination.** If a Mortgagee shall so elect by notice to Tenant or by the recording of a unilateral declaration of non-subordination, this Lease and Tenant's rights hereunder shall be superior and prior in right to the Mortgage of which such Mortgagee has the benefit, with the same force and effect as if this Lease had been executed, delivered and recorded prior to the execution, delivery and recording of such Mortgage, subject, nevertheless, to such conditions as may be set forth in any such notice or declaration.

21.3 **Attornment.** If any Person shall succeed to all or any part of Landlord's interest in the Premises, whether by purchase, foreclosure, deed in lieu of foreclosure, power of sale, termination of lease, operation of law or otherwise and if such successor-in-interest requests or requires, Tenant shall attorn to such successor-in-interest and shall execute within ten (10) days after receipt thereof an agreement in confirmation of such attornment in a form as may be reasonably requested by such successor-in-interest. Failure to respond within such (10) day period shall be deemed to be a confirmation by Tenant of the facts and matters set forth therein.

22. DEFAULTS AND REMEDIES.

22.1 **Default by Tenant.** Any one or more of the following events shall constitute a default under the terms of this Lease ("**Event of Default**"):

(a) The failure of Tenant to pay any Rent or other sum of money due hereunder to Landlord or any other person, within ten (10) days after the same is due;

(b) The filing of a petition proposing the adjudication of Tenant as a bankrupt or insolvent, or the reorganization of Tenant, or an arrangement by Tenant with its creditors, whether pursuant to the Federal Bankruptcy Act or any similar federal or state proceeding, unless such petition is filed by a party other than Tenant and is withdrawn or dismissed within sixty (60) days after the date of its filing;

(c) The appointment of a receiver or trustee for the business or Premises of Tenant, unless such appointment is vacated within sixty (60) days of its entry;

(d) The making by Tenant of an assignment for the benefit of its creditors;

(e) A default by Tenant in the performance or observance of any covenant or agreement of this Lease to be performed or observed by Tenant (other than as described above), which default is not cured within thirty (30) days after the giving of written notice thereof by Landlord, unless such default is of such nature that it cannot be cured within such 30-day period, in which event such Event of Default shall be deemed to have been cured if Tenant institutes a cure within the 30-day period and thereafter diligently and continuously prosecutes the curing of the same until completion;

(f) An Event of Default by the Whittemores under the Pledge Agreement determined without regard to any cure period set forth therein, which default is not cured within thirty (30) days after the giving of written notice thereof, and any notice under the Pledge Agreement of a default thereunder shall be deemed to be a notice under this Lease; or

(g) An Event of Default by Tenant as defined in the Operating Agreement, determined without regard to any cure period set forth therein, which default is not cured within thirty (30) days after the giving of written notice thereof, and any notice under the Pledge Agreement of a default thereunder shall be deemed to be a notice under this Lease.

22.22 Landlord's Remedies. In the event of a Tenant Event of Default and the failure to cure the same within any grace period, if such a period is provided, in addition to any other rights or remedies provided for herein or at law or in equity, Landlord, at its sole option, shall have the option to pursue any one or more of the following remedies without any further notice or demand:

(i) Enter upon and take possession of the Premises and expel or remove Tenant and other persons who may be occupying the Premises, or any part thereof, by force if necessary, without being liable to prosecution or for any claim for damages, and relet the Premises, as Tenant's agent, and receive the rent therefor; and Tenant agrees to pay Landlord on demand any deficiency that may arise by reason of such reletting; or

(ii) Enter upon the Premises, without being liable to prosecution or for any claim for damages, and do whatever Tenant is obligated to do under the terms of this Lease; and Tenant agrees to reimburse Landlord on demand for any reasonable and necessary expenses which Landlord may incur in thus effecting compliance with Tenant's obligations hereunder; or

(iii) Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails so to do, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises, or any part thereof, by force if necessary, without being liable to prosecution or for any claim for damages; and Landlord may recover from Tenant:

occupying the Premises, or any part thereof, by force if necessary, without being liable to prosecution or for any claim for damages; and Landlord may recover from Tenant:

- (1) the worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus
- (2) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus
- (3) the worth at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus
- (4) any other reasonable amount necessary to compensate Landlord for the costs proximately caused by Tenant's failure to perform its obligations under this Lease; and
- (5) at Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

As used in sub-subsections (1) and (2) above, the "worth at the time of award" is computed by allowing interest at the Default Rate per annum. As used in sub-subsection (3) above, the "worth at the time of award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%) per annum.

Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due to Landlord hereunder or of any damage accruing to Landlord by reason of the violation of any of the terms, provisions and covenants herein contained. Forbearance by Landlord to enforce one or more of the remedies herein provided upon the occurrence of a Tenant Event of Default shall not be deemed or construed to constitute a waiver of such default. Notice given under the foregoing provisions is intended by the parties to satisfy the notice requirements under applicable law to the maximum extent permitted and Tenant agrees that notice served in conformity with the notice provisions of this Lease shall be deemed to satisfy the service provisions applicable to any notice required under applicable law.

22.2 Default by Landlord. Landlord shall not be considered in default or breach of this Lease for the non-performance of any obligation imposed herein unless Tenant provides Landlord with written notice of said non-performance and:

- (a) If the same relates solely to the non-payment of money, Landlord fails to perform within fifteen (15) business days after receipt of said written notice, or

(b) If the same does not relate solely to the non-payment of money, Landlord fails to commence performance within said 15 business-day period and to diligently continue such performance until the obligation is fulfilled.

In the event of a default by Landlord as described in subsection (b) above, Tenant, at its option, without further notice or demand, and as its sole remedy shall have the right to any one or more of the following remedies: (i) to pursue the remedy of specific performance; and/or (ii) to pursue injunctive relief.

22.3 Landlord's Liability. Notwithstanding anything to the contrary contained in this Lease, it is expressly understood and agreed by and between the parties hereto that: (i) the recourse of Tenant, or its successors or assigns, against Landlord with respect to any alleged breach by or on the part of Landlord of any representation, warranty, covenant, undertaking or agreement contained in this Lease or otherwise arising out of Tenant's use of the Premises or the Project (collectively "**Landlord's Lease Obligations**") shall extend only to Landlord's interest in the Project of which the Premises are a part ("**Landlord's Real Estate**") and the rents derived therefrom, and not to any other real property, personal property or other assets of Landlord or its former or current members, or any of the current or former directors, officers, employees, agents, members, or partners thereof; and (ii) except to the extent of Landlord's interest in Landlord's Real Estate, no personal liability or personal responsibility of any sort with respect to any of Landlord's Lease Obligations or any alleged breach thereof is assumed by, or shall be asserted or enforceable against, Landlord or any current or former members thereof, or any of Landlord's or such member's current or former directors, officers, employees, agents, members, or partners.

22.4 Waiver of Jury Trial. Each party hereto hereby waives any right which it may otherwise have at law or in equity to a trial by jury in connection with any suit or proceeding at law or in equity brought by the other against the waiving party or which otherwise relates to this Lease, as a result of an Event of Default or otherwise.

23. ESTOPPEL CERTIFICATE. Tenant shall, without charge, at any time and from time to time, within fifteen (15) days after receipt of request therefor from Landlord, execute, acknowledge and deliver to Landlord, and to such Mortgagee or other party as may be designated by Landlord, a written estoppel certificate in form and substance as may be requested from time to time by Landlord, the other party or any Mortgagee, certifying to the other party, any Mortgagee, any purchaser of Landlord's interest in all or any part of the Property, or any other person or entity designated by the other party, as of the date of such estoppel certificate, the following: (a) whether Tenant is in possession of the Property; (b) whether this Lease is in full force and effect; (c) whether there are any amendments to this Lease, and if so, specifying such amendments; (d) whether there are any then-existing setoffs or defenses against the enforcement of any rights hereunder, and if so, specifying such matters in detail; (e) the dates, if any, to which any rent or other sums due hereunder have been paid in advance and the amount of any security deposit held by Landlord; (f) that Tenant has no knowledge of any then-existing defaults of Landlord under this Lease, or if there are such defaults, specifying them in detail; (g) that Tenant has no knowledge of any event having occurred that authorized the termination of this Lease by Tenant, or if such event has occurred, specifying it in detail; (h) the address to which notices to Tenant should be sent; and (i) any and all other matters reasonably requested by Landlord, any Mortgagee and/or any other person or entity designed by Landlord. Any such estoppel

certificate may be relied upon by the person or entity to whom it is directed or by any other person or entity who could reasonably be expected to rely on it in the normal course of business. The failure of Tenant to execute, acknowledge and deliver such a certificate in accordance with this **Section 23** within ten (10) days after a request therefor by Landlord shall constitute an acknowledgment by Tenant, which may be relied on by any person or entity who would be entitled to rely upon any such certificate, that such certificate as submitted by the requesting party to the other party is true and correct, and the requesting party is hereby authorized to so certify.

24. **QUIET ENJOYMENT.** Tenant may have, hold and enjoy quiet and peaceful possession of the Premises and enjoyment of such rights as Tenant may hold hereunder to reasonable use of the Common Areas during the Lease Term without any disturbance to Tenant's right to possess the Premises or use the Common Areas as provided herein from Landlord or from any other person claiming through Landlord.

25. **NOTICES.** Except as may be otherwise provided in this Lease, any notice, demand, consent, approval, request or other communication or document to be provided hereunder to Landlord or Tenant (a) shall be in writing, and (b) shall be deemed to have been provided (i) two (2) days following the date sent as certified mail in the United States mails, postage prepaid, return receipt requested, (ii) on the day following the date it is deposited prior to the close of business with FedEx or another national courier service, (iii) on the date of hand delivery (if such party's receipt thereof is acknowledged in writing), or (iv) via facsimile, with receipt of transmission, in each case to the address of such party set forth in **Section 2.8** or to such other address as such party may designate from time to time by notice to each other party hereto.

26. **GENERAL.**

26.1 **Effectiveness.** This Lease shall become effective on and only on its execution and delivery by each party hereto.

26.2 **Complete Understanding.** This Lease represents the complete understanding between the parties hereto as to the subject matter hereof, and supersedes all prior negotiations, representations, guaranties, warranties, promises, statements and agreements, either written or oral, between the parties hereto as to the same.

26.3 **Amendment.** This Lease may be amended by and only by an instrument executed and delivered by each party hereto, provided, however, that Landlord shall have the right at any time, and from time to time, during the Term unilaterally to amend the provisions of this Lease if Landlord (or any of its partners) is advised by its counsel that all or any portion of the monies paid, directly or indirectly, by Tenant to Landlord (and/or its partners) hereunder are, or may be deemed to be, unrelated business income within the meaning of the United States Internal Revenue Code or regulations issued thereunder, and Tenant agrees that it will execute all documents or instruments necessary to effect such amendment or amendments, provided that no such amendment shall result in Tenant having to pay in the aggregate a larger sum of money on account of its occupancy of the Premises under the terms of this Lease as so amended, and provided further that no such amendment or amendments shall result in Tenant receiving under the provisions of this Lease fewer services than it is entitled to receive, nor services of a lesser

quality. Furthermore, Tenant agrees not to take any steps or actions knowingly which may jeopardize Landlord's (and/or its partners') tax-exempt status. Further as to the portion of the Premises in the Research Building, Tenant acknowledges that Landlord intends to finance the construction of the Research Building with debt instruments which qualify the recipient(s) of interest thereunder to exclude such interest from income pursuant to Section 103 of the Internal Revenue Code and applicable regulations. While Landlord fully expects the leasing of such portion of the Premises to Tenant to have no impact on such exemption, Landlord reserves the right to unilaterally modify this Lease as to the definition of the Premises in the event the definition thereof as provided herein shall result in a loss of such exemption, in which event, Landlord shall use reasonable efforts to provide to Tenant alternative premises to be covered by the Lease which are as close as possible to the remainder of the Premises and which are of reasonably equivalent value and usability to Tenant as the portion of the Premises which Landlord determines to exclude from the definition of Premises herein. No amendment of this Lease shall be binding on the Landlord unless and until such amendment shall be approved by the Board of Regents in accordance with the policies and procedures thereof as may be established from time to time.

26.4 Waiver. No party hereto shall be deemed to have waived the exercise of any right which it holds hereunder unless such waiver is made expressly and in writing (and, without limiting the generality of the foregoing, no delay or omission by any party hereto in exercising any such right shall be deemed a waiver of its future exercise). No such waiver made in any instance involving the exercise of any such right shall be deemed a waiver as to any other such instance or any other such right. Without limiting the generality of the foregoing provisions of this **Section 26.4**, Landlord's receipt or acceptance of any Base Rent, Rent of other sum from Tenant or any other person shall not be deemed a waiver of Landlord's right to enforce any of its rights hereunder on account of any default by Tenant in performing its obligations hereunder.

26.5 Applicable Law. This Lease shall be given effect and construed by application of the laws of the state in which the Premises are located, and any action or proceeding arising hereunder shall be brought in the courts of the state in which the Premises are located and the parties hereby agree to exclusive venue in Washoe County, Nevada; provided, however, that if any such action or proceeding arises under the Constitution, laws or treaties of the United States of America, or if there is a diversity of citizenship between the parties thereto, so that it is to be brought in a United States District Court, it may be brought only in the United States District Court for the state in which the Premises are located or any successor federal court having original jurisdiction.

26.6 Force Majeure. If Landlord or Tenant is delayed or prevented from the performance of any act required hereunder by reason of acts of God, strikes, lockouts, labor troubles, civil disorder, terrorism, acts of war, severe weather, inability to procure materials, restrictive governmental laws or regulations, or other cause without fault and beyond the reasonable control of Landlord or Tenant (financial inability excepted), performance of such act shall be excused for the period of delay.

26.7 Commissions. The parties hereto hereby acknowledge and agree that, in connection with the leasing of the Premises hereunder, neither party has used the services of any real estate broker. Each party hereto hereby represents and warrants to the other that, in

connection with such leasing, the party so representing and warranting has not dealt with any real estate broker, agent or finder, and there is no commission, charge or other compensation due on account thereof.

26.8 Landlord's Liability. No Person holding Landlord's interest hereunder (whether or not such Person is named as the "Landlord" herein) shall have any liability hereunder after such Person ceases to hold such interest, except for any such liability accruing while such Person holds such interest. No Mortgagee not in possession of the Premises shall have any liability hereunder. Neither Landlord nor any principal of Landlord, whether disclosed or undisclosed, shall have any personal liability under this Lease. If Landlord defaults in performing any of its obligations hereunder or otherwise, Tenant shall look solely to Landlord's equity, interest and rights in the Premises to satisfy Tenant's remedies on account thereof.

26.9 No Partnership; No Joint Venture. Nothing in this Lease shall be deemed in any way to create between the parties hereto any relationship of partnership, joint venture or association, and the parties hereto hereby disclaim the existence of any such relationship.

26.10 Remedies Cumulative. No reference to any specific right or remedy shall preclude Landlord from exercising any other right or from having any other remedy or from maintaining any action to which it may otherwise be entitled at law or in equity. No failure by Landlord to insist upon the strict performance of any agreement, term, covenant or condition hereof, or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial Rent during the continuance of any such breach, shall constitute a waiver of any such breach, agreement, term, covenant or condition. No waiver by Landlord of any breach by Tenant under this Lease or of any breach by any other tenant under any other lease of any portion of the Building shall affect or alter this Lease in any way whatsoever.

26.11 Severability. No determination by any court, governmental or administrative body or agency or otherwise that any provision of this Lease or any amendment hereof is invalid or unenforceable in any instance shall affect the validity or enforceability of (a) any other provision hereof, or (b) such provision in any circumstance not controlled by such determination. Each such provision shall remain valid and enforceable to the fullest extent allowed by and shall be construed wherever possible as being consistent with, applicable law.

26.12 Authority. If Tenant is a corporation, partnership, limited liability company or similar entity, the person executing this Lease on behalf of Tenant represents and warrants that (a) Tenant is duly organized and validly existing and (b) this Lease (i) has been authorized by all necessary parties, (ii) is validly executed by an authorized officer or agent of Tenant and (iii) is binding upon and enforceable against Tenant in accordance with its terms.

26.13 Joint and Several Liability. If Tenant shall be one or more individuals, corporations or other entities, whether or not operating as a partnership or joint venture, then each such individual, corporation, entity, joint venturer or partner shall be deemed to be both jointly and severally liable for the payment of the entire Rent and other payments specified herein.

26.14 **Recordation.** Neither this Lease, any amendment to this Lease, nor any memorandum, affidavit or other item with respect thereto shall be recorded by Tenant or by anyone acting through, under or on behalf of Tenant, and the recording thereof in violation of this provision shall (i) be deemed an Event of Default and (ii) at Landlord's election, make this Lease null and void.

26.15 **Time of Essence.** Time shall be of the essence with respect to the performance of the parties' obligations under this Lease.

26.16 **Interpretation.** Landlord and Tenant hereby agree that both parties were equally influential in preparing and negotiating this Lease, and each had the opportunity to seek the advice of legal counsel prior to the execution of this Lease. Therefore, Landlord and Tenant agree that no presumption should arise construing this Lease more unfavorably against any one party.

26.17 **Headings.** The headings of the sections, subsections, paragraphs and subparagraphs hereof are provided herein for and only for convenience of reference and shall not be considered in construing their contents.

26.18 **Construction.** As used herein, all references made (a) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders; (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well; and (c) to any section, subsection, paragraph or subparagraph shall be deemed, unless otherwise expressly indicated, to have been made to such section, subsection, paragraph or subparagraph of this Lease.

26.19 **Exhibits.** Each writing or drawing referred to herein as being attached hereto as a schedule, an exhibit or otherwise designated herein as a schedule or an exhibit hereto is hereby made a part hereof.

IN WITNESS WHEREOF, each party hereto has executed this Lease, or caused it to be executed on its behalf by its duly authorized representatives, on the date first written above.

RECOMMENDED BY:



Milton D. Glick, President

Date 11/29/10

LANDLORD:

FOR THE BOARD OF REGENTS OF
THE NEVADA SYSTEM OF HIGHER
EDUCATION ON BEHALF OF THE
UNIVERSITY OF NEVADA, RENO

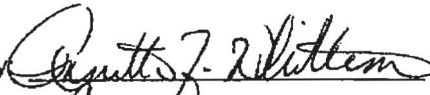


Daniel J. Klaid,
~~James E. Rogers~~, Chancellor

Date 12/2/10

TENANT:

WHITTEMORE PETERSON
INSTITUTE FOR NEURO-IMMUNE
DISEASE, a Nevada non-profit
corporation

By 

Its: President

EXHIBIT A

PLEDGE AGREEMENT

This Pledge Agreement is made and entered into this 12th day of May, 2008, by and between Harvey Whittemore and Annette Whittemore, husband and wife (the "Whittemores"), and the Board of Regents of the Nevada System of Higher Education on behalf of the University of Nevada, Reno (the "University"). The Whittemores, jointly and severally, and with the intention of irrevocably binding their estates, heirs, and assigns, do hereby irrevocably pledge and promise to pay the sum of Five Million Seventy-four Thousand One Hundred Thirty-five Dollars (\$5,074,135.00), plus reasonable and customary loan fees and costs (the "Fees"), including but not limited to origination fees, funding fees, document fees, and legal fees for the construction loan obtained by the University for the construction of the Whittemore Peterson Institute for Neuro-Immune Disease (the "Institute"), within the University of Nevada School of Medicine's Center for Molecular Medicine (the "Center") on the University of Nevada, Reno campus, to the University (with such Pledge to be managed and collected through the University of Nevada Reno Foundation) for the purposes set forth in this Pledge Agreement. This Pledge shall be governed by the laws of the State of Nevada and it is the intent of all parties hereto for this Pledge to be legally binding on the undersigned, including their estates, heirs and assigns.

The obligations set forth under this Pledge Agreement shall be the obligation of and shall be paid by the Whittemores, jointly and severally, in accordance with the terms of payment set forth below. However, the Whittemores may, in their sole discretion, elect to have all or any portion of the Pledge satisfied on their behalf through such other entity or entities that the Whittemores may so determine, including but not limited to The Whittemore Family Foundation, so long as such payment is specifically designated as being in satisfaction of this Pledge and obligations of the Whittemores hereunder.

This Pledge is being made for the initial purpose of assisting the University in raising necessary funds to augment the funding of construction of the proposed Whittemore Peterson Institute for Neuro-Immune Disease (the "Institute"), within the University of Nevada School of Medicine's Center for Molecular Medicine (the "Center"), which funding amount shall hereafter be referred to as the "Augmentation". The University acknowledges that the Whittemores will be seeking financial support, including state, federal, and private funding, in order to assist the University in satisfying the Augmentation aside from this Pledge, and that such donations, appropriations, and amounts may be used by the University to pay all or a portion of the Augmentation in lieu of the funds provided in this Pledge. However, the Whittemores agree that any such amounts that are obtained by the Whittemores to satisfy the Augmentation outside of this Pledge will not reduce the amount of this Pledge nor be credited against any interest accruing thereon. Instead, the portion of this Pledge that is not utilized in satisfaction of the Augmentation shall be utilized in furtherance and satisfaction of the joint goals and objectives of the University and the Institute as set forth in the operating agreement between the University and the Institute, dated May 12, 2008 (the "Operating Agreement"). In the event that the Operating Agreement is terminated for any reason, any portion of this Pledge that is then undistributed and/or remaining due shall thereafter be directed toward the Institute through the University of Nevada Reno Foundation.

Any unpaid portion of this Pledge is contingent upon the construction and completion of the Center/Institute and the execution of the Operating Agreement. This Pledge represents the Whittemores' commitment and investment in the University in support of the joint endeavors between the University and the Institute/Center. The Whittemores and the University agree that the University will hereafter borrow the full amount of the Augmentation from a lender that is commercially acceptable to the University in order to satisfy the construction budget for the Center/Institute, with this Pledge serving as assurance to the University that it will have sufficient funds to satisfy the loan in the event that the Augmentation is not satisfied from other sources. In addition, to provide additional assurances that this Pledge will be satisfied, the Whittemores have or will secure their obligations under the terms and conditions of this Pledge Agreement in accordance with the Guaranty of Payment and Performance of Annette Whittlemore, attached hereto as Exhibit A. The University's promise to borrow the full amount of the Augmentation in reliance on this Pledge shall constitute full and adequate consideration for the Pledge set forth herein.

This Pledge shall be paid in U.S. currency, and in accordance with the following terms of payment. All payments in satisfaction of this Pledge shall be paid in U.S. Currency. The Pledge shall be divided into two separate gifts hereafter referred to as Gift 1 and Gift 2 respectively, totaling a combined \$5,074,135.00 plus the Fees, which shall be administered and paid as follows:

1. Gift 1 (\$3,074,135.00). Gift 1 of the Pledge in the total amount of \$3,074,135.00 plus the Fees shall be administered and paid as follows:

a. The initial payment from the Whittemores of One Million Dollars (\$1,000,000.00) was received by the University of Nevada Reno Foundation on July 20, 2007, and has been credited toward satisfaction of Gift 1 under this Pledge.

b. The remaining Two Million Seventy-Four Thousand One Hundred Thirty-Five Dollars (\$2,074,135.00) plus the Fees of this Pledge due under Gift 1 shall be due on June 30, 2011. However, the Whittemores may elect, in their discretion, to satisfy this amount in whole or through partial payments at any time prior thereto.

c. Interest earned by the University on payments applied toward satisfaction of Gift 1 under this Pledge shall be credited toward the satisfaction of Gift 1 under this Pledge until the start of the construction of the Institute/Center, with the date of application of such interest to be June 30th of each fiscal year following the execution of this Pledge Agreement. The start of construction shall be the date when the State Public Works Board signs the construction contract for the Center.

d. So that the present value of Gift 1 under this Pledge will not decrease over time, the Whittemores agree that until paid in full, this Pledge shall bear simple interest, to be paid by the Whittemores to the University, in an amount calculated using the interest rate associated with the borrowing of the University for the construction of the Institute/Center, times the outstanding pledged amount, commencing January 1, 2008 or the date of the start of construction, whichever is later (the "Commencement Date"). The University or its agent shall

provide a statement of the amount of interest owed by the Whittemores at the end of each fiscal year ending June 30th, and if such interest is for any reason unpaid for a period of sixty (60) days following the mailing of such statement of interest, such interest shall be added to the amount remaining due on Gift 1 of the Pledge.

2. Gift 2 (\$2,000,000). Gift 2 of the Pledge in the total amount of \$2,000,000 shall be administered and paid as follows:

a. The sum of Two Million Dollars (\$2,000,000) shall be paid on or before January 1, 2017. However, the Whittemores may elect, in their discretion, to satisfy this amount in whole or through partial payments at any time prior thereto; excepting that in no event shall annual payments be made in amounts less than \$200,000, until Gift 2 of the Pledge has been satisfied in whole. So that the present value of Gift 2 under this Pledge will not decrease over time, the Whittemores agree that until paid in full, this Pledge shall bear simple interest, to be paid by the Whittemores to the University, in an amount calculated using the interest rate associated with the borrowing of the University for the construction of the Institute/Center, times the outstanding pledged amount, commencing on the Commencement Date. The University or its agent shall provide a statement of the amount of interest owed by the Whittemores at the end of each fiscal year ending June 30th, and if such interest is for any reason unpaid for a period of sixty (60) days following the mailing of such statement of interest, such interest shall be added to the amount remaining due on Gift 2 of the Pledge.

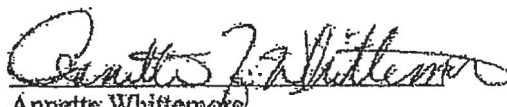
3. A failure to make a payment required by this Pledge Agreement, which failure is not cured within thirty (30) days after the giving of written notice thereof, shall be a default hereunder and shall further constitute an Event of Default under Paragraph 22.1(f) of that certain Lease between the Institute and the Board of Regents of the Nevada System of Higher Education on behalf of the University of Nevada, Reno (the "Lease"), determined without regard to any cure period set forth therein. Upon the occurrence of such a default, the University (Landlord under the Lease) shall be entitled to invoke all remedies under the Lease, including termination of the Lease between the University and the Institute, and such default does not negate the obligation of the Whittemores to fulfill the Pledge.

UNIVERSITY OF NEVADA, RENO

By _____
Milton Glick, President

THE WHITTEMORES

Harvey Whittemore


Annette Whittemore

GUARANTY OF PAYMENT AND PERFORMANCE

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the undersigned Annette Whittemore ("Guarantor") hereby unconditionally guarantees payment and performance in full of that certain Pledge Agreement by and between Harvey Whittemore and Annette Whittemore, husband and wife (collectively the "Whittemores"), and the Board of Regents of the Nevada System of Higher Education on behalf of the University of Nevada, Reno (the "University") of even date herewith ("Pledge") in the total amount of \$5,074,135.00 plus reasonable and customary loan fees and costs (the "Fees"), including but not limited to origination fees, funding fees, document fees, and legal fees for the construction loan obtained by the University for the construction of the Whittemore Peterson Institute for Neuro-Immune Disease (the "Institute"), within the University of Nevada School of Medicine's Center for Molecular Medicine (the "Center") on the University of Nevada, Reno campus, payable in accordance with such Pledge.

The undersigned agrees to indemnify the University against any and all liability, loss, costs, charges, penalties, obligations, expenses, attorney's fees, litigation, judgments, damages, claims and demands of any kind whatsoever in connection with, arising out of or by reason of the assertion by the Whittemores of any defense to its obligations under the Pledge other than a valid defense of full performance. Guarantor waives any right or claims of right to cause a marshaling of the Whittemores' assets or to require the University to proceed against Guarantor, the Whittemores or any other guarantor of any of the Whittemores' obligations in any particular order and Guarantor agrees that any payments or performance required to be made hereunder shall become due upon demand in accordance with the terms hereof immediately upon the happening of a default under the Pledge, whether or not Guarantor has been given notice of such default, and Guarantor expressly waives and relinquishes all rights and remedies accorded by applicable law to guarantors, including, but not limited to, presentment for payment, protest or demand, notice of such protest, demand, dishonor or nonpayment, any failure to pursue the Whittemores or their property, any right of subrogation, any defense arising out of the absence, impairment or loss of any right of reimbursement or subrogation and any defense arising by reason of any defense of the Whittemores. Guarantor further waives any defenses based on suretyship or impairment of collateral.

The obligations of Guarantor hereunder are independent of the obligations of the Whittemores and, in the event of any default hereunder, a separate action or actions may be brought and prosecuted against Guarantor whether or not the Whittemores are joined therein or a separate action or actions is or are brought against the Whittemores. The University's rights hereunder shall not be exhausted by its exercise of any of its rights or remedies or by any action or by any number of successive actions until and unless all indebtedness and obligations hereby guaranteed have been paid and fully performed.

No delay on the University's part in exercising any right, power or privilege under this Guaranty or any other document executed in connection herewith shall operate as a waiver of any such privilege, power or right.

Guarantor agrees that any judgment rendered against the Whittemores for monies due the University shall in every and all respects bind and be conclusive against Guarantor to the same extent as if Guarantor had appeared in any such proceeding and judgment therein had been rendered against Guarantor.

Guarantor hereby represents and warrants that:

(a) she has the full power, authority and legal right to execute and deliver, and to perform her obligations under, this Guaranty;

(b) this Guaranty constitutes a legal, valid and binding obligation of Guarantor, enforceable in accordance with its terms;

(c) to the best of her knowledge, the execution, delivery and performance of this Guaranty will not violate any provision of any law or regulation or of any judgment, order, decree, determination or award of any court, arbitrator or governmental authority, bureau or agency or of any mortgage, indenture, loan or security agreement, lease, contract or other agreement, instrument or undertaking to which Guarantor is a party or which purports to be binding upon her or any of her property or assets or result in the creation or imposition of any lien on any of the property or assets of Guarantor pursuant to the provisions of any of the foregoing; and

(d) to the best of her knowledge, no consent of any other person (including, without limitation, creditors of Guarantor) and no consent, license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority, bureau or agency is required in connection with the execution, delivery, performance, validity or enforceability of this Guaranty.

The terms, provisions, covenants and conditions contained in this Guaranty shall apply to and bind the heirs, executors, administrators, legal representatives, successors and assigns of the undersigned.

If any term, provision, covenant or condition of this Guaranty, or any application thereof, should be held by a court of competent jurisdiction to be invalid, void or unenforceable, all provisions, covenants and conditions of this Guaranty, and all applications thereof not held invalid, void or unenforceable shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

This Guaranty should be construed in accordance with its intent and without regard to any presumption or other rule requiring construction against the party causing the same to be drafted.

The laws of the State of Nevada shall govern the validity, construction, performance and effect of this Guaranty.

In the event any action is commenced by the University against Guarantor in connection herewith, or in the event of any other proceeding with respect to, or affecting, this Guaranty or the Whittemores' obligations of the Pledge, the University shall be entitled to its costs and expenses, including reasonable attorneys' fees and costs, whether or not said action is prosecuted to judgment.

Dated: May 12, 2008

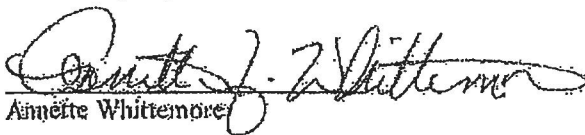

Arnette Whittemore

EXHIBIT "B"



EXHIBIT C

OPERATING AGREEMENT

This Operating Agreement (the "Operating Agreement") is entered into by and between Whittemore Peterson Institute for Neuro-Immune Disease, a Nevada non-profit corporation, ("WPI"), and the Board of Regents of the Nevada System of Higher Education ("NSHE") on behalf of the University of Nevada, Reno (the "University"), and the University of Nevada School of Medicine ("UNSoM") on this 12th day of May, 2008 ("Effective Date").

Recitals

Whereas, WPI and NSHE are each tax-exempt entities under the Internal Revenue Code of

Whereas, WPI exists to foster auto-immune focused research, both clinical and basic, as well as patient care, in part through the creation of formal programs comprised of the activities of groups of investigators who share common scientific or clinical interests and goals;

Whereas, UNSoM and Annette and Harvey Whittemore (collectively, the "Whittemores"), founders of WPI, recognize the need for a new research and patient care facility at the campus of the University (commonly known as, the "Center for Molecular Medicine");

Whereas, the parties agree that a strong public-private partnership to fund and operate the Center for Molecular Medicine will enhance the goals of and mission of the University;

Whereas, the parties jointly and successfully pursued funding and authorization from the State of Nevada during the 2005 and 2007 sessions of the Nevada Legislature for the Center for Molecular Medicine;

Whereas, the Whittemores, through The Whittemore Family Foundation ("Whittemore Foundation") have previously donated One Million Dollars (\$1,000,000) toward the construction costs of the WPI portion of the Center for Molecular Medicine, and pledged to donate and/or raise another Four Million Seventy-Four Thousand One Hundred Thirty-Five Dollars (\$4,074,135.00), plus reasonable and customary loan fees and costs (the "Fees"), including but not limited to origination fees, funding fees, document fees, and legal fees for the construction loan obtained by the University for the construction of the Whittemore Peterson Institute for Neuro-Immune Disease within the Center for Molecular Medicine on the University of Nevada, Reno campus, in that Pledge Agreement dated May 12, 2008, attached hereto as Exhibit "A";

Whereas, the private funding and state appropriation to WPI for construction of the WPI portion of the Center for Molecular Medicine presently totals in excess of Nine Million Five Hundred Thousand Dollars (\$9,500,000);

Whereas, the necessary funding for construction of the Center for Molecular Medicine, comprised of two buildings and related common areas, on the campus of UNR (the "Campus") is in place;

Whereas, the Whittemore Foundation, has already given One Hundred Thousand Dollars (\$100,000) to support the collaborative work between WPI and UNSoM faculty member Dr. William Murphy as part of a gift to UNSoM of a total of One Million Dollars (\$1,000,000), to be given in installments of One Hundred Thousand Dollars (\$100,000) per year for ten (10) years, and plans for an additional One Million Dollar (\$1,000,000) endowment for such work within the Whittemore Foundation at the end of the initial ten (10) year term;

Whereas, the Center for Molecular Medicine will house basic and translational science faculty and laboratories of the UNSoM faculty, as well as WPI's medical and research facilities;

Whereas, WPI and NSHE have entered into that certain lease dated _____, whereby WPI leases from NSHE significant space for WPI in the Center for Molecular Medicine ("Lease"), attached hereto as Exhibit "B";

Whereas, the partnership of UNSoM, the University, and WPI is crucial to the success of the Center for Molecular Medicine, and the parties desire to continue to work together to enhance the continued successful operation of the Center for Molecular Medicine;

Whereas, WPI and NSHE recognize that it may be beneficial to both WPI and the University for certain WPI faculty to hold adjunct or dual faculty appointments at the University and for University faculty to hold adjunct or dual faculty appointments at WPI;

Whereas, WPI and the University desire to attract and recruit national and international physicians and researchers;

Whereas, WPI and the University recognize that certain adjunct and dual faculty appointments may aid in the integration of research and serve as a mechanism for including a diverse group of investigators and clinicians in their scientific and clinical activities;

Whereas, WPI and the University recognize that establishing adjunct and dual faculty appointments is a beneficial step to further defining collaborations in terms of research focus, longevity, and access to programmatic activities and shared resources;

Whereas, the parties intend that WPI and University faculty holding adjunct or dual faculty appointments with the other institution who publish articles or present research at regional, national, or international meetings will receive recognition as faculty of both WPI and the University;

Whereas, the parties acknowledge that adjunct and dual appointments aid WPI programs' interactivity, and should lead to the exchange of information, experimental techniques, and ideas that enhance the individual productivity of scientists and often result in collaborations and joint publications through sustained collaboration.

NOW, THEREFORE, the parties agree as follows:

1. Term. This Operating Agreement shall begin on the Effective Date and shall run concurrently with the Lease, unless earlier terminated pursuant to the termination provisions of Section 10 below.

2. WPI's use of Non-WPI Laboratories in the Center for Molecular Medicine.

2.1 Through written agreement with the Dean of UNSoM, WPI and its employees may be permitted to use UNSoM laboratory space in the Center for Molecular Medicine, excluding the laboratory animal space ("UNSoM Laboratory"), at the intramural rates charged/assessed by UNSoM to its faculty. These rates are available through the Office of the Dean of the UNSoM and are subject to change from time to time at the sole discretion of the Dean of the UNSoM. NSHE shall invoice WPI for its use of the UNSoM Laboratory, and WPI shall pay undisputed invoices within thirty (30) days of receipt. The amount of UNSoM Laboratory space potentially available at any given time may vary depending upon University faculty and WPI needs. Through written agreement with the University Vice President for Research and the Director of Laboratory Animal Medicine, WPI and its employees may be permitted to use the laboratory animal space in the Center for Molecular Medicine ("CMM Animal Laboratory") at rates established by the Director of Laboratory Animal Medicine. The rates are available through the Director of Laboratory Animal Medicine and are subject to change from time to time at the sole discretion of the Director of Laboratory Animal Medicine. NSHE shall invoice WPI for its use of the CMM Animal Laboratory, and WPI shall pay undisputed invoices within thirty (30) days of receipt. The amount of CMM Animal Laboratory space potentially available at any given time may vary depending upon University faculty and WPI needs.

2.2 WPI and its employees who use the UNSoM Laboratory and CMM Animal Laboratory shall be subject to and shall follow all University policies concerning research, laboratory animal care, and environmental health and safety. The University Director of Laboratory Animal Medicine shall have the responsibility of overseeing the CMM Animal Laboratory, and WPI and its employees shall be subject to the supervision of the University Director of Laboratory Animal Medicine when using the CMM Animal Laboratory.

2.3 In the event that WPI and/or its employees fail to abide by the University policies concerning research, laboratory animal care, and environmental health and safety and/or fail to comply with directives of the University Director of Laboratory Animal Medicine, NSHE may limit and/or deny WPI and its employees further use of the UNSoM Laboratory or CMM Animal Laboratory.

2.4 In the event WPI or its employees seek to use the CMM Animal Laboratory, WPI or its employees must submit an animal use protocol to the Institutional Animal Care and Use Committee ("IACUC") of the University for approval. WPI and/or its employees shall not conduct animal research in the CMM Animal Laboratory unless and until approval of the protocol has been received from the IACUC.

2.5 In the event the research of WPI and its employees as permitted in this Article 2 involves radioactive substances and/or biohazardous substances, WPI and its employees shall enlist the services of the University in purchasing, utilizing and disposing of such substances at the rates

established by the Department of Environmental Health and Safety ("EH & S") at the University. These rates shall be available through EH & S and are subject to change from time to time at the sole discretion of the University. NSHE shall invoice WPI for the EH & S services, and WPI shall pay undisputed invoices within thirty (30) days of receipt. WPI employees must obtain prior written approval from the University Radiation Safety Committee if their work involves radioactive tracers or the University Institutional Biosafety Committee if their research involves biological agents that are governed by the Institutional Biosafety Committee.

2.6 In the event that WPI and/or its employees fail to abide by the University policies concerning environmental health and safety and radioactive and biosafety, and/or fail to comply with directives of the University Director of Environmental Health & Safety and/or the University Radiation Safety Committee and/or the Institutional Biosafety Committee, NSHE may limit and/or deny WPI and its employees further use of the UNSOM Laboratory and CMM Animal Laboratory.

2.7 WPI employees using the UNSOM Laboratory and CMM Animal Laboratory shall undergo training, including but not limited to, training in lab animal care and environmental health and safety, as required by University for its employees.

2.8 The parties acknowledge and agree that WPI shall have the right to occupy and use its own, exclusive laboratory space in the Center for Molecular Medicine pursuant to the Lease and at no additional cost under this Operating Agreement.

3. The University's Use of WPI's Flow Cytometry Equipment

3.1 WPI intends to purchase and house in the WPI space in the Center for Molecular Medicine, flow cytometry equipment. The University and its employees may be permitted to use the flow cytometry equipment at the intramural rates charged/assessed by WPI to its faculty. These rates are available through WPI and are subject to change from time to time at the sole discretion of WPI. WPI shall invoice the University for its use of such equipment, and the University shall pay undisputed invoices within thirty (30) days of receipt.

3.2 The University and its employees shall abide by all policies and procedures instituted by WPI concerning the flow cytometry equipment.

3.3 The University employees using the flow cytometry equipment shall undergo training as required by WPI.

3.4 In the event that University and/or its employees fail to abide by WPI policies concerning use of the flow cytometry equipment, WPI may limit and/or deny the University and its employees further use of such equipment.

4. Other Equipment Usage. In the event WPI or its employees seek to use other CORE equipment of UNSOM or the University, UNSOM and/or the University shall establish rates for such usage. Such rates shall be subject to change from time to time at the sole discretion of UNSOM or the University. NSHE shall invoice WPI for such usage, and WPI shall pay undisputed invoices within thirty (30) days of receipt. This Article 4 does not preclude WPI employees from using

University-owned equipment with the written consent of the Dean of UNSoM or of the University Vice President for Research. Occasional use of common shared equipment such as centrifuges, spectrophotometers, PCR machines, etc. will be at the discretion of the principal investigator of the laboratory possessing the equipment and will require the University principal investigator's formal written approval.

5. Other Research Equipment Acquisition.

5.1 In the event either party acquires research equipment that the other party or its employees have an interest in using, the party acquiring the equipment may make the equipment available to the other party at the rates established by the party acquiring the equipment. The rates are subject to change from time to time at the sole discretion of the party acquiring the equipment. The party acquiring the equipment shall invoice the other party for its use, and the other party shall pay undisputed invoices within thirty (30) days of receipt.

5.2 In the event the parties seek to acquire research equipment jointly, the parties shall determine, prior to acquiring the equipment, the percentage of ownership of each party in the equipment. The party with the largest percentage of ownership shall determine where the equipment will be housed and shall be the party that schedules the usage of the equipment. The parties shall determine jointly whether usage fees will be charged to either party and the corresponding usage rates. In the event a party is invoiced for usage of the equipment, undisputed invoices shall be paid within thirty (30) days of receipt.

6. Training. In addition to the training addressed in Article 2 of this Operating Agreement, WPI employees shall obtain such life safety and other training as required by the University concerning safety and use of the Center for Molecular Medicine.

7. Institutional Review Board. WPI may submit proposals to the University Institutional Review Board ("IRB") and shall pay for the IRB's review of submitted proposals at the rates established by the University Vice President for Research. The rates are subject to change from time to time at the sole discretion of the University Vice President for Research. NSHE shall invoice WPI for the services of the IRB, and WPI shall pay for the services within thirty (30) days of receipt of invoice.

8. Indemnification and Insurance.

8.1 WPI shall indemnify, defend, and hold harmless NSHE from and against any and all liabilities, claims, losses, lawsuits, judgments, and/or expenses, including attorney's fees, for injury to the person or property of another which was caused by an act or omission of WPI, its officers, employees, and agents under this Operating Agreement. To the extent limited in accordance with NRS 41.0305 to NRS 41.039, NSHE shall indemnify, defend, and hold harmless WPI from and against any and all liabilities, claims, losses, lawsuits, judgments, and/or expenses, including attorney's fees, for injury to the person or property of another which was caused by an act or omission of NSHE, its officers, employees, and agents under this Operating Agreement. NSHE will assert the defense of sovereign immunity as appropriate in all cases, including malpractice and

indemnity actions. The University's indemnity obligation for actions sounding in tort is limited in accordance with the provisions of NRS 41.035.

8.2 Each party shall, at its sole expense, procure, maintain, and keep in force for the duration of the Operating Agreement the following insurance conforming to the minimum requirements specified below:

(a) Workers' Compensation and Employer's Liability Insurance if such insurance is required by NRS 616B.627, or proof that compliance with the provisions of Nevada Revised Statutes, Chapter 616A-D and all other related chapters, is not required.

(b) Commercial General Liability Insurance with the following coverages and the following limits:

\$1,000,000 Each Occurrence
\$2,000,000 General Aggregate
\$1,000,000 Products & Completed Operations Aggregate
\$1,000,000 Personal and Advertising Injury

(c) Professional liability insurance in the minimum amount of one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) general aggregate.

8.2.1 Coverage shall be on an occurrence basis and shall be at least as broad as ISO 1996 form CG 00-01 and shall cover liability arising from premises, operations, independent contractors, completed operations, personal injury, products, and liability assumed under contract.

8.2.2 Insurance maintained by the parties shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the other party. Such approval shall not relieve the insured party from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000.00 per occurrence, unless otherwise approved by NSHE Risk Manager.

8.2.3 Each insurance policy shall be issued by insurance companies authorized to do business in the State of Nevada, and currently rated by A.M. Best as "A- IX" or better.

8.2.4 On or before the date on which the parties are required to obtain insurance under the Lease, the parties must provide Accord 25 Certificate of Insurance form or a form substantially similar to the other party to evidence the insurance policies and coverages required hereunder. Except for ten (10) days notice for non-payment of premium, each insurance policy shall be endorsed to specify that without thirty (30) days prior written notice to the certificate holder, the policy shall not be canceled, non-renewed, or coverage and/or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mail to the address specified herein.

8.2.5 NSHE and WPI shall have no liability to one another, or to any insurer, by way of subrogation or otherwise, on account of any loss or damage to their respective property, the premises

or its contents, or the building regardless of whether such loss or damage is caused by the negligence of WPI or NSHE, arising out of the peril or casualties insured against by the property insurance policies carried, or required to be carried, by the parties pursuant to this Operating Agreement. The insurance policies obtained by WPI or NSHE pursuant to this Operating Agreement shall permit waivers of subrogation which the insurer may otherwise have against the non-insuring party. In the event the policy or policies do not allow waiver of subrogation prior to loss, either WPI or NSHE shall, at the request of the other party, deliver to the requesting party a waiver of subrogation endorsement in such form and content as may reasonably be required by the requesting party or its insurer.

8.2.6 Unless specifically noted herein or otherwise agreed to by NSHE, the required insurance shall be in effect at commencement of the Lease and shall continue in force until the Operating Agreement expires or is terminated.

9. Default.

9.1 Any one or more of the following events shall constitute a default by a party (the "Defaulting Party") under the terms of this Operating Agreement ("Event of Default");

(1) the failure of a party to pay any sum of money due hereunder to the other party or any other person, within fifteen (15) days after the same shall become due;

(2) the sale, transfer or assignment of a party's interest in this Operating Agreement whether voluntary or under attachment, execution or similar legal process, without the other party's prior written approval;

(3) the filing of a petition proposing the adjudication of a party as a bankrupt or insolvent; or the reorganization of a party, or an arrangement by a party with its creditors, whether pursuant to the Federal Bankruptcy Act or any similar federal or state proceeding, unless such petition is filed by a third party other than such party and is withdrawn or dismissed within sixty (60) days after the date of its filing;

(4) the admission in writing by a party of its inability to pay its debts when due;

(5) the appointment of a receiver or trustee for the business or Premises of a party, unless such appointment is vacated within sixty (60) days of its entry;

(6) the making by a party of an assignment for the benefit of its creditors;

(7) a default by a party in the performance or observance of any covenant or agreement of this Operating Agreement to be performed or observed by such party (other than as described above), which default is not cured within thirty (30) days after the giving of written notice thereof by the other party, unless such default is of such nature that it cannot be cured within such 30-day period, in which event such Event of Default shall be deemed to have been cured if such party institutes a cure within the 30-day period and thereafter diligently and continuously prosecutes the curing of the same until completion, but in no event shall such cure period exceed ninety (90) days; provided,

however, that if such defaults in the performance of any such covenant or agreement occur more than three (3) times during any five (5) consecutive years during the Term, then notwithstanding that such defaults have each been cured by the defaulting party, any further defaults shall be deemed an Event of Default without the ability to cure, even though Tenant shall fully cure each such Event of Default; or

(8) any Event of Default by NSHE or WPI as defined in the Lease, if not cured within any applicable cure period as specified in the Lease, and without regard to any cure period specified herein.

9.2 Upon the occurrence of any Event of Default by a Defaulting Party, the nondefaulting party shall have the option to pursue any one or more of the following remedies without any further notice or demand:

(1) Subject to the provisions of any applicable agreement between the nondefaulting party and any employee/faculty member of the nondefaulting party who is also an employee/faculty member of the Defaulting Party, the nondefaulting party may terminate such employee/faculty member's employment with the nondefaulting party;

(2) Terminate this Operating Agreement, in which event (i) the Defaulting Party shall immediately discontinue use of any and all laboratory facilities and/or equipment of the nondefaulting party, and (ii) if the Defaulting Party is WPI, and it fails so to do, the NSHE may, without prejudice to any other remedy which it may have for damages, expel or remove WPI and any other person who may be occupying University facilities, or any part thereof, by force if necessary, without being liable to prosecution or for any claim for damages;

Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any amount due to the nondefaulting party hereunder or of any damage accruing to the nondefaulting party by reason of the violation of any of the terms, provisions and covenants herein contained. Forbearance by the nondefaulting party to enforce one or more of the remedies herein provided upon the occurrence of an Event of Default shall not be deemed or construed to constitute a waiver of such default.

10. Termination. This Operating Agreement shall automatically terminate with the termination of the Lease. Either party may terminate this Agreement upon six (6) months written notice to the other party.

11. Faculty Appointments.

11.1 The purpose of certain WPI and University faculty holding adjunct or dual faculty appointments at WPI and the University is to recruit and retain physicians and researchers with national and/or international stature and reputation at all academic levels and to enhance the quality of research, medical education, and patient care in neuro-immune diseases and illnesses related thereto in Nevada.

11.2 The parties recognize that many WPI faculty may be qualified and appropriate for adjunct or dual faculty appointments at the University and WPI, and that many University faculty may be qualified and appropriate for adjunct or dual faculty appointments at WPI and the University. The University may offer appointments to mutually agreed upon physicians and researchers, in accordance with the University policies and procedures for faculty searches and appointments. WPI may offer appointments to mutually agreed upon physicians and researchers, in accordance with WPI policies and procedures for faculty searches and appointments. In the event of a dual appointment, WPI and the University shall mutually consult on the percentage of FTE for which the employee shall be employed at each institution so that the total FTE for any employee shall not exceed 1 FTE. WPI and the University shall each compensate the employee only for that percentage of FTE for which the employee is employed at each institution. The faculty member will be subject to WPI personnel policies and procedures, including those for discipline and termination, for that percentage of employment with WPI, and the faculty member will be subject to University personnel policies and procedures, including those for discipline and termination, for that percentage of employment with the University.

11.3 Adjunct or dual faculty appointments may be non-tenure or tenure-track appointments at the University depending upon the candidate, the search process and compliance with all applicable procedures of the University and at the sole discretion of the University.

11.4 Adjunct or dual faculty appointments at the University may be terminated, when appropriate, in accordance with the NSHE Code and the policies and procedures of the NSHE Board of Regents, and faculty appointment at WPI may be terminated, when appropriate, in accordance with WPI Human Resources Academic Faculty policies and procedures.

11.5 WPI agrees to create and implement the policies and procedures required by federal sponsoring agencies. WPI faculty holding adjunct or dual faculty appointment at the University shall have faculty rights at the University in accordance with their contracts at the sole discretion of the University. Such faculty may have substantive faculty responsibilities at the University and UNSOM that may include, but are not limited to, the following:

- a. teaching duties with medical students, medical residents, fellows, and graduate students;
- b. mentoring duties with designated graduate students, residents or fellows; and
- c. serving as a member of a thesis and/or dissertation committee.

WPI faculty with adjunct or dual faculty appointment at the University and either laboratory programs on the University campus or active ongoing collaborations with University faculty shall be allowed access to UNSOM core research and animal care facilities at intramural rates. WPI faculty who hold adjunct or dual appointments and who are engaged only in limited occasional teaching activity shall also be given access to core facilities at intramural rates, but the priority of their use shall depend upon the WPI faculty having active ongoing research collaborations with University faculty.

11.6 University faculty with adjunct or dual appointments at WPI shall have faculty rights at WPI in accordance with their contracts at the sole discretion of WPI. Such faculty may have substantive faculty responsibilities at WPI that may include, but are not limited to, the following:

- a. Participation in joint research projects, including clinical trials.
- b. Mentoring of research and/or clinical fellows employed by WPI.
- c. Timely contributions to joint grant and foundation support applications.
- d. Active participation in recruitment of WPI faculty.
- e. Other responsibilities as mutually agreed upon.

University faculty with adjunct or dual faculty appointments at WPI with active ongoing collaborations with WPI faculty shall be allowed access to WPI core research, library and animal care facilities at intramural rates. University faculty who hold adjunct or dual appointments and who are engaged only in limited occasional teaching activity shall also be given access to core facilities at intramural rates, but the priority of their use shall depend upon the University faculty having active ongoing research collaborations with WPI faculty.

12. Sponsored Activities.

12.1 Proposal Submissions. In the event of collaboration on a proposal submission, the University and WPI shall work together to determine which entity shall be the lead institution on the proposal submission. All proposals that include Personnel, independent contractors, students, facilities, equipment or other resources of the other party shall include the other party as a subcontractor with appropriate Direct Costs and Facility and Administrative costs as allowed by the Prime Sponsor. The lead institution shall obtain, prior to proposal submission, written approval of the subcontract proposal and budget from the other party's representative or administrator with the appropriate institutional signature authority. The lead institution will be responsible for paying the subcontracting institution all documented, incurred expenses as awarded by the sponsor to the lead institution. All financial information required to accurately assess the costs will be made freely available to the other party upon request.

12.2 Regulatory Compliance. The parties agree and understand that sponsored project activities may include human and/or animal research subjects. Both parties shall comply with all applicable federal and state regulations regarding protection of human and animal subjects including, but not limited to 45 C.F.R. 46, C.F.R. parts 50 and 56, the C.F.R. sections regarding animal care 9 CFR parts 1-3 and any and all regulations enforced by the DHHS Office for Human Rights Protection ("OHRP"), the Office for Laboratory Animal Welfare ("OLAW") and the Federal Drug Administration. In the event WPI or its employees wish to submit a protocol through the University's IRB, WPI shall hold, at a minimum, a current federal wide assurance from OHRP and have a human research protection program with oversight by a Human Protection Administrator in place. Fees and procedural details for submission of protocols through the University's IRB shall be negotiated under a separate agreement with the University Office of Human Protection.

12.3 If Personnel of WPI or the University apply for a grant using the resources and/or Personnel of the other entity, the grant writer (primary investigator) shall list the other entity and/or Personnel of such entity, as applicable, as a co-investigator of the grant.

13. Publication.

13.1 Subject to the procedures required under any applicable sponsor agreement, the parties in a joint research project between WPI and the University and/or other parties shall jointly publish the results of such research. Order of authorship will be determined prospectively whenever possible and will be based on the intellectual contributions, anticipated percentage of contribution to the project, and other factors as generally applied. In the event that the lead investigator fails to submit the data for publication in a timely fashion, the collaborating investigator(s) shall have the right to proceed with submission for publication. The previously agreed upon order of authorship will then be adjusted. In certain instances, such as projects sponsored by commercial entities, it may be necessary to delay submission of manuscripts in order to comply with need for sponsor review prior to submission. This delay is normally limited to a period of thirty (30) days. However, commercial entities will not have the right to prevent publication of data in peer reviewed journals if the findings are contrary to the interests of the commercial entity.

14. Patents and Inventions.

14.1 Subject to the rights of third parties under sponsor agreements and pursuant to the intellectual property policies of WPI and NSHE and the University, ownership of intellectual property shall be governed as follows:

- a. NSHE shall own all rights, title and interest in all inventions and improvements conceived and reduced to practice solely by University "Personnel" (as defined below) utilizing only University space, equipment or other resources. NSHE may file all patent applications covering such inventions and improvements and shall be the sole owner of all such NSHE intellectual property.
- b. WPI shall own all rights, title and interest in all inventions and improvements conceived or reduced to practice solely by WPI "Personnel" utilizing only WPI space (including the WPI leased space in the Center for Molecular Medicine), equipment or other resources. WPI may file all patent applications covering such inventions and improvements and shall be the sole owner of all such WPI intellectual property.
- c. WPI and NSHE shall jointly hold rights, title, and interest in all inventions and improvements conceived and reduced to practice jointly by "Personnel" from both University and WPI. The percentage distribution of cost and ownership will be dependent upon the percentage of contribution of each institutional faculty member (regardless of classification) to developing the intellectual property. The relative contribution of the parties will be established on a case by case basis and by mutual consent. Additionally, the parties shall jointly own any invention or intellectual property that is conceived and reduced to practice under a research or collaboration

contract between WPI and NSHE, in which the resources and/or personnel of both institutions are involved.

The term "Personnel" of University means a person who is employed and compensated by the University as a University employee or compensated as an independent contractor or through a grant to NSHE; and the term "Personnel" of WPI means a person who is employed and compensated by WPI as a WPI employee or compensated as an independent contractor or through a grant to WPI. The fact that a person is given a non-paid title or appointment (e.g., adjunct faculty appointment or dual faculty appointment) does not make that person a "Personnel" of a party. For avoidance of doubt, if a party leases space from the other party, and an invention is conceived in the leased space solely by the lessee's Personnel, the lessor has no rights or interests in such invention.

Each party shall notify the other party promptly after learning of any jointly owned invention. An Interinstitutional Agreement between WPI and the University shall be executed regarding the management of each jointly owned invention. The agreement shall address patent prosecution management, costs, and licensing. In the event either party shall abandon its rights to any joint invention, improvement, application or patent, that party shall assign all rights, title and interest therein to the other party.

15. Compliance with Laws. Each party certifies that it is and will continue to be in compliance with all applicable federal, state and local laws, codes, regulations, rules and orders including but not limited to debarment and suspension, Office of Management and Budget Circulars, regulatory compliance, IRS tax requirements and other federal and state requirements for research institutions.

16. Public Files. Faculty holding named chairs endowed through either institution shall be identified in published and presented material as appropriate to their sponsoring institution.

17. Entire Agreement. This Operating Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, and all other communications between the parties relating to such subject matter. This Operating Agreement may not be amended or modified except by mutual written agreement. All continuing covenants, duties and obligations herein shall survive the expiration or earlier termination of this Operating Agreement. If any provision of this Operating Agreement is held to be invalid or unenforceable for any reason, this Operating Agreement shall remain in full force and effect in accordance with its terms, disregarding such unenforceable or invalid provision.

18. Interpretation. NSHE and WPI hereby agree that both parties were equally influential in preparing and negotiating this Operating Agreement and each had the opportunity to seek advice of legal counsel prior to the execution of this Operating Agreement. Therefore, NSHE and WPI agree that no presumption should arise construing this Operating Agreement more unfavorably against any one party.

19. Captions. The captions contained herein are used solely for convenience and shall not be deemed to define or limit the provisions of this Operating Agreement.

20. Governing Law. This Operating Agreement shall be governed and construed in accordance with the laws of the state of Nevada.

21. Assignment. No party may assign or transfer any of its rights, duties or obligations under this Operating Agreement, in whole or in part, without the prior written consent of the other party. This Operating Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and permitted assigns.

22. Notice. All notices required by this Operating Agreement shall be in writing, delivered personally, by certified mail, return receipt requested, or by overnight courier, and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail, postage pre-paid, or with an overnight courier, addressed as follows:

If to WPI:

Annette Whittmore
Executive Director
Whittmore Peterson Institute
6600 N. Wingfield Pkwy.
Sparks, NV 89436

With a copy to:

Carl West Kinne
Associate General Counsel
Wingfield Nevada Group
6600 N. Wingfield Pkwy.
Sparks, NV 89436

If to the University:

John McDonald, M.D.
Dean, University of Nevada School of
Medicine
Pennington Medical Education UNR/332
Reno, Nevada 89557-1332

With a copy to:

Mary Phelps Dugan
General Counsel
University of Nevada, Reno
2601 Enterprise Road
Reno, NV 89512

And a copy to:

Thomas J. Ray
General Counsel
University of Nevada School of Medicine
Pennington Medical Education UNR/332
Reno, Nevada 89557-1332

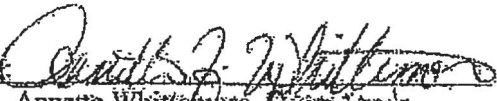
or to such other persons or places as either party may from time to time designate by written notice to the other.

23. Execution of Agreement. This Operating Agreement shall not become effective or in force until all of the below-named parties have fully executed this Operating Agreement.

24. No Joint Venture. In no event shall this Operating Agreement be construed as establishing a partnership or joint venture or similar relationship between the parties hereto.

(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.)

**WHITTEMORE PETERSON INSTITUTE FOR
NEURO-IMMUNE DISEASE**

By: 
Annette Whittemore, President

Date: May 12, 2008

UNIVERSITY OF NEVADA SCHOOL OF MEDICINE

By: _____
John A. McDonald
Dean, School of Medicine

Date: _____

By: _____
Milton D. Glick, President
University of Nevada, Reno

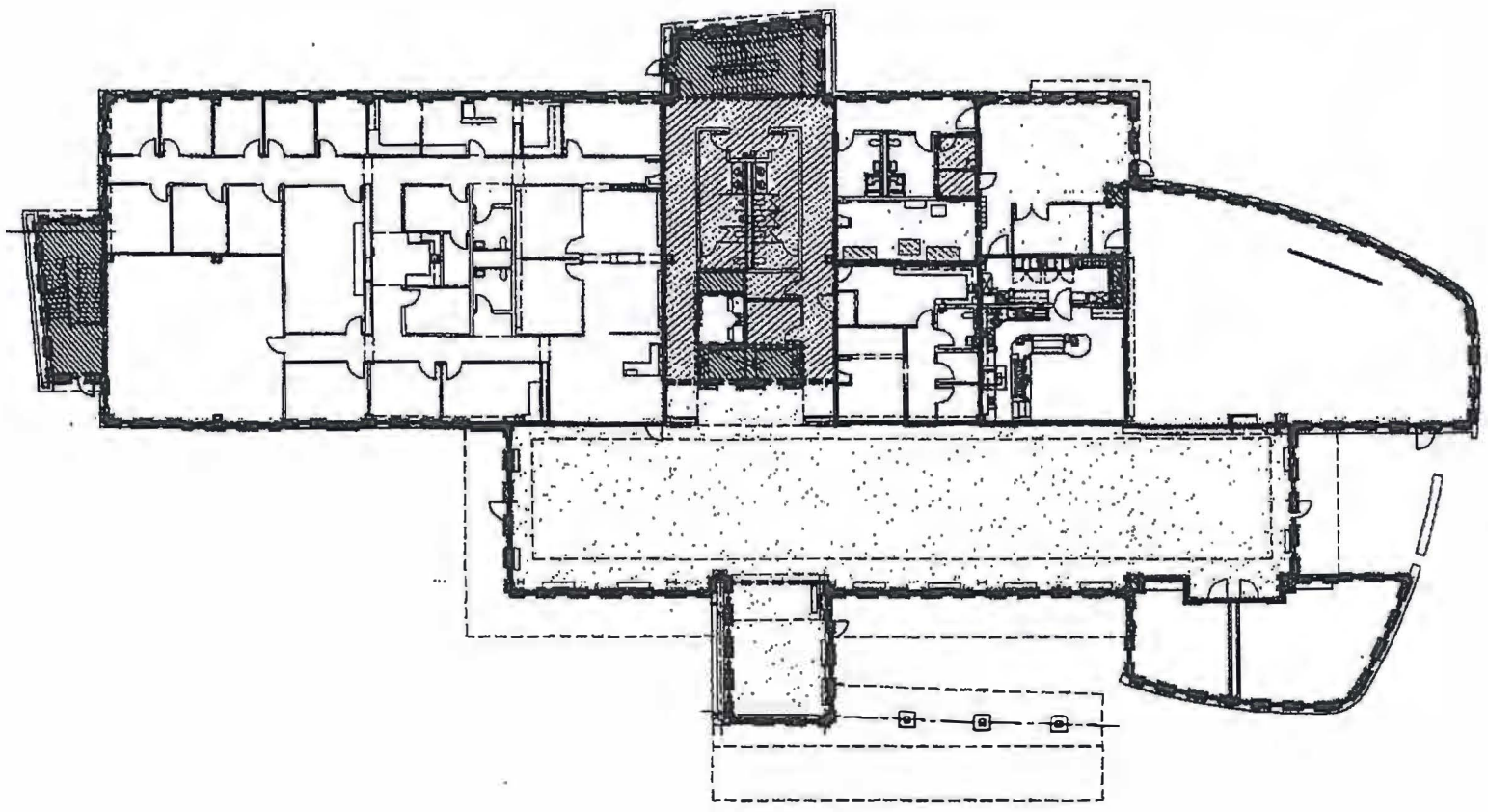
Date: _____

**FOR THE BOARD OF REGENTS OF THE
UNIVERSITY AND COMMUNITY COLLEGE
SYSTEM OF NEVADA ON BEHALF OF THE
UNIVERSITY OF NEVADA SCHOOL OF MEDICINE**

James E. Rogers, Chancellor
Daniel J. Kluch,
Date: _____

EXHIBIT D

14.6 15 16 17 18 19 20 21 22 23



A
A.5
B
B.5
C
D

EXHIBIT "D"

Dekker/Perich/Sabatini
 architecture • interiors • landscape • planning • engineering
 6920 Burnside Rd. Ste. 100 P. 702 456-1008
 Las Vegas, Nevada 89119 F. 702 456-1060

		M.O.B. LEVEL 1 AREA PLAN	
Center for Molecular Medicine	DRAWN BY	MF	SCALE
U of N School of Medicine	REVIEWED BY	MMCK	N.T.S.
Reno, Nevada	DATE ISSUED	02.23.08	B111 OF
SPWB Project No.: 06-A13	PROJECT NO.	05-0549	

14.6

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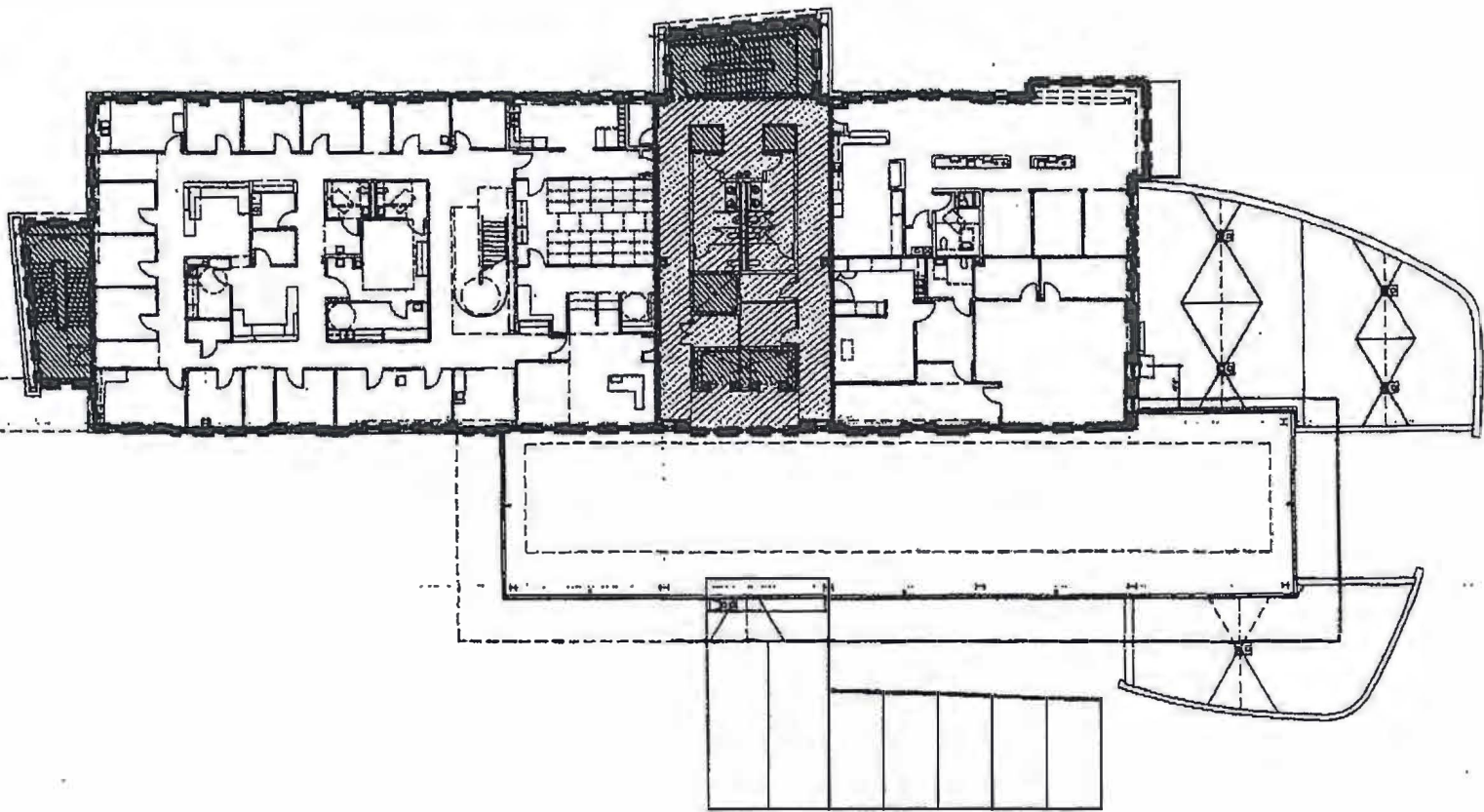
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B

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C

D

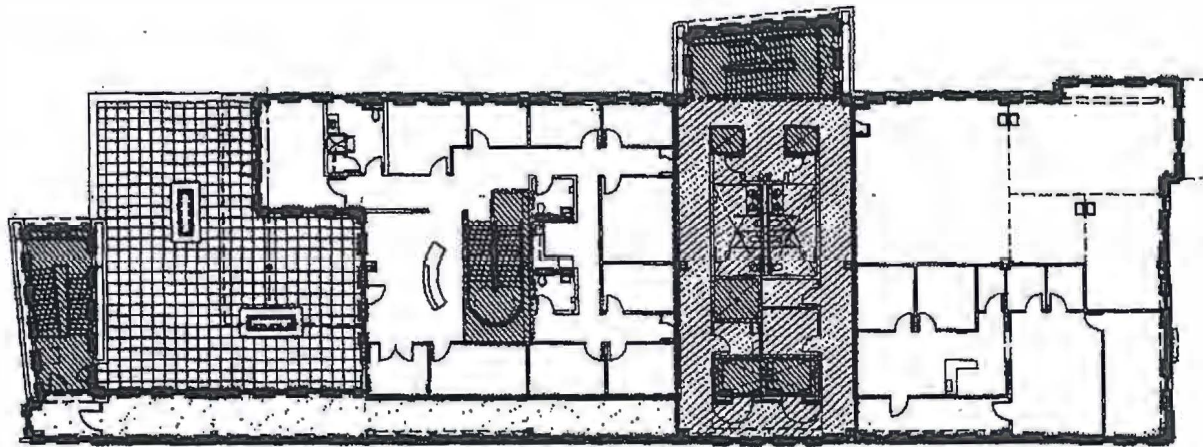


Dekker/Perich/Sabatini
 architecture - interiors - landscape - planning - engineering
 6860 Bermuda Rd. Ste. 100 P. 702 436-1006
 Las Vegas, Nevada 89119 F. 702 436-1050

Center for Molecular Medicine
 U of N School of Medicine
 Reno, Nevada
 SPWB Project No.: 06-A13

M.O.B. LEVEL 2 AREA PLAN			
DRAWN BY	MF	SCALE	N.T.S.
REVIEWED BY	MMCK		
DATE ISSUED	02.22.08		
PROJECT NO.	05-0549		
		B121	
			OF

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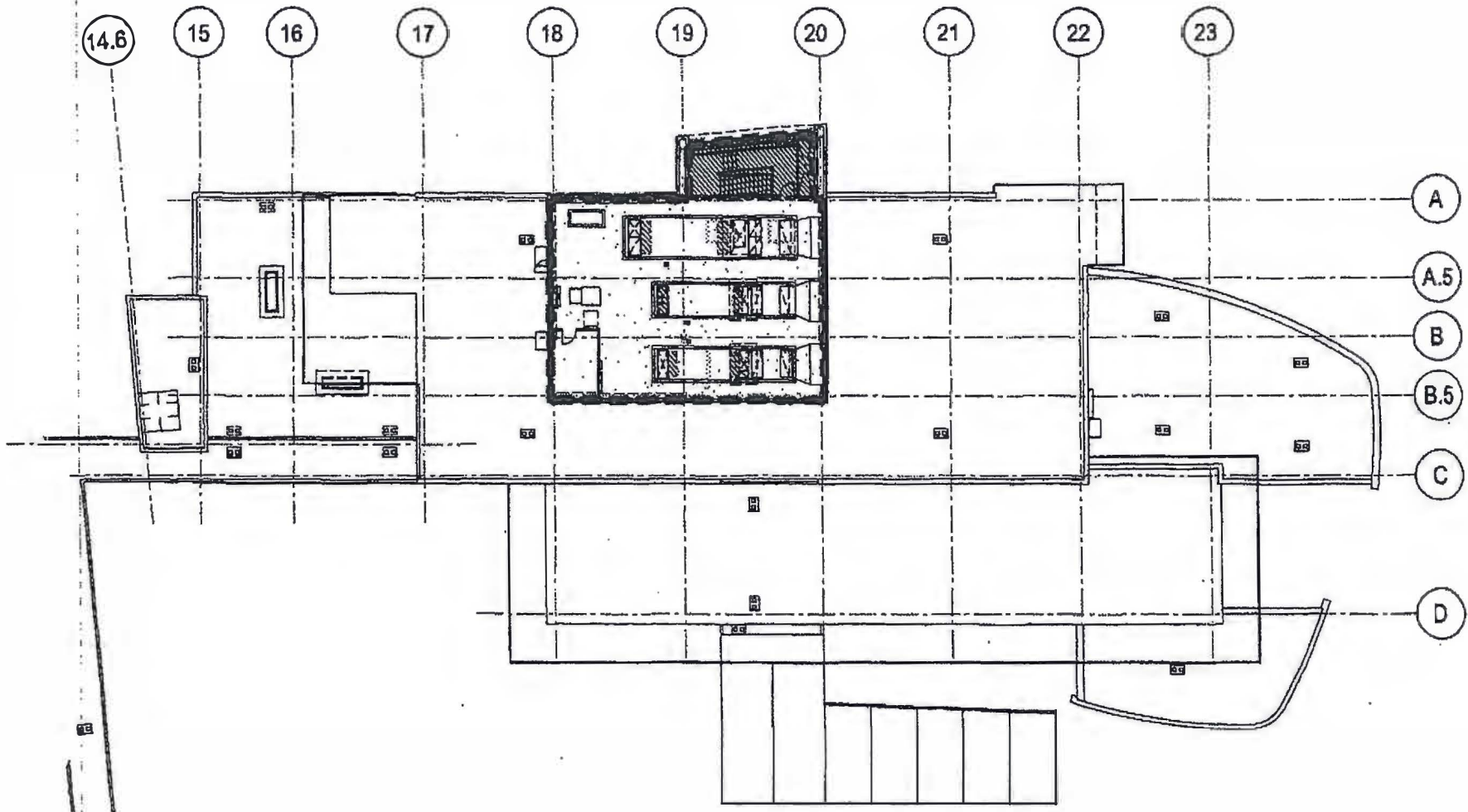


Dekker/Perich/Sabatini

architecture - interiors - landscape - planning - engineering
 6880 Durando Bl. Ste. 100 P. 702 436-1006
 Las Vegas, Nevada 89119 F. 702 436-1008

		M.O.B. LEVEL 3 AREA PLAN	
DRAWN BY	MF	SCALE	N.T.S.
REVIEWED BY	MMCK	B131 OF	
DATE ISSUED	02.25.08		
PROJECT NO.	05-0549		

Center for Molecular Medicine
 U of N School of Medicine
 Reno, Nevada
 SPWB Project No.: 06-A13



Dekker/Perich/Sabatini
 architecture • interiors • landscape • planning • engineering
 6885 Saratoga Rd. Ste. 100 P. 702 436-1008
 Las Vegas, Nevada 89119 F. 702 436-1050

		M.O.B. LEVEL 4 (PENTHOUSE) AREA PLAN	
Center for Molecular Medicine U of N School of Medicine Reno, Nevada SPWB Project No.: 06-A13	DRAWN BY MF	SCALE	N.T.S.
	REVIEWED BY MMCK	B141 OF	
	DATE ISSUED 02.25.08		
	PROJECT NO. 05-0549		

EXHIBIT E

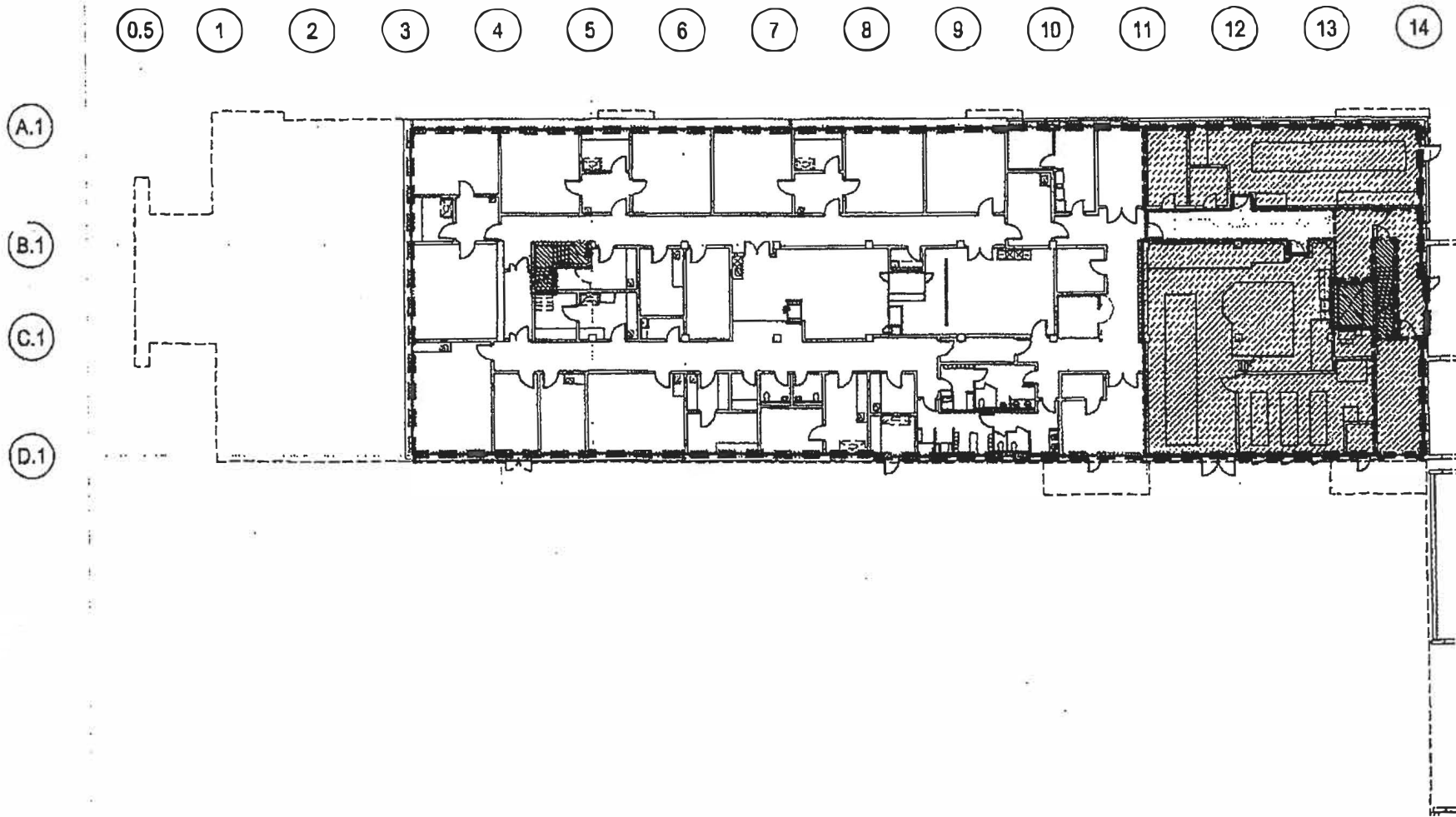
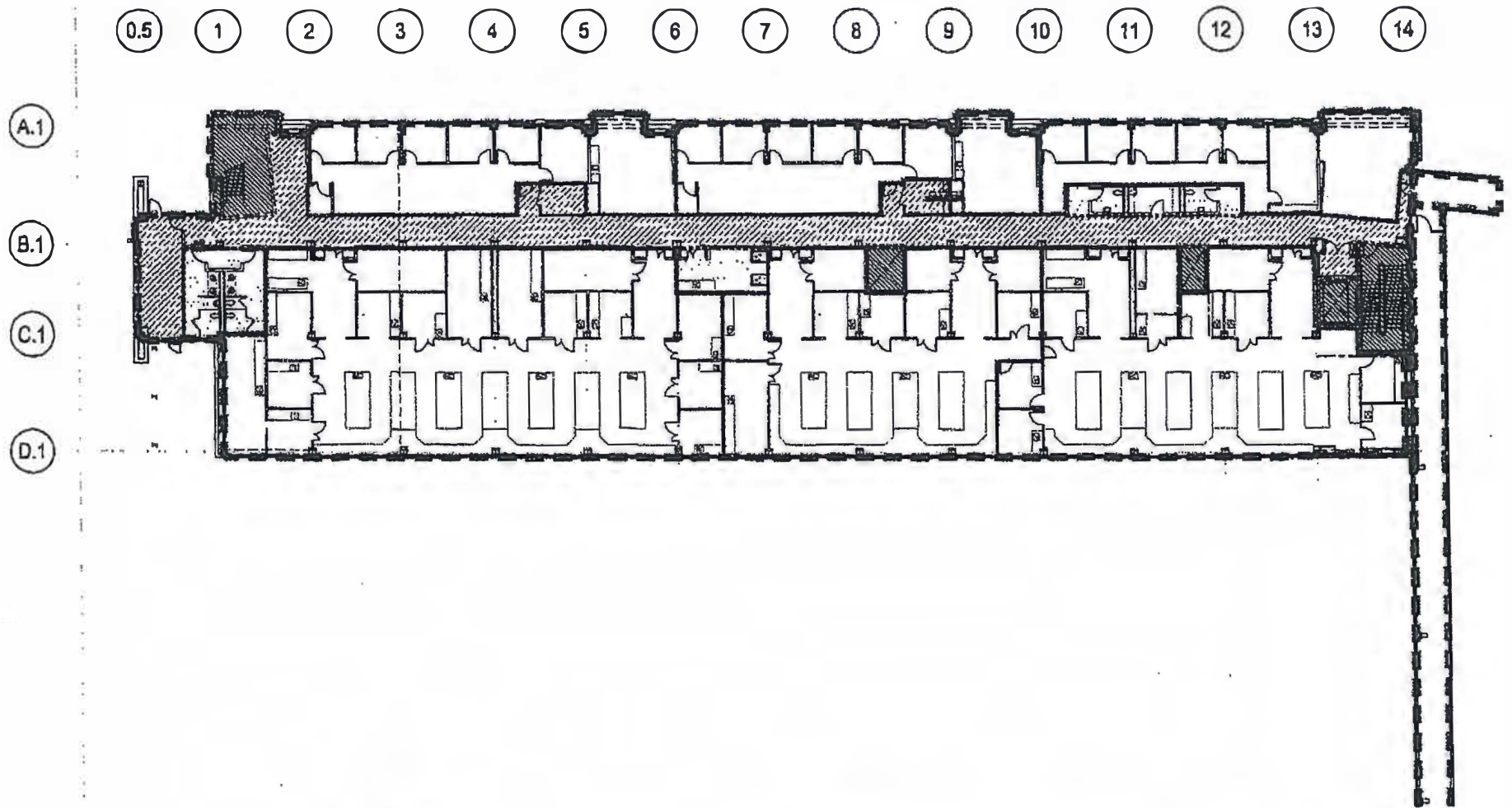


EXHIBIT "E"



Dekker/Perich/Sabatini
 architects - interiors - landscape - planning - engineering
 6860 Bernardo Rd. Ste. 100 P. 702 456-1006
 Las Vegas, Nevada 89118 F. 702 456-1056

		LAB LEVEL 1 AREA PLAN												
Center for Molecular Medicine U of N School of Medicine Reno, Nevada SPWB Project No.: 06-A13		<table border="1"> <tr> <td>DRAWN BY</td> <td>MF</td> <td>SCALE</td> <td>N.T.S.</td> </tr> <tr> <td>REVIEWED BY</td> <td>MMCK</td> <td colspan="2" rowspan="3" style="text-align: center; vertical-align: middle;">B122 OF</td> </tr> <tr> <td>DATE ISSUED</td> <td>01.21.08</td> </tr> <tr> <td>PROJECT NO.</td> <td>05-0549</td> </tr> </table>	DRAWN BY	MF	SCALE	N.T.S.	REVIEWED BY	MMCK	B122 OF		DATE ISSUED	01.21.08	PROJECT NO.	05-0549
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REVIEWED BY	MMCK	B122 OF												
DATE ISSUED	01.21.08													
PROJECT NO.	05-0549													

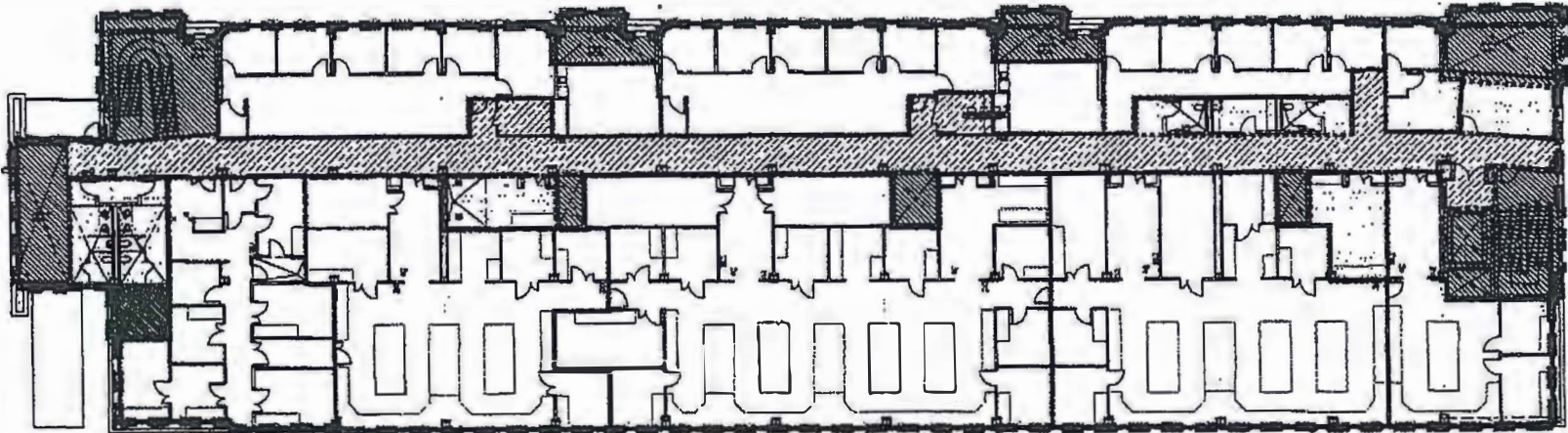


Dekker/Perich/Sabatini
 architecture - interiors - landscape - planning - engineering
 6580 Duranville Rd. Ste. 100 P. 702 456-1008
 Las Vegas, Nevada 89119 F. 702 456-1050

		LAB LEVEL 2 AREA PLAN	
Center for Molecular Medicine U of N School of Medicine Reno, Nevada SPWB Project No.: 06-A13	DRAWN BY REVIEWED BY DATE ISSUED PROJECT NO.	MF HMCK 01.21.08 05-0549	N.T.S. B132 OF

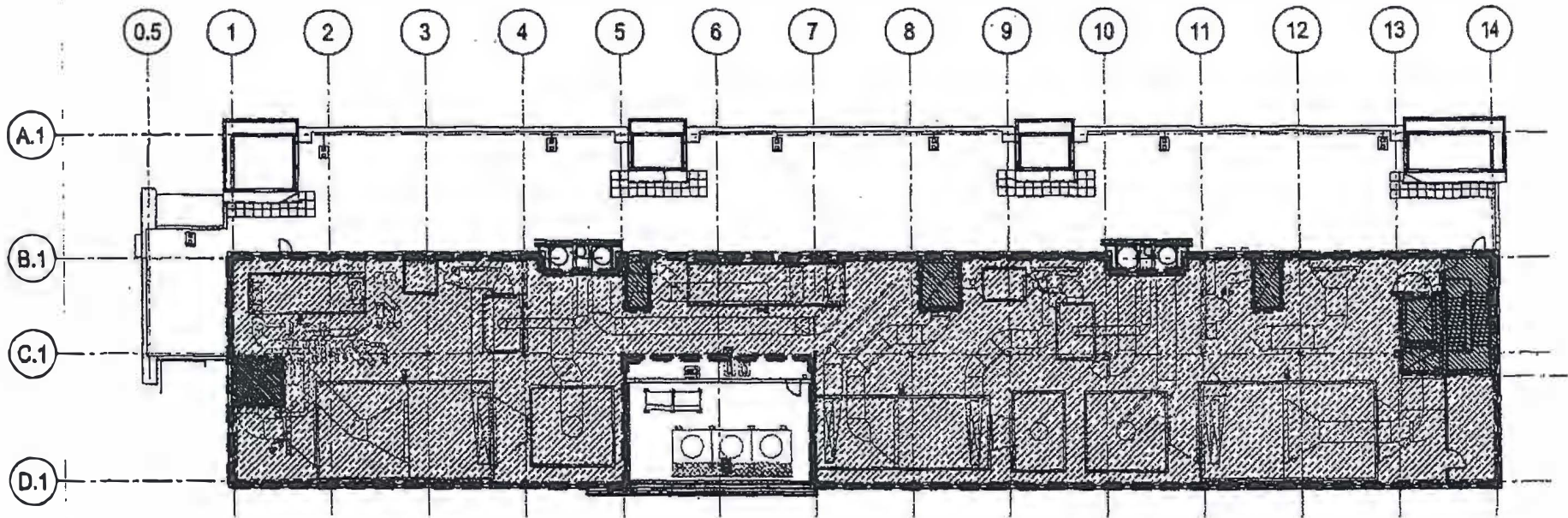
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D.1



Dekker/Perich/Sabatini
 architecture • interiors • landscape • planning • engineering
 2200 Rumbold Rd. Ste. 100 P. 702 436-1000
 Las Vegas, Nevada 89119 F. 702 436-1080

		LAB LEVEL 3 AREA PLAN	
Center for Molecular Medicine	DRAWN BY	MF	SCALE
U of N School of Medicine	REVIEWED BY	MMCK	N.T.S.
Reno, Nevada	DATE ISSUED	01.21.06	B142
SPWB Project No.: 06-A13	PROJECT NO.	05-054A	
			OF



Dekker/Perich/Sabatini

architecture • interiors • landscape • planning • engineering
 6960 Bermuda Rd., Ste. 100 P. 702 438-1806
 Las Vegas, Nevada 89119 F. 702 438-1880

Center for Molecular Medicine
 U of N School of Medicine
 Reno, Nevada
 SPWB Project No.: 06-A13

**LAB LEVEL 4 PENTHOUSE
 AREA PLAN**

DRAWN BY	MF	SCALE	N.T.S.
REVIEWED BY	MMCK		
DATE ISSUED	01.21.08		
PROJECT NO.	05-0549		

B151
 of

EXHIBIT F

Landlord's Work

Plans and Specifications For Center for Molecular Medicine

University of Nevada, School of Medicine

SPWB Project No.: 06-A13

EXHIBIT G

Tenant's Work

(to be submitted by Tenant for approval)

EXHIBIT H

Rules and Regulations

RULES AND REGULATIONS

1. The sidewalks, passages and stairways shall not be obstructed by Tenant or used by Tenant for any purpose other than ingress and egress from and to Tenant's Premises. Landlord shall in all cases retain the right to control or prevent access thereto by any person whose presence, in Landlord's judgment, would be prejudicial to the safety, peace, character or reputation of the Premises or of any tenant of the Building.

2. The toilet rooms, water closets, sinks, faucets, plumbing and other services apparatus of any kind shall not be used by Tenant for any purpose other than those for which they were installed, and no sweepings, rubbish, rags, ashes, chemicals or other refuse or injurious substances shall be placed therein or used in connection therewith by Tenant, or left by Tenant in the lobbies, passages, elevators or stairways of the Building. The expense of any breakage, stoppage or damage to such sinks, toilets and the like shall be borne by the tenant who, or whose employees, contractors or invitees, caused it.

3. No skylight, window, door or transom of the Building shall be covered or obstructed by Tenant, and no window shade, blind, curtain; screen, storm window, awning or other material shall be installed or placed on any window or in any window space, except as approved in writing by Landlord. If Landlord has installed or hereafter installs any shade, blind or curtain in the Premises, Tenant shall not remove it without first obtaining Landlord's written consent thereto which shall not be unreasonably withheld.

4. No sign, lettering, insignia, advertisement, notice or other thing shall be inscribed, painted, installed, erected or placed in any portion of the Premises which may be seen from outside the Building, or on any window, window space or other part of the exterior or interior of the Building, unless first approved in writing by Landlord. Names on suite entrances may be provided by and only by Landlord and at Tenant's expense, using in each instance lettering of a design and in a form consistent with the other lettering in the Building, and first approved in writing by Landlord. Tenant shall not erect any stand, booth or showcase or other article or matter in or upon the Premises or the Building without first obtaining Landlord's written consent thereto which shall not be unreasonably withheld.

5. Tenant shall not place any other or additional lock upon any door within the Premises and Tenant shall surrender all keys for all such locks at the end of the Term. Landlord shall provide Tenant with one set of keys to the Premises when Tenant assumes possession thereof.

6. Tenant shall not do or permit to be done anything which obstructs or interferes with the rights of any other tenant of the Building. No bird, fish or animal shall be brought into or kept in or about the Premises or the Building. Service animals are allowed

7. If Tenant desires to install signaling, telegraphic, telephonic, protective alarm or other wires, apparatus or devices within the Premises, Landlord shall direct where and how they are to be installed and, except as so directed, no installation, boring or cutting shall be permitted.

Landlord shall have the right (a) to prevent or interrupt the transmission of excessive, dangerous or annoying current of electricity or otherwise into or through the Premises or the Building, (b) to require the changing of wiring connections or layout at Tenant's expense, to the extent that Landlord may deem necessary, (c) to require compliance with such reasonable rules as Landlord may establish relating thereto, and (d) in the event of noncompliance with such requirements or rules, immediately to cut wiring or do whatever else it considers necessary to remove the danger, annoyance or electrical interference with apparatus in any part of the Building or the Premises.

8. Landlord shall in no event be responsible for admitting or excluding any person from the Premises. In cases of invasion, hostile attack, insurrection, mob violence, riot, public excitement or other commotion, explosion, fire or any casualty, Landlord shall have the right to bar or limit access to the Building to protect the safety of occupants of the Premises, or any property within the Premises.

9. The use of any area within the Premises as sleeping quarters is strictly prohibited at all times.

10. Tenant shall keep the windows and doors of the Premises (including those opening on corridors and all doors between rooms entitled to receive heating or air conditioning service and rooms not entitled to receive such service) closed while the heating or air-conditioning system is operating, in order to minimize the energy used by, and to conserve the effectiveness of, such systems. Tenant shall comply with all reasonable rules and regulations from time to time promulgated by Landlord with respect to such systems or their use.

11. Landlord shall have the right to prescribe the weight and position of inventory and of other heavy equipment or fixtures, which shall, if considered necessary by Landlord, stand on plank strips to distribute their weight. Any and all damage or injury to the Premises arising out of Tenant's equipment being on the Premises shall be repaired by Tenant at his expense. Tenant shall not install or operate any machinery whose installation or operation may affect the structure of the Building without first obtaining Landlord's written consent thereto, and Tenant shall not install any other equipment of any kind or nature whatsoever which may necessitate any change, replacement or addition to, or in the use of, the water system, the heating system, the plumbing system, the air-conditioning system or the electrical system of the Premises or the Building without first obtaining Landlord's written consent thereto. Business machines and mechanical equipment belonging to Tenant which cause noise or vibration that may be transmitted to the structure of the Building, any other buildings on the Property, or any space therein to such a degree as to be objectionable to Landlord or to any tenant, shall be installed and maintained by Tenant, at its expense, on vibration eliminators or other devices sufficient to eliminate such noise and vibration. Tenant shall remove promptly from any sidewalks and other areas on the Premises any of Tenant's furniture, equipment, inventory or other material delivered or deposited there.

12. Tenant shall not place or permit its agents, employees or invitees to place any thing or material on the roof or in the gutters and downspouts of the Building or cut, drive nails into or otherwise penetrate the roof, without first obtaining Landlord's written consent thereto. Tenant shall be responsible for any damage to the roof caused by its employees or contractors. Tenant shall indemnify Landlord and hold Landlord harmless against expenses incurred to

correct any damage to the roof resulting from Tenant's violation of this rule, as well as any consequential damages to Landlord or any other tenant of the Property. Landlord shall repair damage to the roof caused by Tenant's acts, omissions or negligence and Tenant shall reimburse Landlord for all expenses incurred in making such repairs. Landlord or its agents may enter the Premises at all reasonable hours to make such roof repairs. If Landlord makes any expenditure or incurs any obligation for the payment of money in connection therewith, including but not limited to attorneys' fees in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations incurred, with interest at the rate of twelve percent (12%) per annum, and costs, shall be deemed to be Rent and shall be paid by Tenant to Landlord within five (5) days after rendition of any bill or statement to Tenant therefore. Tenant shall not place mechanical or other equipment on the roof without Landlord's prior written consent, which shall be conditioned in part upon Landlord's approval of Tenant's plans and specifications for such installations. The costs of any roof improvements made pursuant hereto shall be borne by Tenant.

13. Landlord reserves the right to institute energy management procedures when necessary.

14. Tenant shall assure that the doors of the Premises are closed and locked and that all water faucets, water apparatus and utilities are shut off before Tenant and its employees leave the Premises each day.

15. Tenant shall permit service animals to the Premises when such animals are providing assistance as required by law.

16. Landlord shall have the right to rescind, suspend or modify these Rules and Regulations and to promulgate such other rules or regulations as, in Landlord's reasonable judgment, are from time to time needed for the safety, care, maintenance, operation and cleanliness of the Building or the Property, or for the preservation of good order therein. Upon Tenant's having been given notice of the taking of any such any action, the Rules and Regulations as so rescinded, suspended, modified or promulgated shall have the same force and effect as if in effect at the time at which Tenant's lease was entered into (except that nothing in the Rules and Regulations shall be deemed in any way to alter or impair any provision of such lease).

16. Nothing in these Rules and Regulations shall give any Tenant any right or claim against Landlord or any other person if Landlord does not enforce any of them against any other tenant or person (whether or not Landlord has the right to enforce them against such tenant or person), and no such nonenforcement with respect to any tenant shall constitute a waiver of the right to enforce them as to Tenant or any other tenant or person.

Exhibit B

First Amendment

To

Lease Agreement

Between

The Board of Regents of the Nevada System of Higher Education on
behalf of the University of Nevada, Reno

And

Whittemore Peterson Institute for Neuro-Immune Disease

The Parties to this First Amendment to the Lease Agreement between the Board of Regents of the Nevada System of Higher Education on behalf of the University of Nevada, Reno and Whittemore Peterson Institute for Neuro-Immune Disease ("First Amendment") are the BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION ("Landlord"), on behalf of the University of Nevada, Reno ("University" or "UNR"), and WHITTEMORE PETERSON INSTITUTE FOR NEURO-IMMUNE DISEASE ("WPI" or "Tenant" and with Landlord, collectively, "the Parties").

1. Recitals.

1.1 Whereas Landlord and Tenant entered into a Lease Agreement ("Lease") on or about June 2008 for certain space in the Research Building and in the Medical Office Building in the Center for Molecular Medicine on the UNR Campus. Capitalized terms not otherwise defined herein shall have the meaning given to them in Lease;

1.2 Whereas the Nevada Cancer Institute ("NVC") was appropriated Two Million Five Hundred Thousand Dollars (\$2,500,000.00) by the State of Nevada for construction of the NVC portion of the Center for Molecular Medicine, which consists of approximately 8,237 square feet of office space in the Medical Office Building ("NVC Space");

1.3 Whereas NVC decided it was not in its best interest to occupy the NVC Space and assigned to WPI the benefit of the State appropriation and all of NVC's right, title and interest in the NVC Space;

1.4 Whereas the University and WPI agree that it will further the University's purposes for the University to occupy the NVC Space;

1.5 Whereas the University and WPI agree that the value of the NVCI Space to the University from the date of this Amendment to August 1, 2020, is One Million Two Hundred Fifty Thousand Dollars (\$1,250,000.00);

1.6 Whereas the Whittemores, through The Whittemore Family Foundation (the "Whittemore Foundation"), have previously donated One Million Dollars (\$1,000,000) toward the construction costs of the WPI portion of the Center for Molecular Medicine, and the Whittemores have pledged to donate and/or raise another Four Million Seventy-Four Thousand One Hundred Thirty-Five Dollars (\$4,074,135.00), plus reasonable and customary loan fees and costs, including but not limited to origination fees, funding fees, document fees, and legal fees for the construction loan obtained by the University for the construction of the Whittemore Peterson Institute for Neuro-Immune Disease within the Center for Molecular Medicine on the University of Nevada, Reno campus (collectively, the "Fees"), in that Pledge Agreement dated May 12, 2008, attached hereto as Exhibit "A" ("Pledge Agreement").

1.7 Whereas the University desires to credit to the Whittemores the sum of One Million Two Hundred Fifty Thousand Dollars (\$1,250,000.00), the value of the NVCI Space to the University from the date of this Amendment to August 1, 2020, on Gift 1 of the Pledge Agreement at the time this First Amendment is executed;

1.8 Whereas the University and WPI recognize that WPI may have in the future, but not earlier than August 1, 2020, a desire to lease all or a portion of the NVCI Space from the University;

1.9 Whereas Landlord and Tenant now seek to reaffirm all terms and provisions of that Lease and to amend the Lease to include an Option to Expand the leased space as set forth herein;

Now, therefore, the Parties agree as follows:

2.0 Option to Expand.

2.1 After August 1, 2020, and no later than August 1, 2040, Tenant shall have the Option to Expand into the space in the Medical Office Building outlined in red on the attached Exhibit B, hereafter referred to as the "Expansion Space".

2.2 The Option to Expand shall be exercised, if at all, pursuant to the following provisions:

- a. Written notice of exercise duly executed on behalf of Tenant shall be given to Landlord not less than 36 months prior to the Expansion Space Commencement Date, the date on which Tenant shall take possession of the Expansion Space. Such notice shall not be permitted to be given to Landlord prior to August 1, 2017 for Tenant's occupancy August 1, 2020.

- b. If Tenant does not exercise the Option to Expand prior to August 1, 2040, such Option to Expand shall expire and shall become null and void and Tenant shall have no Option to Expand after August 1, 2040.
- c. Such written notice of exercise shall be effective only if it is timely given and includes statements as follows:
 - 1. Tenant hereby exercises its Option to Expand the Premises as defined in that certain Lease between BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION, on behalf of the University of Nevada, Reno ("Landlord"), and WHITTEMORE PETERSON INSTITUTE FOR NEURO-IMMUNE DISEASE, a Nevada non-profit corporation ("WPI" or "Tenant") dated as of 12-2-2016 and as allowed in the First Amendment to that Lease.
 - ii. By giving this notice of exercise and upon acceptance by Landlord, Tenant agrees that the Premises as defined in Section 2.3 of the Lease is expanded and the terms and conditions of the Lease shall continue to have full force and effect through the Lease Term and any extension thereof, without any further action on the part of the Tenant.
 - iii. Tenant agrees that no Option to Expand may be exercised while there exists a Tenant Event of Default. An uncured Tenant Event of Default shall be deemed to exist during any period of time following an event listed in Section 22.1 of the Lease until the Event of Default specified therein has been fully cured. Any attempt to exercise an Option to Expand or any notice of exercise sent while any uncured Event of Default exists shall be deemed a nullity and no Option to Expand shall be deemed exercised until notice as provided in the Lease has been given after fully curing any such Tenant Event of Default. The period for giving notice shall not be extended as a result of any inability to give valid notice pursuant to the provisions of the Lease and this First Amendment.
 - iv. If there shall have occurred three (3) or more Events of Default (determined without regard to any applicable cure period) during any five (5) consecutive Lease Years of the Initial Term or during any Option Term, even though Tenant shall fully cure each such Event of Default, there shall be no further right or option to expand and any option theretofore exercised which has not yet commenced shall be void.

d. Term for Expansion Space.

The Term for the Expansion Space shall commence on the Expansion Space Commencement Date and shall end with the initial remaining term in Section 2.4 of the Lease and any extended terms as provided in Section 2.5 of the Lease.

- e. Upon the written exercise of the Option To Expand and commencing on the Expansion Space Commencement Date, the Expansion Space shall be included in the definition of the Premises, as defined in Section 2.3 of the Lease and all terms applicable to the Premises in the Lease shall be applicable to the Expansion Space, except as may be specified in this First Amendment.
- f. No later than the Expansion Space Commencement Date, the measurement of the number of square feet of the Expansion Space shall be conducted by Landlord pursuant to Section 5.2 of the Lease and Tenant's Pro Rata Share shall be adjusted in accordance with Section 5.2 of the Lease.
- g. In the event Tenant exercises the Option to Expand as set forth herein, Tenant shall:
 - i. Reimburse Landlord for Landlord's costs for Landlord's original improvements to the Expansion Space, which costs total \$304,513.00. Such costs shall constitute "Rent" as defined in 5.1 of the Lease.
 - ii. Reimburse Landlord for Landlord's costs for relocating the tenant occupying the Expansion Space at the time Tenant exercises its Option to Expand, including the costs incurred to move the existing Tenant out of the Expansion Space and into a new location. Such costs shall constitute "Rent" as defined in 5.1 of the Lease.
 - iii. Pay to Landlord the sum of \$1,250,000.00 as and for Rent for the Expansion Space, which sum shall be due and payable on the Expansion Space Commencement Date, notwithstanding the time established for Payment of Rent in Section 5.3 of the Lease. Such sum shall constitute "Rent" as defined in 5.1 of the Lease.
 - iv. Notwithstanding the time established for Payment of Rent in Section 5.3 of the Lease, such reimbursements required in i and ii above shall be paid to Landlord within 12 months of Tenant giving notice of exercising its Option to Expand.
- h. Landlord and Tenant reaffirm all terms and provisions of the Lease.

RECOMMENDED BY:



Milton D. Glick, President

LANDLORD:

FOR THE BOARD OF REGENTS OF
THE NEVADA SYSTEM OF HIGHER
EDUCATION ON BEHALF OF THE
UNIVERSITY OF NEVADA, RENO

By: 
Daniel J. Klaich, Chancellor

Date 3/8/2011

TENANT:

WHITTEMORE PETERSON
INSTITUTE FOR NEURO-IMMUNE
DISEASE, a Nevada non-profit
corporation

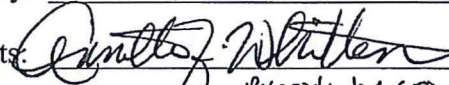
By: Annette Whittemore
Its: 
Date 3/3/2011 President & CEO

Exhibit A

PLEDGE AGREEMENT

This Pledge Agreement is made and entered into this 12th day of May, 2008, by and between Harvey Whittemore and Annette Whittemore, husband and wife (the "Whittemores"), and the Board of Regents of the Nevada System of Higher Education on behalf of the University of Nevada, Reno (the "University"). The Whittemores, jointly and severally, and with the intention of irrevocably binding their estates, heirs, and assigns, do hereby irrevocably pledge and promise to pay the sum of Five Million Seventy-four Thousand One Hundred Thirty-five Dollars (\$5,074,135.00), plus reasonable and customary loan fees and costs (the "Fees"), including but not limited to origination fees, funding fees, document fees, and legal fees for the construction loan obtained by the University for the construction of the Whittemore Peterson Institute for Neuro-Immune Disease (the "Institute"), within the University of Nevada School of Medicine's Center for Molecular Medicine (the "Center") on the University of Nevada, Reno campus, to the University (with such Pledge to be managed and collected through the University of Nevada Reno Foundation) for the purposes set forth in this Pledge Agreement. This Pledge shall be governed by the laws of the State of Nevada and it is the intent of all parties hereto for this Pledge to be legally binding on the undersigned, including their estates, heirs and assigns.

The obligations set forth under this Pledge Agreement shall be the obligation of and shall be paid by the Whittemores, jointly and severally, in accordance with the terms of payment set forth below. However, the Whittemores may, in their sole discretion, elect to have all or any portion of the Pledge satisfied on their behalf through such other entity or entities that the Whittemores may so determine, including but not limited to The Whittemore Family Foundation, so long as such payment is specifically designated as being in satisfaction of this Pledge and obligations of the Whittemores hereunder.

This Pledge is being made for the initial purpose of assisting the University in raising necessary funds to augment the funding of construction of the proposed Whittemore Peterson Institute for Neuro-Immune Disease (the "Institute"), within the University of Nevada School of Medicine's Center for Molecular Medicine (the "Center"), which funding amount shall hereafter be referred to as the "Augmentation". The University acknowledges that the Whittemores will be seeking financial support, including state, federal, and private funding, in order to assist the University in satisfying the Augmentation aside from this Pledge, and that such donations, appropriations, and amounts may be used by the University to pay all or a portion of the Augmentation in lieu of the funds provided in this Pledge. However, the Whittemores agree that any such amounts that are obtained by the Whittemores to satisfy the Augmentation outside of this Pledge will not reduce the amount of this Pledge nor be credited against any interest accruing thereon. Instead, the portion of this Pledge that is not utilized in satisfaction of the Augmentation shall be utilized in furtherance and satisfaction of the joint goals and objectives of the University and the Institute as set forth in the operating agreement between the University and the Institute, dated May 12, 2008 (the "Operating Agreement"). In the event that the Operating Agreement is terminated for any reason, any portion of this Pledge that is then undistributed and/or remaining due shall thereafter be directed toward the Institute through the University of Nevada Reno Foundation.

Any unpaid portion of this Pledge is contingent upon the construction and completion of the Center/Institute and the execution of the Operating Agreement. This Pledge represents the Whittemores' commitment and investment in the University in support of the joint endeavors between the University and the Institute/Center. The Whittemores and the University agree that the University will hereafter borrow the full amount of the Augmentation from a lender that is commercially acceptable to the University in order to satisfy the construction budget for the Center/Institute, with this Pledge serving as assurance to the University that it will have sufficient funds to satisfy the loan in the event that the Augmentation is not satisfied from other sources. In addition, to provide additional assurances that this Pledge will be satisfied, the Whittemores have or will secure their obligations under the terms and conditions of this Pledge Agreement in accordance with the Guaranty of Payment and Performance of Annette Whittemore, attached hereto as Exhibit A. The University's promise to borrow the full amount of the Augmentation in reliance on this Pledge shall constitute full and adequate consideration for the Pledge set forth herein.

This Pledge shall be paid in U.S. currency, and in accordance with the following terms of payment. All payments in satisfaction of this Pledge shall be paid in U.S. Currency. The Pledge shall be divided into two separate gifts hereafter referred to as Gift 1 and Gift 2 respectively, totaling a combined \$5,074,135.00 plus the Fees, which shall be administered and paid as follows:

1. Gift 1 (\$3,074,135.00). Gift 1 of the Pledge in the total amount of \$3,074,135.00 plus the Fees shall be administered and paid as follows:

a. The initial payment from the Whittemores of One Million Dollars (\$1,000,000.00) was received by the University of Nevada Reno Foundation on July 20, 2007, and has been credited toward satisfaction of Gift 1 under this Pledge.

b. The remaining Two Million Seventy-Four Thousand One Hundred Thirty-Five Dollars (\$2,074,135.00) plus the Fees of this Pledge due under Gift 1 shall be due on June 30, 2011. However, the Whittemores may elect, in their discretion, to satisfy this amount in whole or through partial payments at any time prior thereto.

c. Interest earned by the University on payments applied toward satisfaction of Gift 1 under this Pledge shall be credited toward the satisfaction of Gift 1 under this Pledge until the start of the construction of the Institute/Center, with the date of application of such interest to be June 30th of each fiscal year following the execution of this Pledge Agreement. The start of construction shall be the date when the State Public Works Board signs the construction contract for the Center.

d. So that the present value of Gift 1 under this Pledge will not decrease over time, the Whittemores agree that until paid in full, this Pledge shall bear simple interest, to be paid by the Whittemores to the University, in an amount calculated using the interest rate associated with the borrowing of the University for the construction of the Institute/Center, times the outstanding pledged amount, commencing January 1, 2008 or the date of the start of construction, whichever is later (the "Commencement Date"). The University or its agent shall

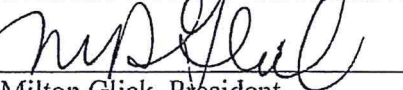
provide a statement of the amount of interest owed by the Whittemores at the end of each fiscal year ending June 30th, and if such interest is for any reason unpaid for a period of sixty (60) days following the mailing of such statement of interest, such interest shall be added to the amount remaining due on Gift 1 of the Pledge.

2. Gift 2 (\$2,000,000). Gift 2 of the Pledge in the total amount of \$2,000,000 shall be administered and paid as follows:

a. The sum of Two Million Dollars (\$2,000,000) shall be paid on or before January 1, 2017. However, the Whittemores may elect, in their discretion, to satisfy this amount in whole or through partial payments at any time prior thereto; excepting that in no event shall annual payments be made in amounts less than \$200,000, until Gift 2 of the Pledge has been satisfied in whole. So that the present value of Gift 2 under this Pledge will not decrease over time, the Whittemores agree that until paid in full, this Pledge shall bear simple interest, to be paid by the Whittemores to the University, in an amount calculated using the interest rate associated with the borrowing of the University for the construction of the Institute/Center, times the outstanding pledged amount, commencing on the Commencement Date. The University or its agent shall provide a statement of the amount of interest owed by the Whittemores at the end of each fiscal year ending June 30th, and if such interest is for any reason unpaid for a period of sixty (60) days following the mailing of such statement of interest, such interest shall be added to the amount remaining due on Gift 2 of the Pledge.

3. A failure to make a payment required by this Pledge Agreement, which failure is not cured within thirty (30) days after the giving of written notice thereof, shall be a default hereunder and shall further constitute an Event of Default under Paragraph 22.1(f) of that certain Lease between the Institute and the Board of Regents of the Nevada System of Higher Education on behalf of the University of Nevada, Reno (the "Lease"), determined without regard to any cure period set forth therein. Upon the occurrence of such a default, the University (Landlord under the Lease) shall be entitled to invoke all remedies under the Lease, including termination of the Lease between the University and the Institute, and such default does not negate the obligation of the Whittemores to fulfill the Pledge.

UNIVERSITY OF NEVADA, RENO

By 
Milton Glick, President

THE WHITTEMORES


Harvey Whittemore


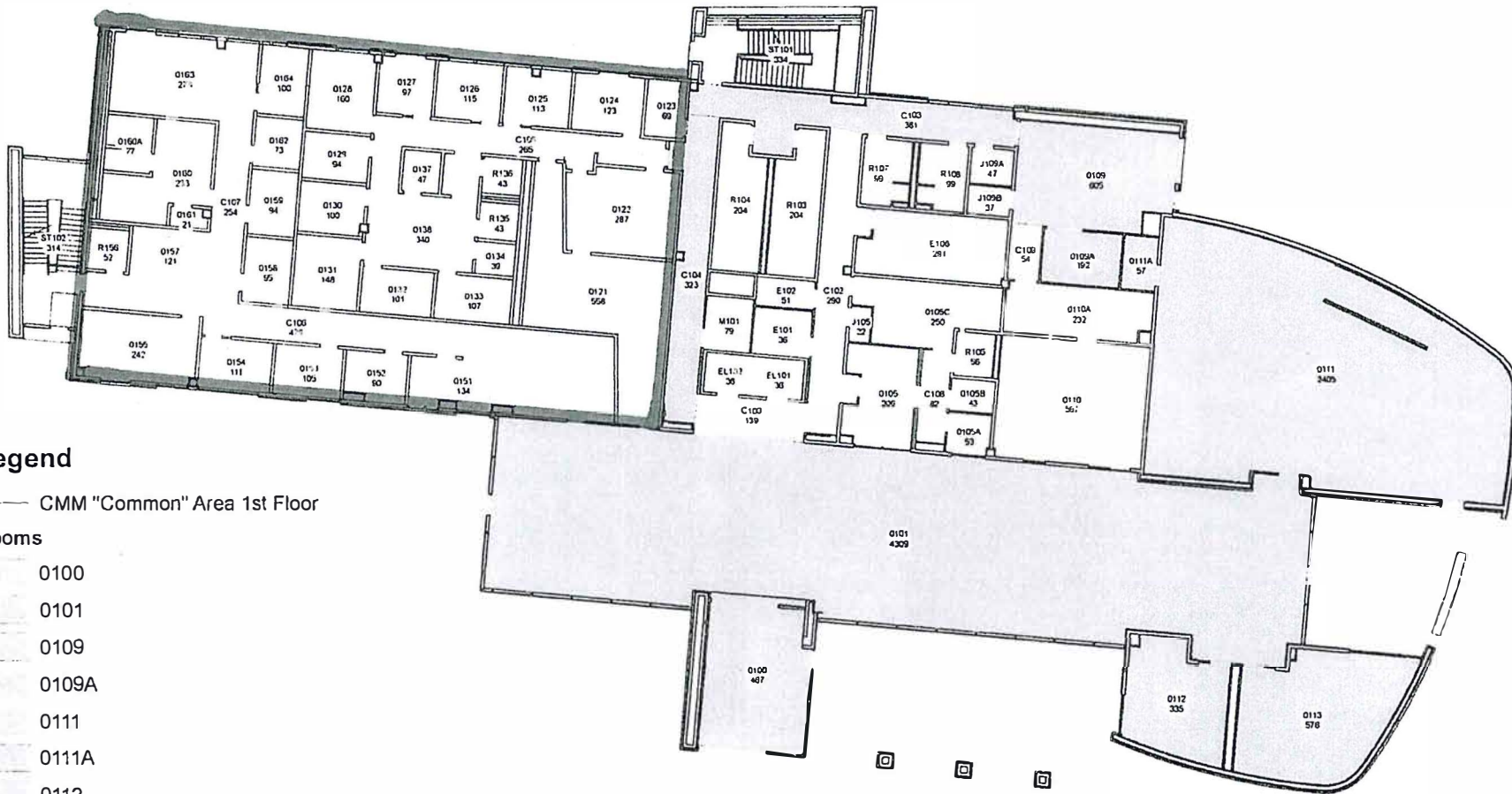

Annette Whittemore

Exhibit B



Legend

— GMM "Common" Area 1st Floor

Rooms

- 0100
- 0101
- 0109
- 0109A
- 0111
- 0111A
- 0112
- 0113
- C103
- C104



Exhibit C

Second Amendment

To

Lease Agreement

Between

The Board of Regents of the Nevada System of Higher Education on
behalf of the University of Nevada, Reno

And

Whittemore Peterson Institute for Neuro-Immune Disease

The Parties to this Second Amendment to the Lease Agreement between the Board of Regents of the Nevada System of Higher Education on behalf of the University of Nevada, Reno and Whittemore Peterson Institute for Neuro-Immune Disease (“Second Amendment”) are the BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION (“Landlord”), on behalf of the University of Nevada, Reno (“University” or “UNR”), and WHITTEMORE PETERSON INSTITUTE for NEURO-IMMUNE DISEASE (“WPI” or “Tenant” and with Landlord, collectively, “the Parties”). Capitalized terms not otherwise defined herein shall have the meaning given to them in the Lease and First Amendment to Lease.

1. Recitals.

1.1 Whereas Landlord and Tenant entered into a Lease Agreement (“Lease”) on or about June 2008 for certain space in the Research Building and in the Medical Office Building in the Center for Molecular Medicine on the UNR Campus;

1.2 Whereas Landlord and Tenant entered into a First Amendment to the Lease Agreement (“First Amendment to Lease”) on or about March 2011 for certain space in the Medical Office Building in the Center for Molecular Medicine on the UNR Campus;

1.3 Whereas Landlord and Tenant now seek to reaffirm all terms and provisions of that Lease and to amend that Lease to include the following terms as set forth herein;

1.4 Whereas Tenant has determined that it is not in its best interest to continue to occupy certain space in the Medical Office Building in the Center for Molecular Medicine on the UNR Campus, which space comprises approximately 8,920 sf on the second floor of the Medical Office Building in the Center for Molecular Medicine, shaded in blue on Exhibit A of the Second Amendment (the “Released Space”);

1.5 Whereas Landlord has determined that it is in its best interest to have available for its use and occupation the Released Space;

1.6 Whereas Tenant has determined that it is not in its best interest to continue to hold an Option to Expand the leased space to include all or a portion of the NVCI Space as agreed upon in the First Amendment to Lease;

1.7 Whereas the University and Tenant agree that the value of the Released Space to the University, and the value of Tenant's waiver of any and all Option to Expand the leased space to include all or a portion of the NVCI Space, total not less than \$2,331,324.00;

1.8 Whereas the University desires to credit the Whittemores the sum of \$2,331,324.00, which is the unpaid remainder of Gift 1 and Gift 2 under that certain Pledge Agreement dated May 12, 2008, and attached as Exhibit C to the Lease.

Now, therefore, the Parties agree as follows:

2.0 Release of Space.

2.1 Tenant relinquishes and releases the Released Space.

3.0 Waiver of Option to Expand.

3.1 Tenant agrees to waive and hereby does waive any and all rights to Tenant's Option to Expand in Paragraph 2 and all subsections of Paragraph 2 of the First Amendment to the Lease Agreement. Tenant shall no longer have such Option to Expand under Paragraph 2 of the First Amendment to the Lease Agreement.

4.0 The Premises.

4.1 The definition of the Premises is amended to exclude the Released Space.

4.2 The total leased space, the Premises, will now consist of approximately 20,522 sf as described on Exhibit B of the Second Amendment (all areas shaded in yellow on Pages 1-3 of such Exhibit B). Any future renewal options and/or other terms of the Lease are hereby amended to only include the estimated 20,522 sf, described on Exhibit B, and Common Areas associated with such.

5.0 Waiver of Pledge Remainder.

5.1 Landlord hereby waives the sum of \$2,331,324.00, which is now due or will become due and which is the unpaid remainder of Gift 1 and Gift 2 under the Pledge Agreement, and fully releases the Whittemores from any present or future obligations under the Pledge Agreement.

6.0 Landlord and Tenant reaffirm all terms and provisions of the Lease Agreement that are not inconsistent with this Second Amendment.

RECOMMENDED BY:

Marc A. Johnson

Marc A. Johnson, President

Date 10-28-13

LANDLORD:

FOR THE BOARD OF REGENTS OF
THE NEVADA SYSTEM OF HIGHER
EDUCATION ON BEHALF OF THE
UNIVERSITY OF NEVADA, RENO

Daniel J. Klaich

Daniel J. Klaich, Chancellor

Date 12/9/13

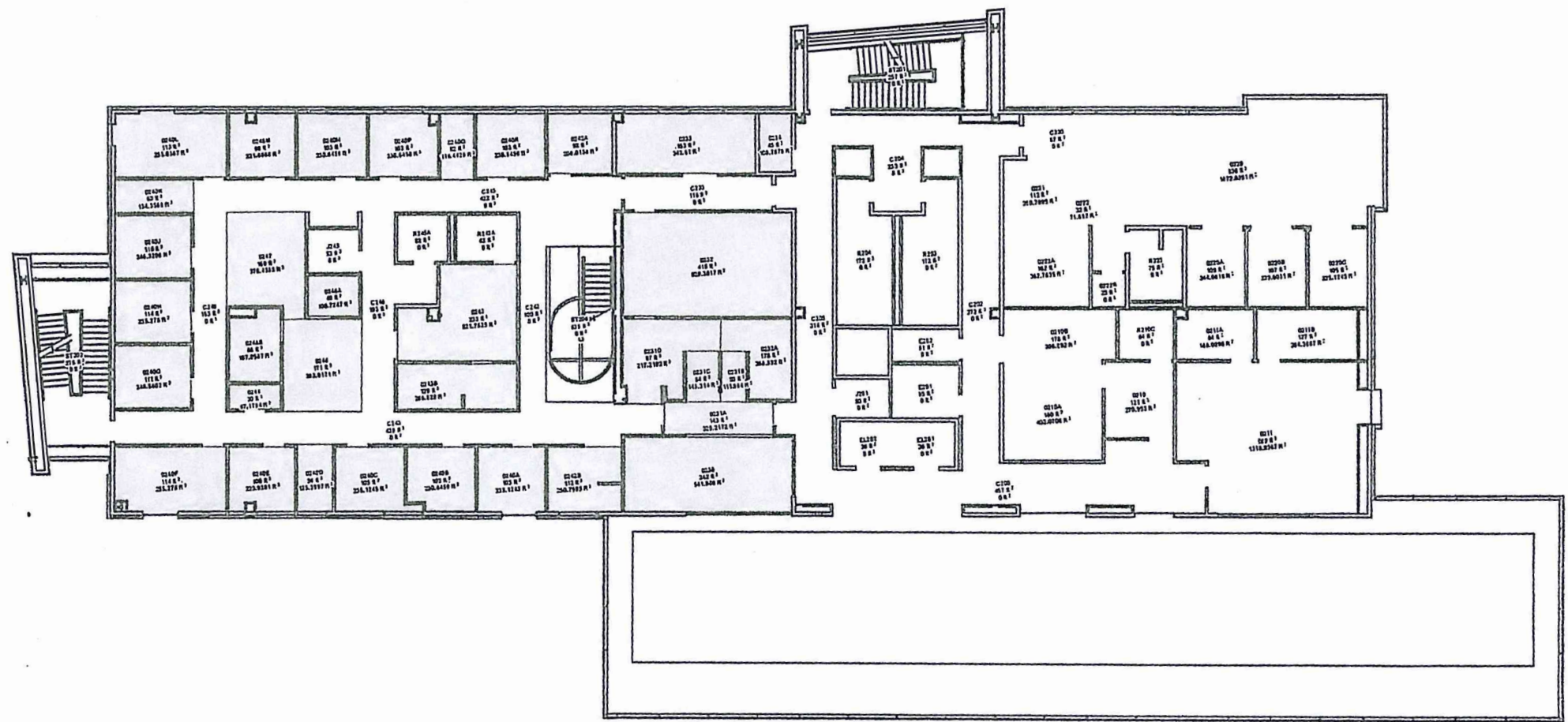
TENANT:

WHITTEMORE PETERSON
INSTITUTE FOR NEURO-IMMUNE
DISEASE, a Nevada non-profit
corporation

By: Robert J. Whittemore

Its: President & CEO

Room
 ASF
 estgfs



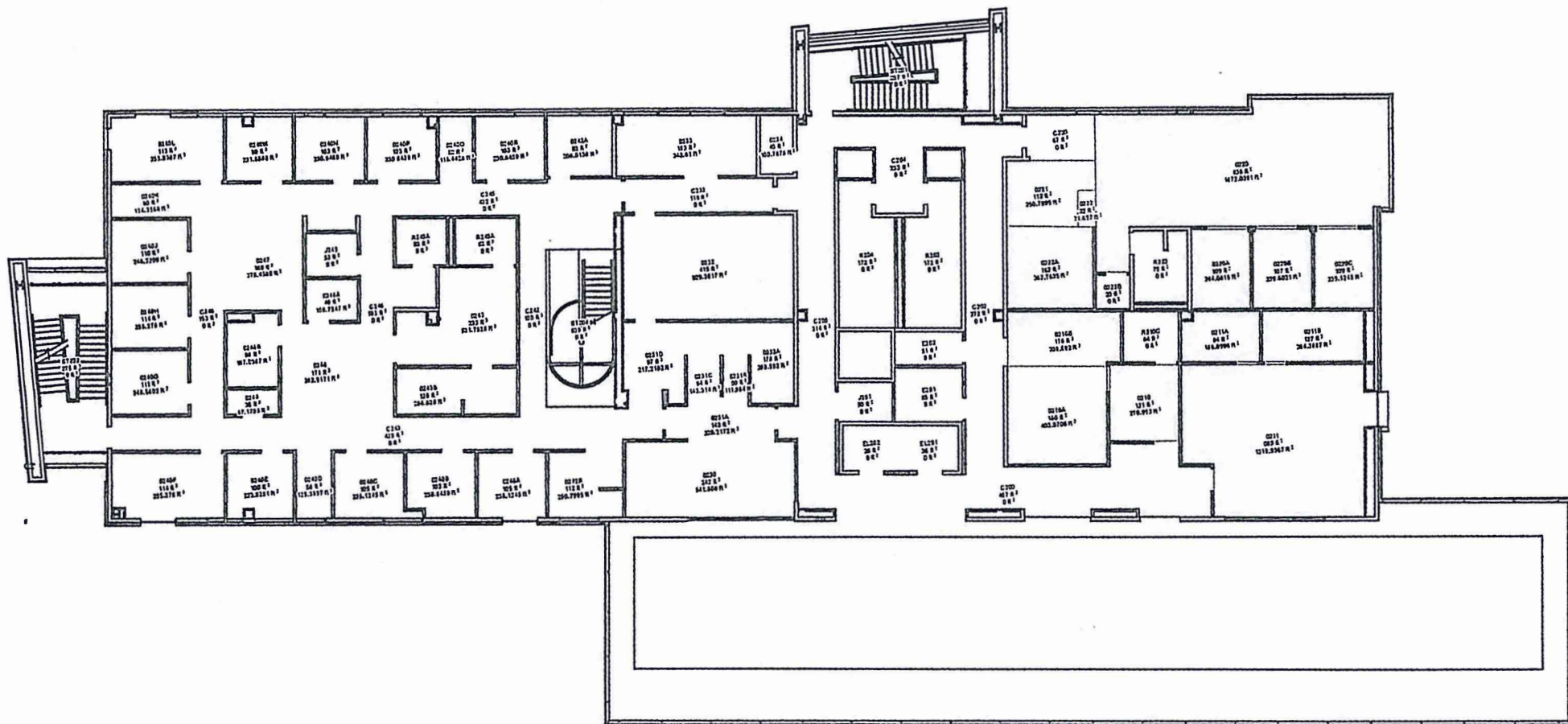
Legend

— CMM MOB WPI West 2nd Floor
 (BUSINESS, FINANCE & FACILITIES COMMITTEE 09/06/18) Ref. BFF-5, Page 102 of 143

Exhibit A



Room
 ASF
 estgsf



Legend

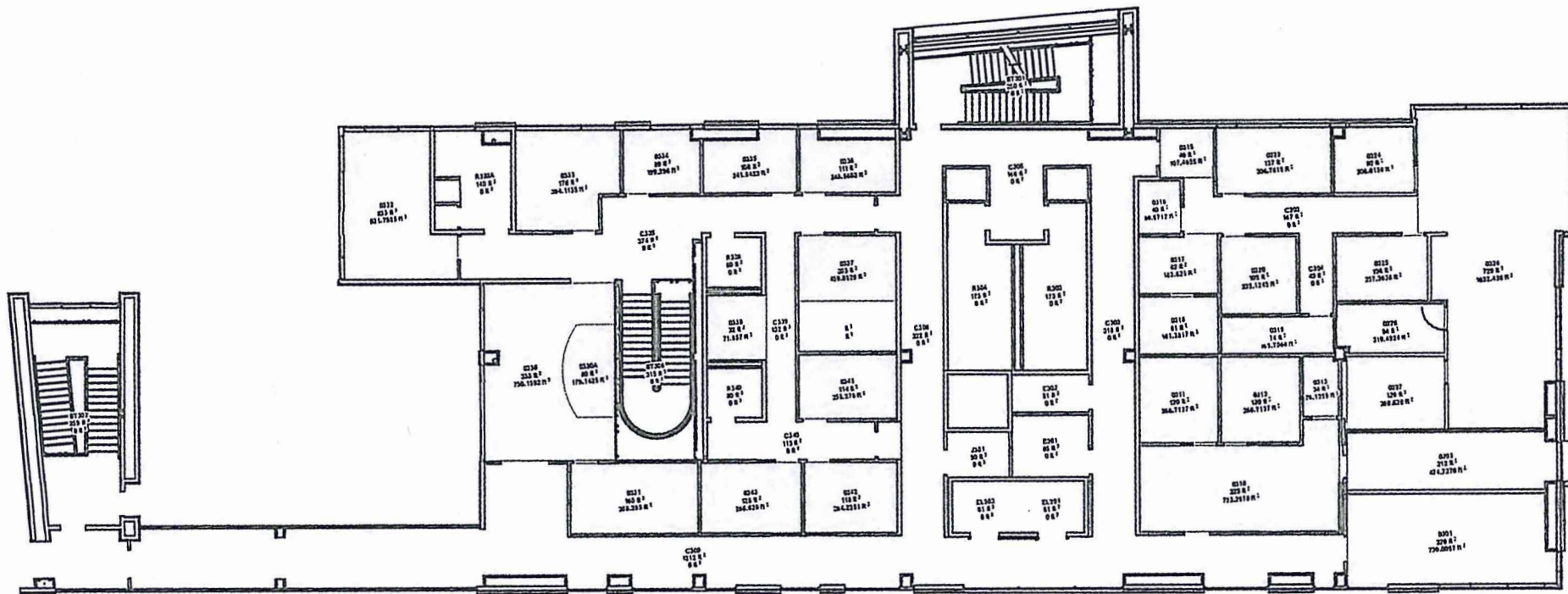
— CMM MOB 2nd

— WILKINSON PETERSON INSTITUTE

Exhibit B - Pg. 1



Room
 ASF
 estgsf



Legend

— CMM MOB 3rd

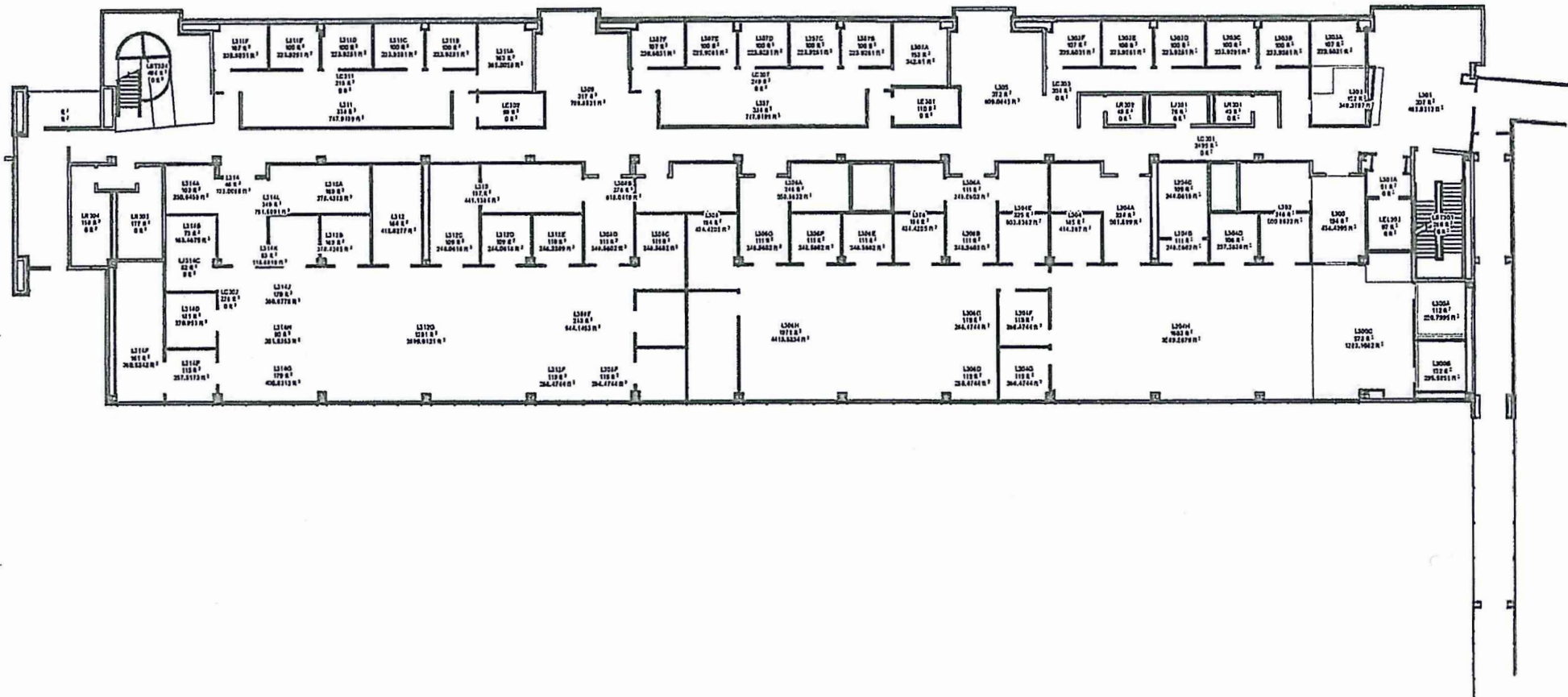
— WILKINSON PETERSON INSTITUTE

Exhibit B - Pg. 2



Room
ASF
estgsf

Center for Molecular Medicine
LAB Wing
WPI
3rd Floor



Legend

— CMM Lab 3rd

□ WHITTEMORE PETERSON INSTITUTE

Exhibit B - Pg. 3



SPACE USE AGREEMENT

THIS SPACE USE AGREEMENT (the "Agreement") is made by and between Nevada Center for Biomedical Research ("NVCBR"), formerly known as Whittmore Peterson Institute for Neuro-Immune Disease ("WPI"), a Nevada non-profit corporation, and The Board of Regents of the Nevada System of Higher Education on behalf of the University of Nevada, Reno ("UNR").

RECITALS

WHEREAS, NVCBR leases that certain office, medical, and laboratory space (collectively, the "NVCBR Space") within the Center for Molecular Medicine (the "CMM"), pursuant to that certain Lease Agreement between WPI and UNR as the master landlord signed in December 2010 (the "Original Lease");

WHEREAS, the Original Lease was amended in 2011 and 2013 through a First Amendment and a Second Amendment;

WHEREAS, the NVCBR Space includes that certain office suite on the second floor of the CMM, comprised of Rooms 211, 211A, and 211B, as further depicted on Exhibit A attached hereto and incorporated herein (the "Office Suite"); and

WHEREAS, NVCBR desires to allow UNR to use the Office Suite on the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, the parties agree as follows:

1. Office Suite Usage. NVCBR hereby allows UNR to use the Office Suite for offices for UNR personnel and/or storage of UNR property (the "Purpose") and in accordance with the terms and conditions contained herein.

2. Term; Termination.

(a) The term of this Agreement shall commence as of June 1, 2017, and shall expire on May 31, 2027 (the "Term"), unless otherwise terminated earlier as provided for herein.

(b) NVCBR may terminate this Agreement for cause upon UNR's failure to cure any non-compliance with this Agreement after providing UNR with thirty (30) days written notice to remedy any such non-compliance. UNR may terminate this Agreement for cause upon NVCBR's failure to cure any non-compliance with this Agreement after providing NVCBR with thirty (30) days written notice to remedy any such non-compliance.

(c) UNR may terminate this Agreement without cause upon one hundred eighty (180) days written notice to NVCBR.

(d) In the event any recognized funding authority fails to appropriate sufficient funds to the Nevada System of Higher Education or its Divisions, Colleges or Departments, including UNR, to enable obligations to be fulfilled under the Agreement for the ensuing fiscal year or any part thereof, all rights and obligations of NVCBR and UNR under the Agreement shall terminate upon thirty (30) days written notice to NVCBR.

(e) This Agreement shall automatically terminate upon termination of the Original Lease by and between WPI and UNR as the master landlord for the NVBCR space.

3. Credit to Operating Costs.

(a) During the Term of this Agreement, UNR shall credit NVCBR the Operating Costs (defined in Paragraph 6 of the Original Lease between UNR and WPI) due by NVCBR under the Original Lease covering 1,779 square feet of the then current operating and maintenance expenses, metered power, and common area expense allotment for the Office Suite (the "Credit to Operating Costs"). The parties acknowledge and agree that the Office Suite is 1,779 gross square feet according to UNR's square footage calculation.

(b) UNR acknowledges that phone and internet services are not included and shall be set up under separate account by UNR.

4. Purpose. UNR shall use the Office Suite for the Purpose only. UNR shall comply with and conform to all national, state, municipal, and other laws, ordinances, and regulations (including but not limited to any UNR rules, regulations, or policies applicable to the Office Suite and/or the CMM) in any way relating to the possession, use, or maintenance of the Office Suite or the Purpose conducted therein.

5. Condition of Space; Alterations.

(a) UNR hereby agrees that it accepts the Office Suite and all furniture, fixture, and equipment therein (collectively, the "Office Suite FF&E") AS-IS and WHERE-IS, and UNR hereby agrees that it has investigated and inspected the condition of the Office Suite and the Office Suite FF&E and the suitability of same for UNR's purposes, and UNR does hereby waive and disclaim any objection to, cause of action based upon, or claim that its obligations hereunder should be reduced or limited because of the condition of the Office Suite or the Office Suite FF&E or the suitability of same for UNR's purposes.

(b) UNR shall not make any alteration, improvement, change, or addition to the Office Suite which would affect any electrical, mechanical, plumbing, or other systems or would be considered structural in nature (collectively, the "Alterations") without first presenting to NVCBR plans, drawn and sealed by a licensed architect or space planner, of a reasonable scale and amount of detail to clarify the work to be done and specifications therefor so that NVCBR may consider such Alterations, and if in agreement with such Alterations. Any request made by UNR under this paragraph shall be deemed by NVCBR to have the written consent thereto of UNR, as required in the Original Lease, and no additional approval from UNR will be required. For all approved Alterations, (a) UNR must obtain any and all governmental permits or approvals for such Alterations, as are required by applicable law; (b) all work must be performed in a good and workmanlike manner in compliance with all applicable codes, rules, regulations, and ordinances; and (c) all persons, contractors, tradesman, or workman performing such Alterations work shall be a licensed tradesman for the type of work they are doing on the property, evidence of which shall be submitted to UNR prior to the commencement of the work. To the extent an Alteration is made that is not approved as set forth herein, UNR shall restore the Office Suite to its condition immediately before such Alterations were made, free of UNR's fixtures and furniture by not later than the date on which UNR vacates the Office Suite or the termination date, whichever is earlier.. UNR, at its own expense, shall repair promptly any damage to the Office Suite or the NVCBR Space caused by bringing therein any property for its use, or by the installation or removal of such property, regardless of fault or by whom such damage is caused.

6. Surrender of Office Suite; Removal of Property.

(a) Upon the expiration of the Term of this Agreement, or upon any earlier termination of this Agreement, UNR shall quit and surrender possession of the Office Suite and the Office Suite FF&E to NVCBR in good order and condition, reasonable wear and tear excepted, and shall, without expense to NVCBR, remove or cause to be removed from the Office Suite, all debris and rubbish, all furniture, equipment, business and trade fixtures, free-standing cabinet work, moveable partitioning and other articles of personal property of UNR in the Office Suite. UNR shall be responsible for the cost to repair all damage to the Office Suite or the Office Suite FF&E resulting from the removal of any of such items from the Office Suite, provided that NVCBR shall have the right to either (i) cause UNR to perform said repair work, or (ii) if UNR fails to do so, perform said repair work itself, at UNR's expense, with any such costs incurred by NVCBR to be reimbursed by UNR to NVCBR within ten (10) business days following written demand therefor from NVCBR.

(b) Any property of UNR not removed by UNR upon the expiration of the Term of this Agreement, or upon any earlier termination of this Agreement, shall be considered abandoned and NVCBR may remove any or all of such items and dispose of the same in any manner or store the same for the account and at the expense and risk of UNR, and if UNR shall fail to pay the cost of storing any such property after it has been stored for a period of thirty (30) days or more, NVCBR may sell any or all of such property at public or private sale, in such manner and at such times and places as NVCBR, in its sole discretion, may deem proper, without notice to or demand upon UNR, for the payment of all or any part of such charges or the removal of any such property, and shall apply the proceeds of such sale as follows: first, to the cost and expense of such sale, including reasonable attorneys' fees and costs for services rendered; second, to the payment of the cost of or charges for storing any such property; third, to the payment of any other sums of money which may then or thereafter be due to NVCBR from UNR under any of the terms hereof; and fourth, the balance, if any, to UNR.

(c) All fixtures, improvements, alterations, and/or appurtenances attached to or built into the Office Suite prior to or during the Term, whether by NVCBR or UNR and whether at the expense of NVCBR or UNR, or of both, shall be and remain part of the Office Suite and shall not be removed by UNR at the end of the Term, unless such removal is required by NVCBR at the time NVCBR approves the installation of such fixtures, improvements, alterations, and/or appurtenances.

7. Indemnity. To the extent limited in accordance with NRS 41.0305 to NRS 41.039, UNR shall indemnify, defend, and hold harmless NVCBR from and against any and all liabilities, claims, losses, lawsuits, judgments, and/or expenses, including attorney fees, arising either directly or indirectly from any act or failure to act by UNR or any of its officers or employees, which may occur during or which may arise out of the performance of this Agreement. UNR will assert the defense of sovereign immunity as appropriate in all cases, including malpractice and indemnity actions. UNR's indemnity obligation for actions sounding in tort is limited in accordance with the provisions of NRS 41.035 to \$100,000.00 per cause of action.

NVCBR shall indemnify, defend, and hold harmless UNR, its officers, employees, and agents from and against any and all liabilities, claims, losses, costs or expenses to the person or property of another, lawsuits, judgments, and/or expenses, including attorney fees, arising either directly or indirectly from any act or failure to act by NVCBR or any of its officers or employees, which may occur during or which may arise out of the performance of this Agreement.

8. Parking. UNR acknowledges that parking privileges in NVCBR's reserved parking area (the "Reserved Parking") are not part of this Agreement. .

9. Default. If UNR fails to observe, keep, or perform any provision of this Agreement required to be observed, kept, or performed by UNR, NVCBR shall have the right to terminate this Agreement in accordance with Section 2 of this Agreement, in addition to any other rights or remedies available at law or equity. All of NVCBR's remedies are cumulative, and may be exercised concurrently or separately.

If NVCBR fails to observe, keep, or perform any provision of this Agreement required to be observed, kept, or performed by NVCBR, UNR shall have the right to terminate this Agreement in accordance with Section 2 of this Agreement, in addition to any other rights or remedies available at law or equity. All of UNR's remedies are cumulative, and may be exercised concurrently or separately.

10. Entire Agreement. This Agreement represents the complete understanding between the parties as to the subject matter hereof, and supersedes all prior negotiations, representations, warranties, promises, statements and agreements, either written or oral, between the parties as to the same. This notwithstanding, none of the provisions herein shall modify, alter or amend the Original Lease as amended by the First And Second Amendments by and between WPI and UNR as the master landlord for the NVBCR Space except as stated herein. Furthermore, nothing herein shall prejudice the rights of UNR and NVCBR under the Original Lease by and between WPI and UNR as the master landlord for the NVBCR Space.

11. Notices. Except as may be otherwise provided in this Agreement, any notice, demand, consent, approval, request or other communication or document to be provided hereunder to NVCBR or UNR (a) shall be in writing and (b) shall be deemed to have been provided (i) two (2) days following the date sent as certified mail in the United States mail, postage prepaid, return receipt requested, (ii) on the day following the date it is deposited prior to the close of business with FedEx or another national courier service, (iii) on the date of hand delivery (if such party's receipt thereof is acknowledged in writing), or (iv) via facsimile, with receipt of transmission, in each case to the address set forth below or to such other address as such party may designate from time to time by notice to the other party.

If to NVCBR:
Nevada Center for Biomedical Research
1664 N. Virginia Street, MS 0552
Reno, NV 89557
Facsimile: 775-682-8258
Attn. Carli Kinne, Vice President, General Counsel

If to UNR:
Board of Regents of the Nevada System of Higher Education
c/o University of Nevada, Reno
_1664 N. Virginia St. MS _0239_____
Attn: _Troy Miller, Director of Real Estate_____
Fax: __ (775) 327-5017_____

With a copy to:
General Counsel
University of Nevada, Reno
1664 N. Virginia St. MS 0550
Reno, NV 89557

12. **Assignment.** Neither party shall assign this Agreement without the prior written consent of the other party.

13. **Headings.** Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

14. **Governing Law.** This Agreement and all matters arising out of or relating to this Agreement shall be governed by and construed in accordance with the laws of the State of Nevada, without application of conflict of law rules. Any and all claims or actions arising out of or relating to this Agreement shall be brought exclusively in the federal or state courts located in Washoe County, Nevada, with enforcement of any judgment or order in any relevant jurisdiction; and each party consents and waives all objections to jurisdiction and venue in such courts.

15. **Waiver.** Waiver of any breach of this Agreement by either party shall not constitute a waiver of any subsequent breach or breach of any other provision of this Agreement.

16. **Amendment.** This Agreement may be amended by and only by an instrument executed and delivered by each party; provided, however, that NVCBR shall have the right at any time, and from time to time, during the Term, unilaterally to amend the provisions of this Agreement if NVCBR is advised by its counsel that all or any portion of the monies paid, directly or indirectly, by UNR to NVCBR hereunder are, or may be deemed to be, unrelated business income within the meaning of the United States Internal Revenue Code or regulations issued thereunder, and UNR agrees that it will execute all documents or instruments necessary to effect such amendment, provided that no such amendment shall result in UNR having to pay in the aggregate a larger sum of money on account of its occupancy of the Office Suite under the terms of this Agreement as so amended.

17. **No Partnership, Joint Venture.** Nothing in this Agreement shall be deemed in any way to create between the parties any relationship of partnership or joint venture, and the parties hereby disclaim the existence of any such relationship.

18. **Severability.** No determination by any court, governmental or administrative body or agency or otherwise that any provision of this Agreement or any amendment hereof is invalid or unenforceable in any instance shall affect the validity or enforceability of (a) any other provision hereof, or (b) such provision in any circumstance not controlled by such determination. Each such provision shall remain valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.

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IN WITNESS WHEREOF, each party hereto has executed this Agreement, or caused it to be executed on its behalf by its duly authorized representatives, on the date written below.

NVCBR:
Nevada Center for Biomedical Research
a Nevada non-profit corporation

By: 
Annette Whittenmore, President & CEO

Date: 7/12/2018

THE BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION ON BEHALF
OF THE UNIVERSITY OF NEVADA, RENO

By: 

Name: THOM REILLY Crystal Abba
for Thom Reilly

Title: CHANCELLOR

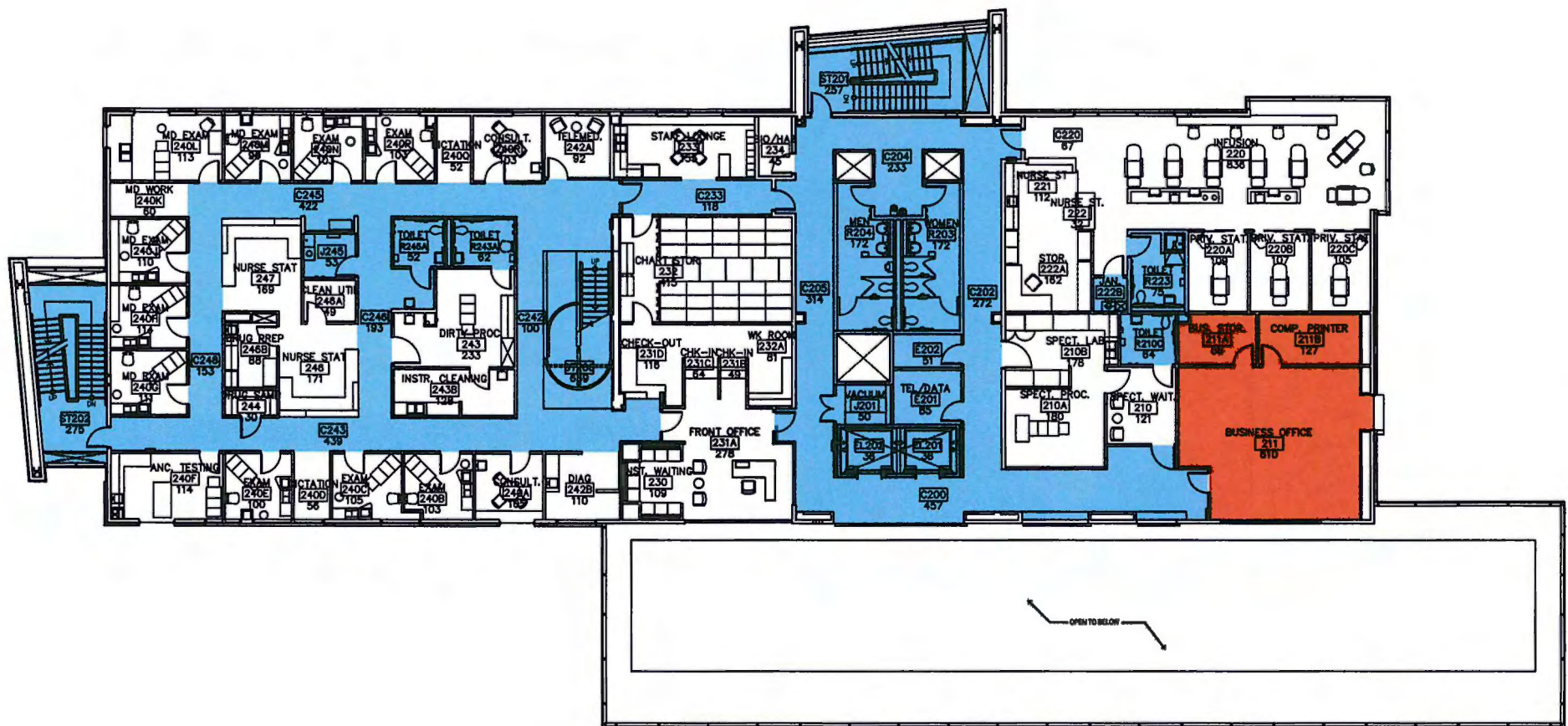
Date: _____

Exhibit A

Description of the Office Suite

This Exhibit "A" is an approximation of the layout of the Office Suite and shall not be deemed to constitute any representation by NVCBR as to the exact layout or configuration of the Office Suite. The Office Suite is comprised of the area outlined in blue.

- SUITE 211
- UNASSIGNABLE SPACE



CMM MEDICAL OFFICE WING 2ND FLOOR PLAN
 NOT TO SCALE

GRAPHIC SCALE

**AGREEMENT TO AMEND LEASE
AND
ALLOCATE FUNDS**

This agreement to amend lease and allocate funds (the "Agreement") is dated as of July 1, 2018, by and among Nevada Center for Biomedical Research, a Nevada nonprofit corporation, formerly known as Whittemore Peterson Institute for Neuro-Immune Disease ("NVCBR"), and the Board of Regents of the Nevada System of Higher Education ("NSHE") on behalf of the University of Nevada, Reno ("University") and the University of Nevada, Reno School of Medicine ("UNR Med"). NVCBR, NSHE, the University, and UNR Med are collectively referred to as, the "Parties".

RECITALS

In 2006, Annette Whittemore initiated a request for state support of NVCBR on behalf of the disease known as chronic fatigue syndrome ("ME/CFS") to promote medical research, education and advocacy. In response to this request, Governor Kenny C. Guinn and State Senator William Raggio, among others, agreed to pursue legislative support of NVCBR's mission beginning in 2007. In 2007, the Nevada State Legislature unanimously approved an initial biennial appropriation of \$1,000,000.00 to UNR Med to support NVCBR's ME/CFS program.

The Parties jointly and successfully pursued funding and authorization from the State of Nevada during the 2005 and 2007 sessions of the Nevada Legislature for the Center for Molecular Medicine. Thereafter, the University constructed a new Center for Molecular Medicine ("CMM") on the campus of the University, which was completed in 2010.

NVCBR, formerly known as the Whittemore Peterson Institute for Neuro-Immune Disease, entered into a Lease Agreement ("Lease") on or about June 2008 for certain space in the Research Building (as described and defined in the Lease) and the Medical Office Building (as described and defined in the Lease and referred to herein as the "MOB") in the CMM. Subsequently, the Parties have, with the approval of the Board of Regents of NSHE, amended the Lease twice and entered into a Space Use Agreement.

Subject to the terms of this Agreement, the Parties have agreed that NVCBR will transfer and release that certain leased space on the second floor of the MOB, as described on Exhibit A (the "Second Floor Space"), to establish a new translational clinical research program to help grow and enhance UNR Med's educational and research missions. The Parties agree that UNR Med's translational clinical research efforts seek to add to medical knowledge and patient treatment options.

Subject to the terms of this Agreement, NVCBR has agreed to transfer and release the Second Floor Space twenty-five years before the end of the existing term of the Lease and UNR Med and the University agree, among other things, to cover the operating and maintenance costs as described in the Lease (the "Operating Costs") for the Third Floor Space (defined herein).

NVCBR maintains an active basic research program dedicated to ME/CFS and related conditions (the "ME/CFS Research Program") in optimal leased research and associated office space within the Research Building of the CMM, as further described on Exhibit B (the "Research Space"), and has acquired that certain research laboratory equipment for the ME/CFS Research Program, as described on Exhibits C and D (collectively, the "Research Equipment").

The purpose of this Agreement is to document the terms and conditions (i) under which NVCBR's ME/CFS Research Program will be fully integrated into UNR Med such that NVCBR no longer maintains a basic research program for ME/CFS Research; (ii) under which certain funds from UNR Med's base budget will be directed or paid subject to the terms and conditions of this Agreement; and (iii) the agreement of the Parties relating to the space in the CMM, including the transfer and release of certain space as set forth in this Agreement, subject to the approval of the Board of Regents of NSHE.

NVCBR is operating and will continue to operate as an independent non-profit in its mission to support and advance knowledge and understanding of ME/CFS and related conditions. NVCBR will continue to occupy the leased space on the third floor of the MOB (the "Third Floor Space"), as further described on Exhibit E, pursuant to the terms and conditions of the Lease, as amended to reflect the agreement of the Parties described herein, for the duration of the Lease term and any renewal(s) thereof, subject to the approval of the Board of Regents of NSHE.

Based on the foregoing and the consideration set forth herein, the Parties agree as follows:

1. Term.

a. Upon execution by all Parties of this Agreement and approval of an amendment to the Lease by the Board, this Agreement shall have an effective date as of July 1, 2018 (the "Effective Date") and shall remain in full force and effect so long as the Lease is in effect or as otherwise set forth in Section 5 of this Agreement.

b. The Parties understand and agree that this entire Agreement is subject to and conditioned upon the approval of the Board of Regents of NSHE of a corresponding amendment to the Lease. The University shall propose an amendment to the Lease for consideration by the Board of Regents of NSHE no later than its September 2018 regular meeting. If the Board of Regents of NSHE does not approve an amendment to the Lease as stated herein, this Agreement and the promises, terms, conditions, and consideration herein shall be void and have no force or effect and the Parties will continue to abide by the agreements currently in place as of the date before this Agreement is entered into by the Parties. In the event that the Board of Regents of NSHE does not approve an amendment to the Lease as stated herein, the Parties will engage in good faith efforts (which shall include, but not be limited to, return of the Research Space and associated equipment (as defined herein), reassignment of transferred personnel, and return of the Second Floor Space) so that the Parties may continue to abide by the agreements currently in place as of the date before this Agreement is entered into by the Parties.

2. Second Floor Space.

a. Subject to approval of an amendment of the Lease by the Board of Regents of the NSHE and termination of the current Space Use Agreement between NVCBR and the University for Rooms 211, 211A and 211B of the MOB, NVCBR will transfer and release its existing leasehold interest and vacate the entire Second Floor Space as outlined in Exhibit A to the University as of the Effective Date. UNR Med will pay Operating Costs for the Second Floor Space from and after July 1, 2018. NVCBR will not be required to pay any Operating Costs in connection with UNR Med's occupancy of the Second Floor Space for the duration of the Lease term or any renewal(s) thereof.

b. In NVCBR's sole discretion and at its sole expense, NVCBR may remove furnishings and moveable equipment (non-fixtures) from the Second Floor Space prior to the Effective Date. Furnishings and

equipment remaining in the Second Floor Space after the Effective Date shall become the sole property of the University.

3. Research Space and Equipment.

a. Subject to approval of an amendment of the Lease by the Board of Regents of the NSHE, NVCBR will transfer and release its existing leasehold interest in and vacate the Research Space as outlined in Exhibit B as of the Effective Date. UNR Med will pay Operating Costs for the Research Space from July 1, 2018. NVCBR will not be required to pay any Operating Costs in connection with UNR Med's occupancy of the Research Space for the duration of the Lease term or any renewal(s) thereof.

b. As of the Effective Date, the research equipment funded from the HRSA grant awarded to the University to benefit the University and NVCBR shall become the sole property of UNR Med for its use at no cost pursuant to that certain bill of sale attached as Exhibit C and incorporated herein.

c. As of the Effective Date, the research equipment funded from the HRSA grant awarded to NVCBR or other sources of funds will be purchased by UNR Med from NVCBR at the depreciated value of Sixty-Two Thousand Dollars (\$62,000.00), pursuant to that certain bill of sale attached as Exhibit D and incorporated herein, and payable by UNR Med within ten (30) calendar days of the Effective Date.

d. UNR Med will acquire the research equipment as-is, where-is, with no warranties and will be responsible for any maintenance, service, or other cost associated with the equipment incurred on or after the Effective Date.

4. Third Floor Space. NVCBR will retain occupancy of the Third Floor Space as outlined in Exhibit E, pursuant to the terms and conditions of the Lease, as amended to reflect the agreement of the Parties described herein.

a. NVCBR will continue to pay its Pro Rata Share (as defined in the Lease) of Operating Costs for the Third Floor Space through June 30, 2019. Thereafter, NVCBR will not be required to pay any Operating Costs, in connection with its occupancy of the Third Floor Space for the duration of the Lease term or any renewal(s) thereof.

b. The University shall reasonably supply maintenance to the Third Floor Space in accordance with the Lease as of the Effective Date. The Parties acknowledge that NVCBR will use the Third Floor Space for medical office, programming, education, outreach, advocacy, and clinical laboratory purposes and other related administrative purposes.

c. As of the Effective Date, UNR Med shall have access to the conference room located in the Third Floor Space, subject to the scheduling approval of NVCBR, which approval shall not be unreasonably conditioned, restricted or denied. UNR Med will pay a one-time usage fee of \$2,250 to NVCBR for access to the conference room from the Effective Date through June 30, 2019, after which time the conference room may be utilized by UNR Med at no cost, subject to the scheduling approval of NVCBR as stated herein. The conference room usage fee shall be payable by UNR Med within thirty (30) calendar days of the Effective Date.

5. Allocation of State Funding. UNR Med currently allocates Five Hundred Ten Thousand Dollars (\$510,000.00) on an annual basis from its state budget to support ME/CFS research, programming, education, outreach and administrative costs (the "Funding"). The Parties agree that the Funding shall be allocated pursuant to this Section 5.

a. For Fiscal Year 2019, UNR Med will pay to NVCBR \$255,000.00 of the Funding to fund NVCBR's Operations, defined as programming, education, clinical services, clinical research, outreach, and advocacy, and the related administrative costs on the topic of ME/CFS and related disorders. UNR Med will direct \$255,000.00 of the Funding to fund its ME/CFS Research Program described in Section 6(g).

b. Subject to any increases due to increased legislative or gubernatorial funding (Section 5(c)) or decreases due to reduced legislative or gubernatorial funding (Sections 5(g) and 5(h)), UNR Med will continue to pay to NVCBR \$255,000.00 of the Funding (the "NVCBR Funding") to fund NVCBR's Operations on an annual basis and UNR Med will direct \$255,000.00 of the Funding to fund its ME/CFS Research Program (the "ME/CFS Research Program Funding") on an annual basis.

c. The Parties will use best efforts, consistent with applicable laws, regulations and Board of Regents policies and practices, to obtain the Funding from the Nevada Legislature to be included in UNR Med's base budget to support the NVCBR Funding and the ME/CFS Research Program Funding, during the term of this Agreement. The Parties may mutually agree to take additional reasonable efforts to increase the Funding, and any such increase shall be shared equally between the NVCBR Funding and the ME/CFS Research Program Funding. This notwithstanding, increases in UNR Med's state budget that are not expressly identified as in support of the Funding shall not increase any of the amounts paid to NVCBR or directed to the ME/CFS Research Program under this Agreement.

d. NVCBR will invoice UNR Med on a quarterly basis and UNR Med will disburse the NVCBR Funding over four (4) quarters to NVCBR within thirty (30) days of receipt of invoice from NVCBR.

e. NVCBR will provide an annual report on use of the NVCBR Funding to the University and UNR Med no later than August 1 of each year.

f. In the event that all faculty participating in UNR Med's ME/CFS Research Program separate from UNR Med, UNR Med will use its best efforts to recruit a replacement and/or assign an existing faculty member to its ME/CFS Research Program. In the event UNR Med is unsuccessful in these efforts and terminates the ME/CFS Research Program, the ME/CFS Research Program Funding will revert to NVCBR as described in Section 6(h).

g. In the event that the Funding is reduced by legislative or gubernatorial action, the amount of NVCBR Funding and the ME/CFS Research Program Funding set forth in Section 5(b) shall be reduced proportionally to any reduction in the overall Funding.

h. In the event that UNR Med's base budget from the preceding fiscal year is reduced by legislative or gubernatorial action, the amount of NVCBR Funding and the ME/CFS Research Program Funding set forth in Section 5(b) shall be reduced proportionally to the reduction in the overall reduction of UNR Med's base budget.

6. ME/CFS Research Program Integration. As of the Effective Date, UNR Med will fully integrate the NVCBR ME/CFS Research Program into its research program as agreed in this Section 6.

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a. So long as UNR Med has an active ME/CFS Research Program, NVCBR will cease conducting basic research. NVCBR may continue to conduct clinical research in the Third Floor Space and locations off the University campus in its sole and absolute discretion. For the purposes of this Agreement and any amendment to the Lease, “clinical research” shall mean research aimed to advance medical knowledge by studying people through direct interaction and/or through the collection and analysis of biological specimens and/or clinical data to evaluate the effects of a medical or behavioral intervention, including but not limited to medications, devices, diagnostic products and treatment regimens.

b. As of the Effective Date, UNR Med will hire Dr. Vincent Lombardi, currently NVCBR Research Director, at a salary equivalent to his January 1, 2018 annual salary and pursuant to terms consistent with UNR Med, University, and NSHE policies, including but not limited to the NSHE Code.

c. As of the Effective Date, the University of Nevada, Reno School of Medicine Integrated Clinical Services, Inc. (“ICS”)¹ will hire Shanti Rawat, currently NVCBR laboratory technician, at a salary at least equivalent to her January 1, 2018 salary and pursuant to terms consistent with ICS HR policies.

d. Dr. Lombardi will be appointed to a research faculty position in the Department of Microbiology and Immunology so as to provide a start-up period of career development intended to enhance success in the event he is subsequently appointed to a tenure track position. As of the commencement of Dr. Lombardi’s employment by UNR Med, Dr. Lombardi shall be subject to all NSHE, University and UNR Med personnel policies, including, but not limited to, the NSHE Code.

e. In the event that Dr. Lombardi continues the ME/CFS Research Program in his employment with UNR Med, he will remain in the Research Space for at least five (5) years from the Effective Date. After such five-year period expires and provided Dr. Lombardi continues the ME/CFS Research Program in his employment with UNR Med, UNR Med may in its discretion assign Dr. Lombardi to a different research lab consistent with UNR Med and University policies, so long as such space allows Dr. Lombardi to reasonably continue the ME/CFS Research Program.

f. Dr. Lombardi may obtain, in accordance with NSHE, University and UNR Med policies, additional funding through grants and contracts with third parties to engage in ME/CFS or other areas of research. In the event that Dr. Lombardi obtains such additional funding, UNR Med shall continue to allocate the ME/CFS Research Program Funding to support the ME/CFS Research Program, including but not limited to related immunologic dysregulation research and research on other related conditions.

g. UNR Med agrees that it will continue to direct the ME/CFS Research Funding to its ME/CFS Research Program, including but not limited to related immunologic dysregulation research, for the duration of this Agreement so long as it has an active ME/CFS Research Program. In the event that all faculty participating in UNR Med’s ME/CFS Research Program separate from UNR Med, UNR Med will use its best efforts to recruit a replacement and/or assign an existing faculty member to its ME/CFS Research Program supported by the ME/CFS Research Funding.

¹ ICS shall be a signee of this Agreement, but shall only be bound by Section 6(c) of the Agreement.

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h. If during the term of this Agreement, UNR Med gives notice that it has terminated its ME/CFS Research Program as described in Subsection 6(g), it shall direct the balance of the funding to NVCBR for the remaining term of this Agreement beginning no later than thirty (30) days following Research Termination.

(1) For the purposes of this subsection "Research Termination" means that, for a period of ninety (90) consecutive calendar days, UNR Med has: (i) ceased performing any research of ME/CFS or related conditions, including related immunologic dysregulation research and research on other related conditions; (ii) has ceased engaging in any activity to support research of ME/CFS or related conditions, including related immunologic dysregulation research; and (iii) and has not engaged in good faith efforts (including, but not limited to, attempts to recruit faculty and/or submission of grant applications) to support its ME/CFS Research Program, including but not limited to related immunologic dysregulation research and research on other related conditions.

(2) For the purposes of this subsection "the balance of the funding" means an amount equal to the Funding (defined in Section 5, including any adjustments under Section 5(g)) less the NVCBR Funding (as defined in Section 5(b) and including any adjustments under Section 5(h)).

7. NVCBR Third Floor Space and Operations.

a. Subject to Section 18.4 of the Lease, NVCBR may continue to accommodate physicians and their private practices committed to treating ME/CFS and related conditions in the Third Floor Space and will move current clinical operations from the Second Floor Space to the Third Floor Space at its sole cost and expense, no later than fifteen (15) days from the Effective Date.

b. While NVCBR and UNR Med are separate organizations, there may be opportunities for physicians operating in the Third Floor Space to pursue clinical research activities in the Second Floor Space through written agreement with NVCBR and UNR Med.

c. If in the opinion of legal counsel for UNR Med and/or the University, after consultation with counsel for NVCBR, any agreement with a physician operating in the Third Floor Space allegedly violates state or federal referral laws (e.g. Stark or the Ant-Kickback Statute), UNR Med, the University, and NVCBR shall meet and confer as soon as possible, but not more than fourteen (14) days after the opinion is issued in writing, to modify any agreement, change any objectionable practice, and/or take other reasonable and necessary steps in order to comply with applicable laws and regulations.

d. NVCBR will discontinue use of the name "Nevada Center for Biomedical Research" or "NVCBR" by September 1, 2018. NVCBR may return to using the name "Whittemore Peterson Institute for Neuro-Immune Disease", "Whittemore Peterson Institute", "Whittemore Institute" or select any other name it chooses so long as such name is not reasonably subject to being confused with the name(s) of department(s) or program(s) of the University and/or UNR Med.

8. **Intellectual Property.** Except for the rights expressly transferred in this Agreement, nothing herein will operate to transfer any interest in NVCBR's or University's or UNR Med's Intellectual Property by implication, estoppel or otherwise. For purposes of this Agreement, the term "Intellectual Property" means all intellectual property rights recognized in any jurisdiction, including copyrights, moral rights, trade secrets, patent rights, rights in inventions, trademarks, trade names, and service marks (including applications for, and registrations, extensions, renewals, and re-issuances of, the foregoing).

9. General Provisions.

a. **Amendments.** This Agreement may be amended only by written mutual agreement of the Parties and any such amendment will not operate to terminate or amend the Lease or Operating Agreement.

b. **Applicable Law; Venue.** The construction, interpretation, and enforcement of this Agreement shall be governed by the laws of the State of Nevada. The Parties irrevocably consent to the jurisdiction of the State of Nevada and agree that venue for any dispute resolution conducted under this Agreement shall be Washoe County, Nevada.

c. **Mediation.** If a dispute arises out of or relates to this Agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, the Parties agree first to try in good faith to settle the dispute by mediation through a mutually acceptable mediator selected pursuant to Nevada Revised Statutes Chapter 38 before resorting to litigation.

d. **Sovereign Immunity.** The Parties agree that University/UNR Med and its employees are subject to sovereign immunity and the corresponding limitations of liability set forth in NRS 41.031 et. seq. (including NRS 41.0135). Nothing in this Agreement should be construed as a waiver of sovereign immunity and/or the protections of NRS 41.031 et. seq., by University and UNR Med.

e. **Entirety of Agreement.** This Agreement and exhibits attached hereto represent the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral, provided however that this Agreement is not intended to amend, replace, or supersede the Lease or the Operating Agreement, both of which remain in full force and effect.

f. **Severability, Waiver and Compliance with Law.** Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of this Agreement shall continue in full force and effect, and the Parties shall meet and confer to determine what amendments, if any, of this Agreement may be required. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to constitute, a waiver of any subsequent breach or violation of the same or another provision hereof. The Parties specifically intend to comply with all applicable laws, rules and regulations as they may be amended from time to time. If any part of this Agreement is determined to violate federal, state, or local laws, rules or regulations, the Parties agree to negotiate in good faith revisions to any such provisions, which shall include participation in good faith in mediation under Section 9(c) of this Agreement if the Parties cannot otherwise reach an agreement. If the Parties fail to agree within a reasonable time to revisions required to bring the entire Agreement into compliance, either Party may terminate this Agreement upon ninety (90) days prior written notice to the other Party. In the event that the Agreement is terminated, the Parties agree to execute such documents as may be necessary to return the Parties to their original position as of the date before this Agreement is entered into by the Parties, subject to the approval of the NSHE Board of Regents of any Lease amendments at that time.

g. **Independent Relationship.** It is mutually understood and agreed that NVCBR and University/UNR Med, in performing their respective duties and obligations under this Agreement, are at all times acting and performing as independent contractors with respect to each other. Each party shall be solely responsible for and shall comply with all state and federal laws pertaining to employment taxes, income withholding, unemployment compensation contributions and other employment related statutes applicable to that party.

h. **LCME Accreditation.** It is understood by and between the Parties that nothing herein, including agreements regarding direction of funds, is intended to impact the accreditation of UNR Med by the Liaison Committee for Medical Education ("LCME"). In the event that any provision of this Agreement is determined by the LCME to be in violation of UNR Med's LCME accreditation, the Parties shall meet and confer on a reasonable amendment of this Agreement that preserves the intent of this Agreement regarding division of the Funding for the purposes described herein. In the event the Parties cannot agree on a reasonable amendment, which shall include participation in good faith in mediation under Section 9(c) of this Agreement if the Parties cannot otherwise reach an agreement, University and UNR Med may, in its sole discretion, elect to terminate this Agreement, with sixty (60) days written notice.

i. **Insufficient Appropriation.** In the event no funds are appropriated for any fiscal period for which payments are allocated under this Agreement, then UNR Med's obligation to conduct the UNR Med ME/CFS Research Program will terminate on the last day of the fiscal period for which appropriations were received unless an alternative source of sufficient funding such as federal grant and/or private donor funding is in place to support the ME/CFS Research Program, and if such funding is received, UNR Med's obligation to conduct the ME/CFS Research Program shall remain until there is insufficient funding to fund the ME/CFS Research Program. This paragraph shall be interpreted subject to and consistent with Section 5 of this Agreement.

j. **Assignment.** This Agreement may not be assigned by either party to any individual or entity without the express written approval of the other party.

k. **Signage.** NVCBR retains the right to signage in the MOB for the Third Floor Space and maintain existing signage locations, including changes necessary to reflect name changes pursuant to Section 7(d), to recognize the existence of a separate organization in the MOB. UNR Med will have the right to add signage identifying the presence of a clinical research center on the Second Floor Space.

l. **Notices.** All formal notices, requests, demands, approvals and communications under this Agreement (other than routine operational communications) (collectively, "Notices") will be in writing and may be served either (a) in person or (b) by registered or certified mail with proof of delivery, addressed to the party at the addresses set forth below. Notices given as described in the preceding sentence will be considered received on the day of actual delivery. A party may change its address or designee for notification purposes by giving the other party prior written notice of the new address or designee in the manner provided above. The Parties may mutually agree that certain types of routine approvals and notices of a non-legal nature may be given by electronic mail.

If to NVCBR:

1664 N. Virginia Street, MS 0552
Reno, NV 89557
Attn. President and CEO

With a copy to:

John Echeverria, Esq.
Echeverria Law Office
9432 Double R Blvd.
Reno, NV 89521

If to the University:

**President Marc Johnson
University of Nevada, Reno
1664 N. Virginia Street MS 001
Reno, NV 89557**

With a copy to:

**General Counsel
University of Nevada, Reno
1664 N. Virginia Street MS 0550
Reno, NV 89557**

If to UNR Med:

**Dean Thomas Schwenk
University of Nevada, Reno School of Medicine
1664 N. Virginia Street, MS 0332
Pennington Medical Education Building, Room 232
Reno, NV 89557**

With a copy to:

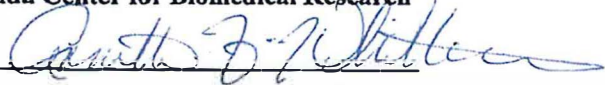
**Senior Associate Dean for Legal Affairs
University of Nevada, Reno School of Medicine
1664 N. Virginia Street, MS 1332
Reno, NV 89557**

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Afw

In witness whereof, the Parties, through their duly authorized representatives, have executed this Agreement on the dates set out below, and certify that they have read, understand, and agree to the terms and conditions of this Agreement as set forth herein.

Nevada Center for Biomedical Research

By: 


Name: ANNETTE F. WHITTEMORE

Title: PRESIDENT & CEO

Date: July 13, 2018

The Board of Regents of the Nevada System of Higher Education on Behalf of the University of Nevada, Reno and the University of Nevada, Reno School of Medicine

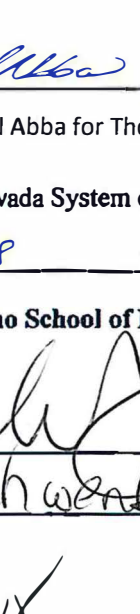
Recommended By:

By: 

Name: Marc Johnson

Title: President, University of Nevada, Reno

Date: July 16, 2018

By: 

Name: Thomas L. Schwenk, M.D.

Title: Dean, University of Nevada, Reno School of Medicine, Vice President, Division of Health Sciences

Date: 7/17/18

Executed By:

By: 

Name: Thom Reilly Crystal Abba for Thom Reilly

Title: Chancellor of the Nevada System of Higher Education

Date: 7-20-18

University of Nevada, Reno School of Medicine Integrated Clinical Services, Inc.

(As to Section 6(c) only)

By: 

Name: T.L. Schwenk

Title: President

Date: 7/17/18

afw

Exhibit A

Second Floor Space

The space identified in blue with hash marks on the attached Exhibit A floor plan constitutes the Second Floor Space.

Apel

- ASSIGNABLE SPACE
- UNASSIGNABLE SPACE

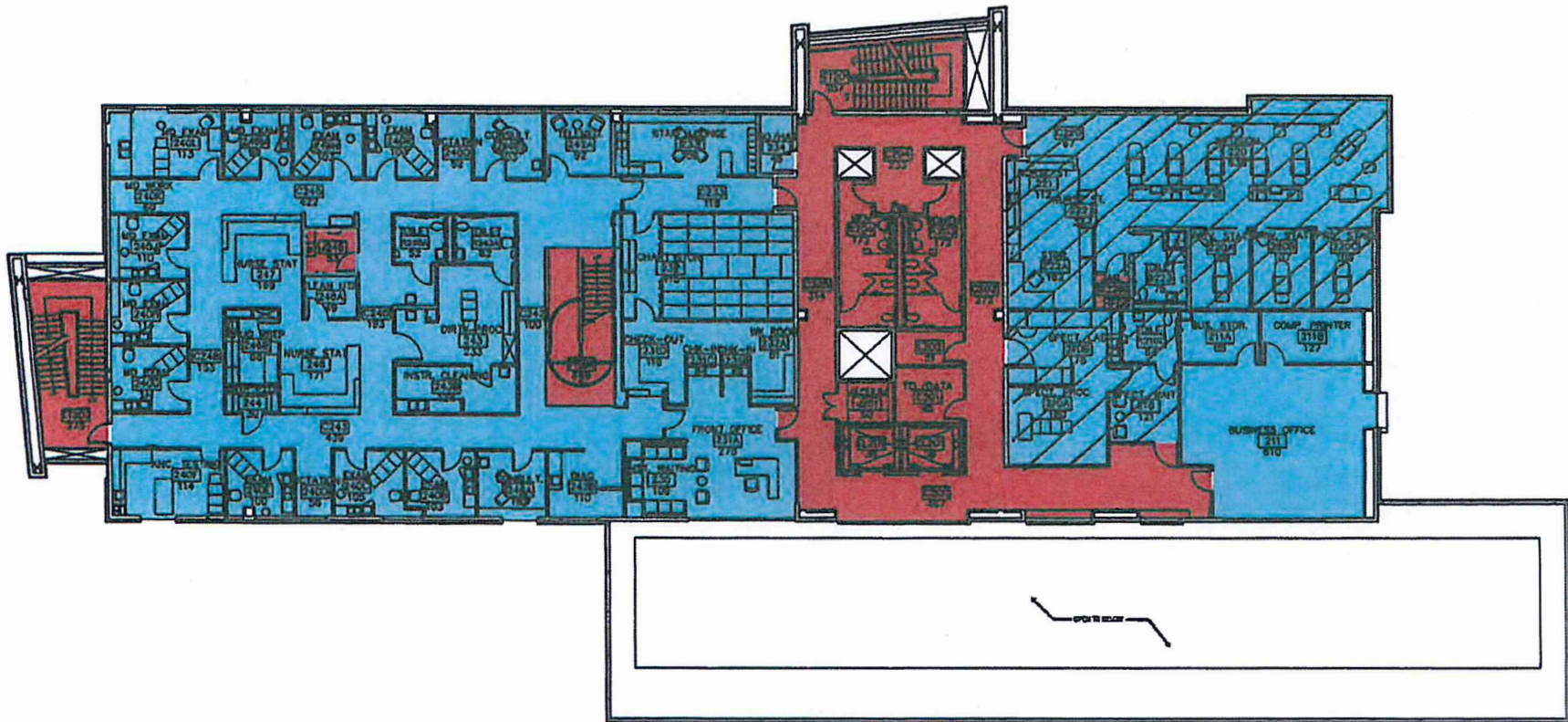


Exhibit A

CMM MEDICAL OFFICE WING 2ND FLOOR PLAN
 NOT TO SCALE
 GRAPHIC SCALE

Handwritten initials

Exhibit B

Research Space

The space identified in purple on the attached Exhibit B floor plan constitutes the Research Space.

AFCW

■ WPI SPACE

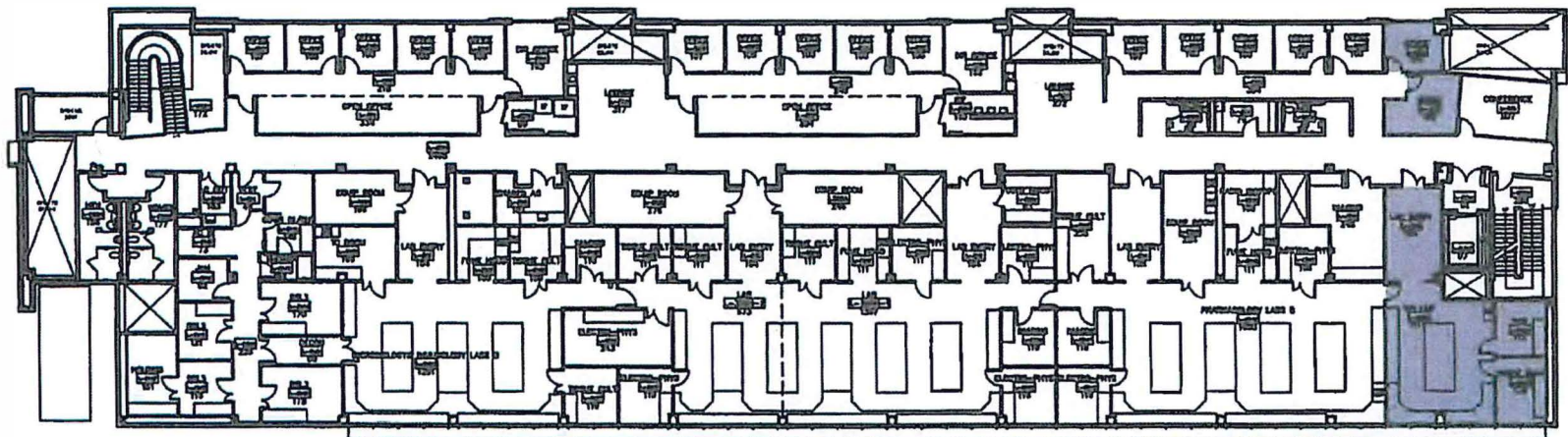


Exhibit B

CMM LAB WING 3RD FLOOR PLAN
NOT TO SCALE
GRAPHIC SCALE

Handwritten initials

Exhibit C

Bill of Sale for Equipment Transferred at No Cost to UNR Med


THIS BILL OF SALE is made in connection with that certain Agreement between Nevada Center for Biomedical Research ("NVCBR"), the Board of Regents of the Nevada system of Higher Education on behalf of the University of Nevada, Reno (the "University") and on behalf of the University of Nevada, Reno School of Medicine ("UNR Med") (NVCBR, the University, and UNR Med are collectively referred to as, the "Parties") (the University and UNR Med are collectively referred to as, the "Buyer").

In consideration of the agreement between the Parties for the transfer of the equipment listed on Appendix A (collectively, the "Equipment"), NVCBR hereby sells, assigns, and transfers to the Buyer, and the Buyer hereby purchases and assumes from NVCBR, the Equipment for zero dollars (\$0.00).


THE PARTIES AGREE THAT THE EQUIPMENT IS SOLD, CONVEYED, TRANSFERRED, AND ASSIGNED ON AN "AS IS, WHERE IS" BASIS AND THAT THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE EXCLUDED FROM THIS TRANSACTION AND SHALL NOT APPLY TO THE EQUIPMENT. THE BUYER ACKNOWLEDGES THAT THE BUYER ASSUMES ALL RISKS AND LIABILITY WHATSOEVER RESULTING FROM THE POSSESSION, USE, OR DISPOSITION OF THE EQUIPMENT. THE BUYER FURTHER ACKNOWLEDGES THAT NVCBR WILL HAVE NO LIABILITY WITH RESPECT TO THE EQUIPMENT SOLD TO THE BUYER, INCLUDING HAVING NO LIABILITY FOR ANY INCIDENTAL, SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES.

IN WITNESS WHEREOF, the Parties, through their duly authorized representatives, have executed this Bill of Sale on the dates set out below.

Nevada Center for Biomedical Research

By: 
Name: ANNETTE F. WHITTEMORE
Title: PRESIDENT / CEO
Date: JULY 13, 2018

Board of Regents of the Nevada System of Higher Education on behalf of the University of Nevada, Reno and the University of Nevada, Reno School of Medicine

By: 
Name: MARC A. JOHNSON
Title: PRESIDENT
Date: JULY 16, 2018



Recommended by:

University of Nevada, Reno School of Medicine

By: 

Name: T.L. Schwenk

Title: Dean

Date: 9/17/18

afw

NVCBR Research Lab Inventory										
Last Update 1/30/18										
Description	Cost	Year Purchased 2011 assumed if unknown	8 Yr St Line Value Depreciated Value	Univ Maryland Useful Life	Univ Maryland Depreciated Value	Location	Model	Serial	NSITE Asset #	
Totals:	\$296,031		\$57,724		\$73,096					
Real Time PCR Thermocycler- Bio Rad	\$37,507	2011	\$4,008	12	\$15,822	CMM 300			1148827	HRSA UNRWPI C7B-F08847
Fluorescent Inverted Microscope EVOE	\$26,889	2011	\$3,352	8	\$1,362	CMM 300			1149339	HRSA UNRWPI C7B-F08847
Zeiss Inverted Microscope	\$24,731	2010	\$0	8	\$0	CMM 300			1149118	HRSA UNRWPI C7B-F08847
Zeiss Digital Microscope Camera	Unknown	2010	\$0	8	\$0	CMM 300			1148271	HRSA UNRWPI C7B-F08847
Bio-Rad Chemoc XTB Imager	\$21,797	2008	\$0	6	\$0	CMM 300			1150079	HRSA UNRWPI C7B-F08847
Thermo Nesco CO2 incubator	\$8,347	2011	\$0	12	\$2,229	CMM 300	15e1		1149228	HRSA UNRWPI C7B-F18321
Mettler Toledo Analytical balance	\$6,045	2009	\$0	8	\$0	CMM 300			744929	HRSA UNRWPI C7B-F08847
Lucor CLX Fluorescent Imaging system	\$42,130	2013	\$23,299	8	\$23,299	CMM 300			1180944	HRSA UNRWPI C7B-F18321
SpectraMax M3 Microplate/reader	\$42,223	2014	\$21,112	8	\$21,112	CMM 300			1151103	HRSA UNRWPI C7B-F18321
Thermo Biosafety Cabinet (new)	\$7,843	2010	\$0	12	\$2,614	CMM 300	1300A2		1148822	HRSA UNRWPI C7B-F08847
Thermo Nanodrop	\$10,774	2011	\$1,347	8	\$0	CMM 300	2000C		1150057	HRSA UNRWPI C7B-F08847
Swinging Bucket Rotor	\$8,414	2008	\$0	8	\$0	CMM 300			1150086	HRSA UNRWPI C7B-F08847
Sorvall Centrifuge	\$21,480	2008	\$0	12	\$3,477	CMM 300			1149254	HRSA UNRWPI C7B-F08847
Beckman Coulter Particle counter	\$15,760	2011	\$1,899	6	\$0	CMM 300			1150081	HRSA UNRWPI C7B-F08847
Bioher Model 80001	\$5,115	2012	\$1,273	8	\$1,273	CMM 300	VHT30	110117001		HRSA UNRWPI C7B-F08847
MagMax Extreme Particle Processor	\$14,958	2011	\$1,870	8	\$1,870	CMM 300	700	4387947		HRSA UNRWPI C7B-F08847
Total NVCBR Research Lab						CMM 300				

AJW

Exhibit D

Bill of Sale for Equipment Transferred to UNR Med for \$62,000.00

THIS BILL OF SALE is made in connection with that certain Agreement between Nevada Center for Biomedical Research ("NVCBR"), the Board of Regents of the Nevada system of Higher Education on behalf of the University of Nevada, Reno (the "University") and on behalf of the University of Nevada, Reno School of Medicine ("UNR Med") (NVCBR, the University, and UNR Med are collectively referred to as, the "Parties") (the University and UNR Med are collectively referred to as, the "Buyer").

In consideration of the agreement between the Parties for the transfer of the equipment listed on Appendix B (collectively, the "Equipment"), NVCBR hereby sells, assigns, and transfers to the Buyer, and the Buyer hereby purchases and assumes from NVCBR, the Equipment for Sixty-Two Thousand Dollars (\$62,000.00).

THE PARTIES AGREE THAT THE EQUIPMENT IS SOLD, CONVEYED, TRANSFERRED, AND ASSIGNED ON AN "AS IS, WHERE IS" BASIS AND THAT THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE EXCLUDED FROM THIS TRANSACTION AND SHALL NOT APPLY TO THE EQUIPMENT. THE BUYER ACKNOWLEDGES THAT THE BUYER ASSUMES ALL RISKS AND LIABILITY WHATSOEVER RESULTING FROM THE POSSESSION, USE, OR DISPOSITION OF THE EQUIPMENT. THE BUYER FURTHER ACKNOWLEDGES THAT NVCBR WILL HAVE NO LIABILITY WITH RESPECT TO THE EQUIPMENT SOLD TO THE BUYER, INCLUDING HAVING NO LIABILITY FOR ANY INCIDENTAL, SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES.

IN WITNESS WHEREOF, the Parties, through their duly authorized representatives, have executed this Bill of Sale on the dates set out below.

Nevada Center for Biomedical Research

By: Annette F. Whittemore

Name: ANNETTE F. WHITTEMORE

Title: PRESIDENT / CEO

Date: JULY 13, 2018

Board of Regents of the Nevada System of Higher Education on behalf of the University of Nevada, Reno and the University of Nevada, Reno School of Medicine

By: Thomas L. Schwenk

Name: THOMAS L. SCHWENK

Agw

Title: Dean

Date: 7/19/18

Recommended by:

University of Nevada, Reno School of Medicine

By: 

Name: Thomas L. Schwent

Title: Dean

Date: 7/19/18



Attachment B - Items Purchased by NVCBR

NVCBR Research Lab Inventory Last Update 1/30/18									
Description	Cost	Year Purchased 2011 assumed if unknown	5 Yr St Line Value Depreciated Value	Univ May/bad Useful Life	Univ May/bad Depreciated Value	Location	Model	Serial	
Totals:	\$348,378		\$35,166		\$61,642				
Eppendorf Centrifuge 6430 Micro 21 R	\$4,294	2012	\$1,074	12	\$2,147	CMM 300	S430	342720712877	Log Funds
Beckford Gel Doc EZ with tray	\$7,162	2010	\$0	8	\$0	CMM 300	GelDoc-EZ	7359P00000	HRBA WPI CTR-F00040
Beckford GeneLab enabled MyCycler	\$3,924	2010	\$0	12	\$1,179	CMM 300	MyCycler	6038R2858	HRBA WPI CTR-F00040
Corbett PCR	\$47,425	2010	\$0	12	\$15,808	CMM 300	Smart	403211	HRBA WPI CTR-F00040
Merieux Dual Chamber CO2 incubator	\$5,561	2010	\$0	12	\$1,784	CMM 300	Hull700	134602021610	WPI General Funds
USA-32 Upright Freezer	\$15,203	2008	\$0	8	\$0	CMM 300	8eLow	08071263	WPI General Funds
USA-32 Upright Freezer	\$15,203	2008	\$0	8	\$0	CMM 300	8eLow	08071143	WPI General Funds
Exp-Prod Freezer 12W94, Thermo	\$2,705	2008	\$0	8	\$0	CMM 300		811555190111010	HRBA WPI CTR-F00040
Liquid Nitrogen Storage	\$1,180	2011	\$144	6	\$0	CMM 300			WPI General Funds
Minnant Bioscanner	\$1,432	2011	\$229	6	\$0	CMM 300			HRBA WPI CTR-F00040
Racks for 16.50X	\$4,280	2008	\$0	4	\$0	CMM 300			HRBA WPI CTR-F00040
Racks for Freezer	\$1,243	2011	\$168	4	\$0	CMM 300			HRBA WPI CTR-F00040
Research office L300 Furniture and Fixtures work top plate	\$10,826 (\$310)	2008 2011	\$0 \$39	8 8	\$0 \$0	CMM 300 CMM 300			HRBA WPI CTR-F00040 WPI General Funds
Mettler Toledo PH meter	\$633	2011	\$67	8	\$0	CMM 300			WPI General Funds
Beckman Alere x16	\$10,000	2011	\$1,250	12	\$4,167	CMM 300	X-16R	ALP00K41	WPI General Funds
Fixed Angle Carbon Filters for Servo II Centrifuge	\$8,320	2008	\$0	8	\$0	CMM 300	F1-4025251		HRBA WPI CTR-F00040
Fixed Angle Carbon Filters for Servo II Centrifuge	\$8,320	2008	\$0	8	\$0	CMM 300	F218-4251		HRBA WPI CTR-F00040
Proforma call Counter	\$5,084	2011	\$634	8	\$0	CMM 300	Counters	9042037	WPI General Funds
AIM 3600 Separator	\$104,620	2012	\$26,155	8	\$38,206	CMM 328	3500	22118-221	Log Funds
Research pipettes x 13	\$3,900	2011	\$1,463	8	\$1,463	CMM 300	Eppendorf		WPI General Funds
Research pipettes x 16	\$2,400	2008	\$0	8	\$0	CMM 300			WPI General Funds
Orbital pipettes 10	\$1,500	2011	\$188	8	\$188	CMM 300	Gibco		WPI General Funds
Eppendorf Mastercycler	\$1,850	2010	\$0	18	\$0	CMM 300	5333	1E341	WPI General Funds
Bio-Grook pipettes, Rainin	\$7,800	2009	\$0	8	\$0	CMM 300			WPI General Funds
Microplate washer manifold	\$1,763	2011	\$145	8	\$145	CMM 300	80 lab		WPI General Funds
MAC workstation	\$1,878	2009	\$0	4	\$0	CMM 300			WPI General Funds
Beckman Alere Centrifuge X22	\$2,285	2010	\$0	12	\$1,688	CMM 300	X22	AK00AL016	WPI General Funds
Pharmacia Biotech	\$330	2008	\$0	8	\$0	CMM 300			WPI General Funds
Thermo MicroCentrifuge R21	\$8,721	2012	\$2,234	12	\$4,861	CMM 300	21R	41187800	WPI General Funds
Merieux Dual Water-Jacket incubator	\$6,347	2008	\$0	12	\$0	CMM 300	2700	14078090800	WPI General Funds
Lambert Hitachi LX 100	\$17,421	2007	\$0	8	\$0	CMM 300	Lambert	LX1000101001	WPI General Funds
Air Clean Cleanair workstation	\$2,500	2008	\$0	8	\$0	CMM 300	ACG32	PLUV-502	WPI General Funds
Single cryostat	\$18,000	2003	\$0	8	\$0	CMM 300	GTF	080120003121	WPI General Funds
Humidity cabinet	\$8,600	2001	\$0	12	\$0	CMM 300		13016112701	WPI General Funds
Air Clean Cleanair workstation	\$2,000	2010	\$0	8	\$0	CMM 300	None		WPI General Funds
Victor Plate Reader	\$8,000	2011	\$0	8	\$0	CMM 300	None	47X542578G3	WPI General Funds
Merieux Dual Chamber CO2 incubator	\$8,136	2011	\$1,142	8	\$1,142	CMM 300			WPI General Funds

Afu

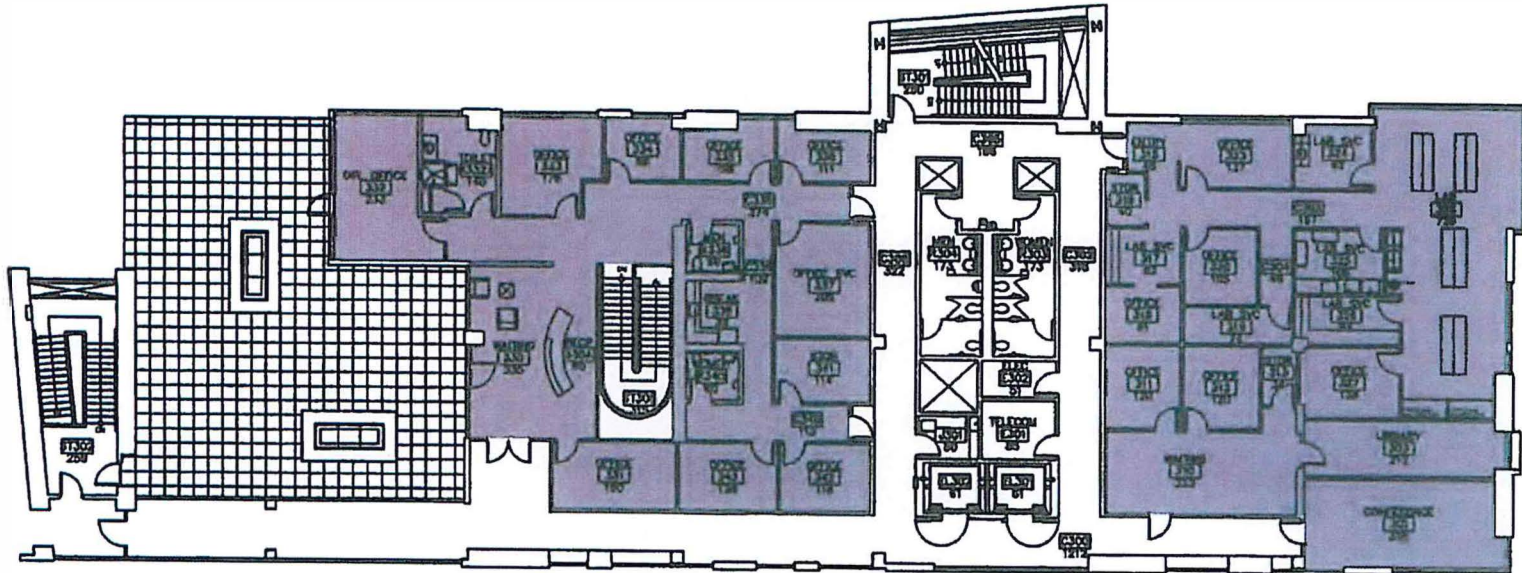
Exhibit E

Third Floor Space

The space identified in purple on the attached Exhibit E floor plan constitutes the Third Floor Plan.

afw

■ WPI SPACE



CMM MEDICAL OFFICE WING 3RD FLOOR PLAN
NOT TO SCALE
GRAPHIC SCALE

Exhibit E

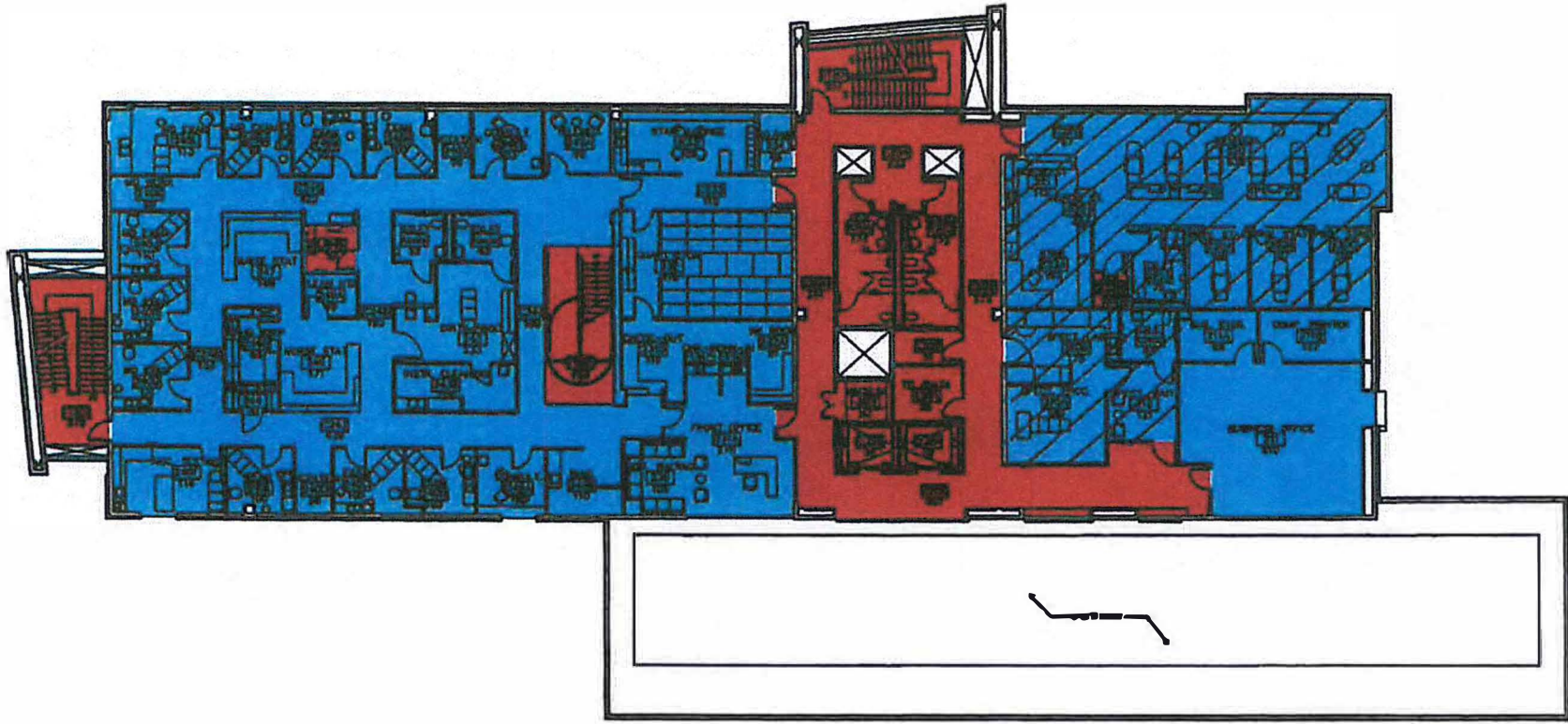
Handwritten signature

Exhibit F

Second Floor Space

The space identified in blue with hash marks on the attached Exhibit F floor plan constitutes the Second Floor Space.

ASSIGNABLE SPACE
UNASSIGNABLE SPACE



CMM MEDICAL OFFICE WING 2ND FLOOR PLAN
NOT TO SCALE
GRAPHIC SCALE

Exhibit G

Office Suite

The space identified in blue with hash marks on the attached Exhibit G floor plan constitutes the Office Suite.

- ASSIGNABLE SPACE
- UNASSIGNABLE SPACE

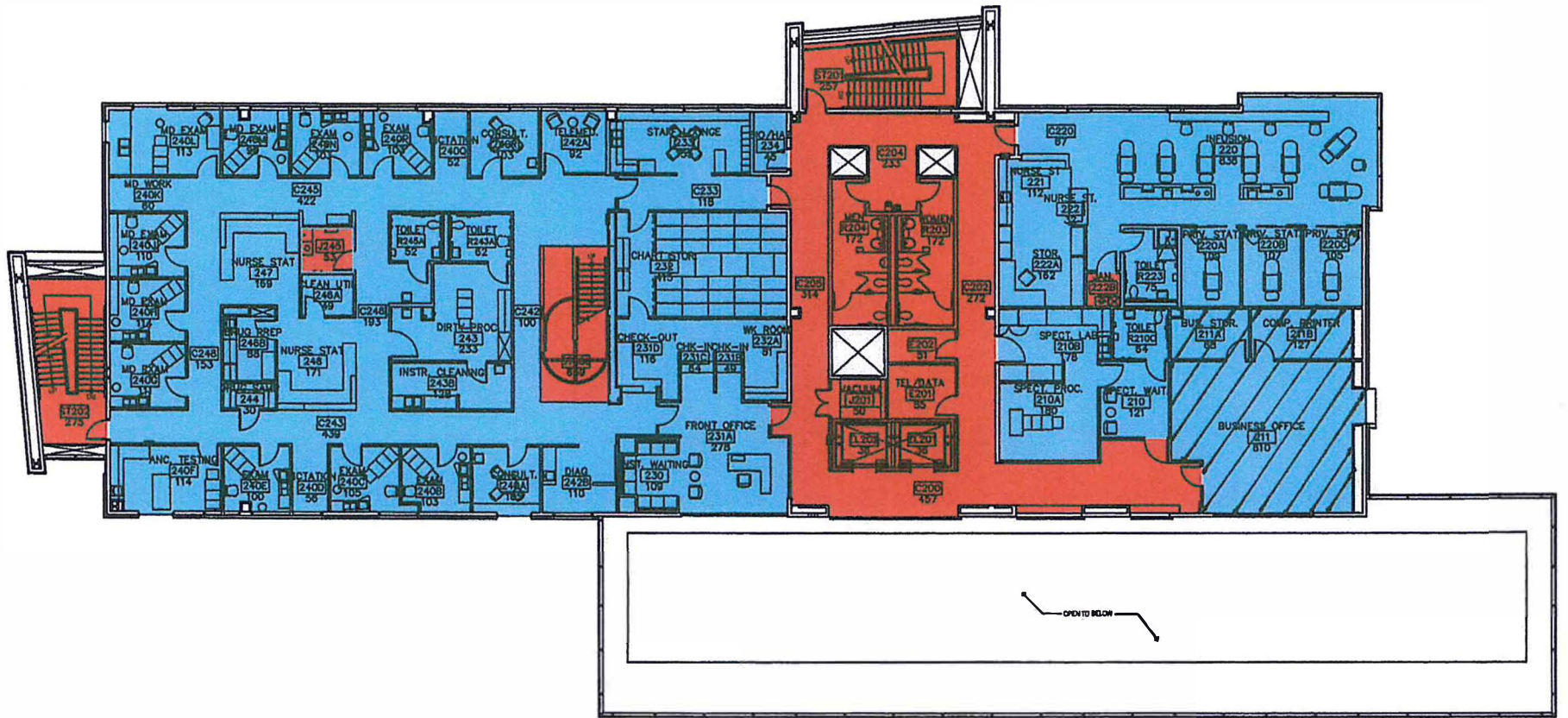


Exhibit G

CMM MEDICAL OFFICE WING 2ND FLOOR PLAN
 NOT TO SCALE


 GRAPHIC SCALE

Exhibit H

Research Space

The space identified in purple on the attached Exhibit H floor plan constitutes the Research Space.

WPI SPACE

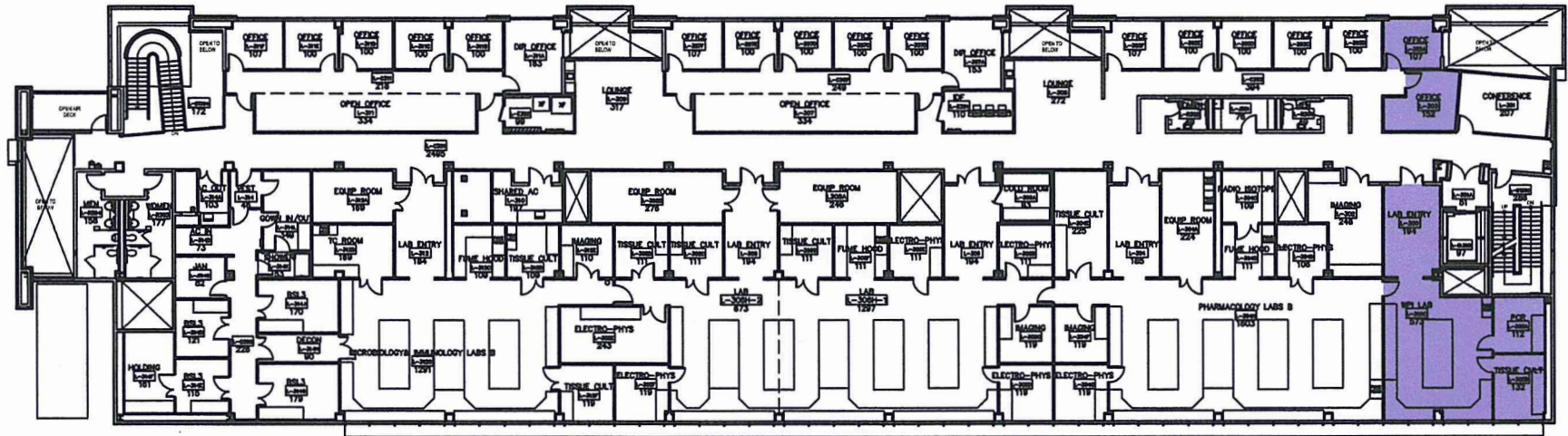


Exhibit H

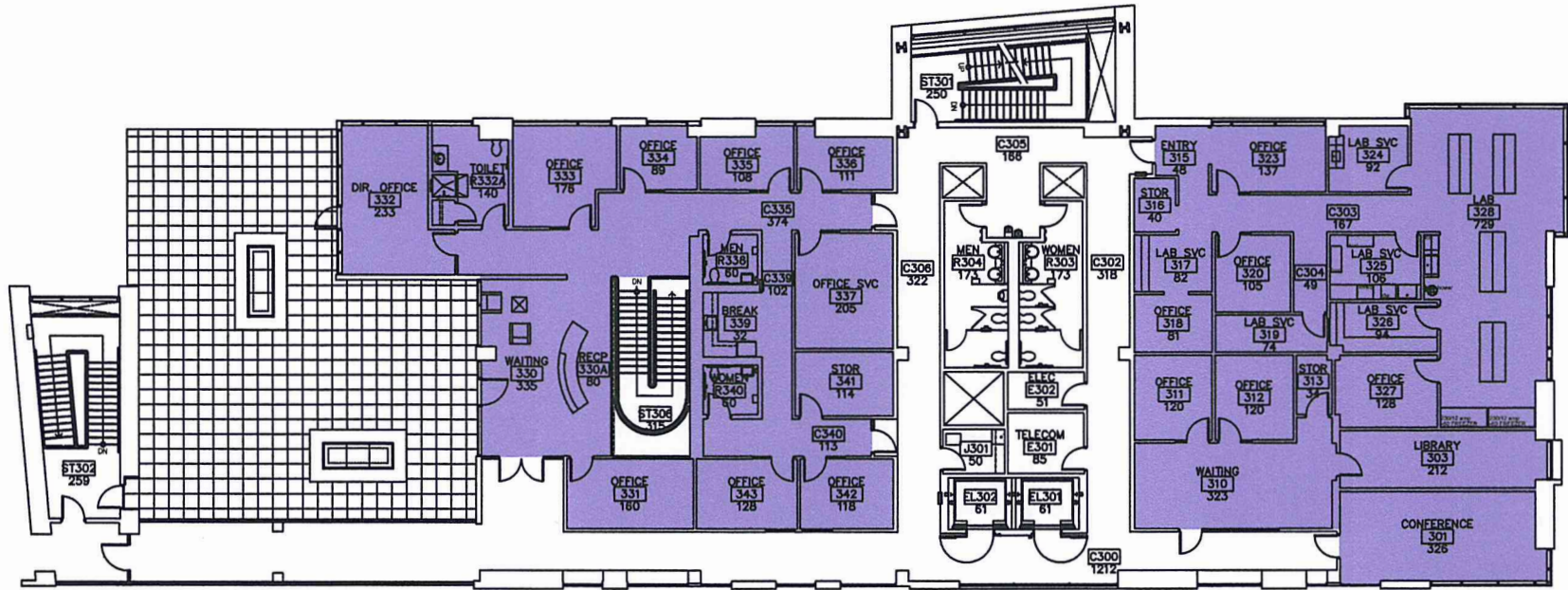
CMM LAB WING 3RD FLOOR PLAN
NOT TO SCALE
GRAPHIC SCALE

Exhibit I

Third Floor Space

The space identified in purple on the attached Exhibit I floor plan constitutes the Third Floor Space.

WPI SPACE



CMM MEDICAL OFFICE WING 3RD FLOOR PLAN
NOT TO SCALE
GRAPHIC SCALE

Exhibit I