

# **Lease Agreement**

## **(UNAM - USA)**

### Table of Contents

1. Demise of Premises
  2. Use
  3. Term of Lease
  4. Acceptance and Condition of Premises
  5. Rent
  6. Utilities
  7. Leasehold Improvements
  8. Maintenance and Repairs
  9. Fixtures and Personal Property
  10. Tenant's Signs
  11. Taxes and Fees
  12. Laws and Ordinances
  13. Rules and Regulations
  14. Landlord's Municipal Powers
  15. Access to Premises
  16. Insurance
  17. Indemnification
  18. Assignment and Subletting
  19. Damage or Destruction of Premises
  20. Eminent Domain
  21. Default
  22. Remedies and Other Events of Termination
  23. Dispute Resolution
  24. Miscellaneous Provisions
  25. Prohibited Interests in Contracts
- Exhibit A
- Exhibit B

Effective Date: The effective date of the Authorizing Ordinance.

Landlord: City of San Antonio

Landlord's Address: P.O. Box 839966, San Antonio, Texas 78283

Authorizing Ordinance:

Tenant: UNAM - USA (Universidad Nacional Autónoma de México)

Tenant's Address: UNAM - USA (Universidad Nacional Autónoma de México)  
600 Hemisfair Plaza Way, Bldg. #333- San Antonio, TX 78205  
P.O. Box 830426, San Antonio, Texas 78283 0426

Description of Premises: The interior of the building known as US Pavilion Exhibit Hall (formerly Adrian A. Spears – Judicial Training Center) San Antonio, Bexar County, Texas. The building's location in Hemisfair District shown on Exhibit A, which is incorporated herein for all purposes as if fully set forth. The Premises exclude the Confluence Plaza or Breezeway or any other area outside the building and beginning at ramp from Confluence Plaza.

Permitted Use: UNAM USA in San Antonio, Texas, promotes multinational integration through language instruction, the diffusion of Mexican and International culture in all its forms, academic extension of UNAM Mexico and relations with academic institutions in the United States.

Term: January 01, 2025, through and including December 31, 2035. Earlier termination can be executed with a 12-month written notice from either the City of San Antonio and/or UNAM-USA. Extensions can be granted for additional 10-year periods upon written request from UNAM-USA no earlier than 12 months prior the termination of each lease term period. The extension may be approved administratively without further Council action by the Director of Center City Development and Operations, or the Director of any successor department assigned with contract management of the lease. Any material changes to the agreement will require approval by City Council.

**1. Demise of Premises.**

- 1.01. Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord, under the terms and conditions of this Lease.
- 1.02. Landlord may from time to time install, maintain, repair, and replace utility lines, pipes, ducts, wires, and similar items passing through the Premises to serve the Premises or areas outside them. No such work will be the basis for an abatement of rent.
- 1.03. Landlord provides no parking spaces under this Lease. Tenant must contract separately for its parking.

**2. Use.**

- 2.01. Tenant may use the Premises for the purposes of the Permitted Use only. The Premises will not be used for any other uses, whatsoever, without Landlord's prior written approval, evidenced by the passage of a future ordinance by the City Council. Tenant may choose to maintain a gift shop and art gallery space.
- 2.02. Before commencement of the Term, Tenant must secure all necessary permits, licenses, and other evidences of authority to operate in the Premises, as required by all City, County, State, and Federal authorities in accordance with all applicable statutes, laws, ordinances, rules, and regulations. This includes approved Certificate of Insurance and required Endorsements indicating the City is an "Additional Insured."
- 2.03. Tenant may charge daily admission and admission for those attending events and charge tuition for students. Tenant may let third parties book events on the Premises and charge a fee therefor. Tenant may set tuition rates. Other charges must be set by agreement with Landlord.

**3. Term of Lease.**

- 3.01. The Initial Term of this Lease is as stated above, unless terminated earlier according to the terms of this Lease.

**4. Acceptance and Condition of Premises.**

- 4.01. Tenant has had ample opportunity to examine the Premises before the Effective Date. Tenant acknowledges that no condition hazardous to life, limb, or health exists on the Premises. Tenant will neither create such a condition nor permit one created by others to exist. Tenant hereby waives all claims, whether for personal or property damage, arising out of the condition of the Premises as of the Effective Date. Tenant accepts the Premises "As Is, Where Is, and With All Faults."
- 4.02. Landlord has made no representations respecting the condition of the Premises and no promises to decorate, alter, repair, or improve the Premises, either before or after the execution hereof,

except as expressly set forth in this Lease. Landlord Specifically Disclaims Any and All Warranties of Habitability or Suitability of The Premises for Tenant's Intended Commercial Purposes and Uses.

- 4.03. When this Lease ends, by whatever means, Tenant must restore the Premises to the condition they were in at the beginning of this lease, ordinary wear and tear excepted, except for repairs and Landlord approved improvements. Tenant must leave the Premises broom clean.

**5. Rent.**

- 5:01. Rent consists of \$1,000 per year, payable in the first 60 calendar days of each year of this lease.

- 5.02. In lieu of additional money rent, Tenant must provide the following In-Kind Rent at no cost:

a. Provide Semester Spanish Courses based on the Tenants Curriculum that start at 6:00pm or later each semester to a minimum of 40 employees as identified by Landlord. Tenant will similarly provide English language classes, should the City request these services. As part of this obligation, Tenant shall also perform the following tasks:

(i) At least one month prior to the beginning of each semester, Tenant will notify when the Spanish classes will begin and their times to the City of San Antonio's Human Resources Department.

(ii) Within the first week of the beginning of each semester, Tenant will provide Landlord a list of Landlord's registered employees for each particular Spanish class. This list of employees will be coordinated between the City of San Antonio's Human Resources Department and the head of the Spanish Department of the Tenant.

(iii) Within one month of the conclusion of each semester, Tenant will provide Landlord a list of grades for each employee as well as identify the next course level each employee is then qualified to take.

b. Allowing Landlord to use the Premises during regular business days of the Tenant. Landlord will give Tenant at least ten days' prior written notice, setting forth the time and date of Landlord's intended use of Premises.

- 5.03. If Tenant holds over past the Term, whether negotiating a new term or otherwise, monthly rent for the holdover period will be the market value of the Premises as determined by Landlord, to be paid in money rent. Holding over is a tenancy at sufferance. Failure to evict or acceptance of holdover rent is not Landlord's approval of the tenancy and does not create a month-to-month tenancy.

- 5.04. Tenant's obligation to pay Rent is an independent covenant, and no act or circumstance, whether or not a breach by Landlord, releases Tenant of the obligation to pay Rent or other sums due hereunder.

- 5.05. In the event the City or a City approved partner organization retains security personnel to patrol the Premises, Tenant shall be required to pay its pro-rata portion of such cost.

**6. Utilities.**

- 6.01. Tenant must transfer all utility accounts metered for the Premises to its own name and pay all monthly utility charges as they become due. Failure to do so is a default.
- 6.02. Tenant must furnish all electric light bulbs and fluorescent tubes. Tenant must not install any electrical or other equipment that overloads electric wiring serving the Premises or adjacent premises. Landlord is not liable to Tenant for interruption of utilities. As an exclusive remedy for interruption of utilities, Tenant can terminate this Lease if gas, water, sewer, or electric utilities are, due to no fault of Tenant, interrupted for 30 consecutive calendar days.
- 6.03. Tenant must dispose of garbage and refuse in the trash disposal facility at the rear of the Magik Theater in accordance with Landlord and City of San Antonio codes, rules and regulations, and other local, state and federal rules and regulations. No trash may be stored in other portions of Hemisfair District. Location of Trash Disposal Facility may be changed from time to time. Expense for trash removal will be billed by either City or a partner identified by the City to Tenant on a prorated basis based on users of the Facility.

**7. Leasehold Improvements.**

- 7.01. Tenant must not make any improvements to the Premises without Landlord's prior written approval.
- 7.02. Tenant has no authority to and must not attempt to bind Landlord to spend money for the improvements, maintenance, or repair of the Premises.
- 7.03. Breach of the limitations of this paragraph is a default hereunder.
- 7.04. Tenant is responsible for removal of the existing building signage, painting and sealing of building exterior, procurement and installation of tenant specific signage, and tenant interior finish out of leased space subject to landlord approvals. All designs must be submitted for Landlord's permission, including applicable City Departments affected, the Historic and Design Review Commission, and any and all other necessary bodies, boards or commissions of the City of San Antonio.
- 7.05. Landlord shall not be required to make any repairs, additions, improvements or rehabilitation to the Premises prior to Tenant taking possession of the Premises.

**8. Maintenance and Repairs.**

- 8.01. Tenant must, at its own expense, continuously keep the Premises in good order and repair, and in a clean, safe, and sanitary condition and free of debris. For the purposes of this obligation, the term "Premises" includes: windows and doors, including glass and frames; interior paint; interior walls; interior plumbing and sewer system, including fixtures and connections; electrical system, including lamps, bulbs, wiring, connections, interior and exterior lights and fixtures, if any, that

were approved by the Landlord for installation by Tenant; flooring; and any other interior improvements. The above obligation includes keeping sewer lines free from obstructions and/or the cost to have obstructions removed. Tenant must further comply with any and all local, state, or federal laws, rules, regulations and codes.

- 8.02. Tenant must keep the Premises clean and free of debris and must conform to all applicable garbage, sanitary, and health laws, rules, and regulations, local, state, or federal.
- 8.03. Tenant will maintain sidewalks and the roof, exterior walls, and other exterior portions of the Premises to conform to safety and reasonable aesthetic standards as well as the maintenance and repair of the elevator, air conditioning unit and other building systems.
- 8.04. If Tenant fails to maintain or repair the Premises, Landlord may demand in writing that Tenant do so promptly. If Tenant refuses or fails to begin maintenance or repairs promptly, Landlord may, but is not required to, make or cause such maintenance or repairs to be made. If Landlord makes such maintenance or repairs, it is not responsible to the Tenant for any loss or damage to Tenant's stock or business by reason thereof. If the Landlord makes or causes such maintenance or repairs to be made, the Tenant will promptly, on demand, pay Landlord the cost thereof as additional rent. If Tenant fails to do so, it may be an event of default and may result in the termination of the Lease.
- 8.05. Tenant agrees to maintain and provide custodial services for the area located at the ground level, within the perimeter or footprint of the building. This obligation is not intended to require tenant to incur costs should Landlord or a partner organization of the City use this area as part of an event or activation.

## **9. Fixtures and Personal Property.**

- 9.01. Tenant's trade fixtures, equipment, signs, furniture, furnishings and other personal property placed, attached or installed at Tenant's expense remain Tenant's property. Tenant may, upon termination of this Lease, if Tenant is not in default, remove such items. Tenant, at its sole cost and expense, must immediately repair any damage caused by the removal of such items. All such items must be new or in good, serviceable and attractive condition when placed, installed or attached. Any such items, whether or not placed, installed or attached, if not removed by Tenant from the Premises on or before 30 days after the termination of this Lease, are deemed to be permanently affixed and become the property of Landlord without any further notice to Tenant or to its creditors, and without any liability whatsoever of Landlord.
- 9.02. Any floor covering affixed to the floor of the Premises is and becomes the property of Landlord absolutely.

## **10. Tenant's Signs.**

- 10.01. Upon Landlord's written approval, Tenant may erect, at its expense, exterior and interior signs. All signs and advertising must advertise only the business conducted and products sold in the

Premises. All signs must be submitted to HPRC first, and must conform to all applicable laws, rules, regulations and codes, including the City's on-premise sign regulations, and must be approved by all boards, commissions, and other bodies having approval authority over such signs generally, including the Historic Design and Review Commission. Tenant must pay all costs related to the operation and maintenance of signs.

- 10.02. Tenant must not install any sign that could cause structural damage or injury to the Premises or to any persons on or about the Premises.
- 10.03. Landlord may develop a comprehensive signage program for Hemisfair District. When such plan is promulgated, Tenant must alter all its signs and other displays to comply with that program. Tenant must not place advertisements, signs, logos, posters, advertising placards, names, insignia, trademarks, descriptive material, decorations, or displays or any other such like item or items on windows, or placed in, on or about the Premises, including the exterior thereof, without the prior written approval of Landlord. Landlord's permission includes the permission of all applicable City Departments affected, the Historic and Design Review Commission, and any and all other necessary bodies, boards or commissions of the City of San Antonio. Tenant must remove all signs when Tenant vacates the Premises and restore Premises to a condition prior to any alteration.
- 10.04. Tenant may place advertisements for and notices of exhibits and display the national flag of Mexico in the immediate vicinity of the Premises, subject to review by and approval of all applicable City Departments boards, commissions, and other bodies.
- 10.05. Subject to applicable state laws and City of San Antonio ordinances, any and all signs not removed by Tenant from the Premises on or before 30 days after the termination of this Lease are the property of Landlord.

**11. Taxes and Fees.**

- 11.01. Tenant must pay before delinquency all current and future taxes, including but not limited to, personal property taxes and real property taxes levied against Tenant's leasehold interest. Tenant must further pay before delinquency all assessments, license and permit fees, and governmental impositions imposed on the Premises or its contents. If the fee interest of Landlord is taxed, Tenant must pay a ratable share of the tax to Landlord as additional rent. If Landlord ever pays any sums allocated to Tenant in this Lease, Tenant must promptly on request reimburse Landlord. Such reimbursement is additional rent, except no late fee applies.

**12. Laws and Ordinances.**

- 12.01. Tenant must comply with all local, state, and federal laws, rules, and regulations affecting the Premises.
- 12.02. Tenant must comply with the regulations or requirements of any insurance underwriter, inspection bureau, or similar agency, with respect to the Premises.

12.03. The term "Hazardous Materials" has the meaning ascribed to it in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (as amended, "CERCLA"). Tenant must not introduce any Hazardous Materials to the Premises. Tenant must reimburse Landlord as additional rent for any increase in Landlord's insurance costs arising from or related to Tenant's activities on or about the Premises. Cumulatively with Indemnities Provided for Elsewhere In This Lease, Tenant Must Indemnify Landlord And Hold It Harmless From And Against All Loss, Cost, Liability, And Expense (Including Reasonable Attorneys' Fees) Arising From Or Related To The Presence Of Hazardous Materials In Or About The Premises Introduced By Tenant or Its Agents, Employees, or Invitees.

12.04. Landlord disclaims any warranty as to the presence of mold on the Premises.

### **13. Rules and Regulations.**

13.01. Tenant must comply with all Landlord rules and regulations. Landlord may amend the rules and regulations from time to time without Tenant's approval. Landlord's rules include but are not limited to those set forth on Exhibit B.

### **14. Landlord's Municipal Powers.**

14.01. Landlord is a municipality as well as landlord under this Lease. As a municipality, it may from time to time exercise municipal powers unrelated to the Lease that will nevertheless adversely affect Tenant. Such actions may include redirection of traffic, street closures, or other actions intended to facilitate public safety, the public interest, or the conduct of major events. No such action by Landlord as a municipality is a breach of Landlord's duties as landlord or entitles Tenant to any relief under this Lease. Likewise, no breach of contract or other duty by municipal utility providers is a breach of Landlord's duties as landlord or entitles Tenant to any relief under this Lease. Tenant has no more rights under this Lease than it would if its landlord were a private entity.

### **15. Access to Premises.**

15.01. Landlord may enter the Premises to: (i) inspect their condition; (ii) make repairs, additions, alterations, or improvements thereto, including, but not limited to, cleaning sewer drains and pipes, (iii) exhibit the Premises to prospective purchasers or future tenants of the Premises; (iv) place notices, or perform other lawful functions of Landlord, including any functions pertaining to its status as a municipality. Neither Tenant nor any person within Tenant's control will interfere with such activities or notices.

### **16. Insurance.**

16.01. Landlord disclaims any employee, agent, or invitee relationship with any person whose presence on the Premises is through Tenant. Any and all claims resulting from any obligation for which Tenant may be held liable under any workers' compensation, unemployment compensation, disability benefits, similar statutory scheme, or common law negligence is the sole obligation and responsibility of Tenant.

16.02. Tenant must provide and maintain in full force and effect with respect to the Premises from the Effective Date of this Lease and for the duration of this Lease and any extensions thereof, insurance, coverage written on an occurrence form, by companies authorized and admitted to do business in the State of Texas and rated A- (VII) or better by AM. Best Company and/or otherwise acceptable to Landlord, in the following types and amounts:

Type: Amount:

1. Worker's Compensation Statutory, with a Waiver of subrogation in favor of Landlord
2. Employer's Liability \$500,000/\$500,000/\$500,000 with a Waiver of Subrogation in favor of Landlord
3. Broad-Form Commercial General Public Liability Insurance to include (but not be limited to coverage for) coverage for the following:
  - (a) Premises/Operations
  - (b) Independent Contractors
  - (c) Products/Completed Operations
  - (d) Contractual Liability
  - (e) Personal Injury Liability for Bodily Injury, Death, and Property Damage of \$1,000,000 per occurrence; \$2,000,000 general aggregate, or its equivalent in umbrella or excess liability coverage
  - (f) Host Liquor Liability Insurance, if alcoholic beverages are served on the Premises \$1,000,000
  - (g) Liquor Legal Liability Insurance, if alcoholic beverages are sold on the Premises \$1,000,000
4. Business Automobile Liability to include coverage for:
  - (a) Owned/Leased Automobiles
  - (b) Non-owned Automobiles Combined Single Limit for Bodily Injury, Death, and Property Damage of \$1,000,000 per occurrence
  - (c) Hired Automobiles
5. Property Insurance for physical damage to the property of the Tenant, including improvements and betterments All Risk Coverage for a minimum of 80% of the actual cash value of Tenant's improvements and betterments made to the Premises by Tenant.
6. Plate Glass Coverage for the Premises Replacement Cost Insurance or, Tenant, self-insurance at option of
7. Motor truck cargo insurance including loading and unloading coverage, written on an inland marine form and an all-risk basis \$1,000,000

16.03. Landlord may modify the insurance coverage and limits when deemed necessary and prudent by Landlord's Risk Manager, based upon changes in statutory law, court decisions, or circumstances surrounding this Lease, but in no instance will Landlord allow modification increasing Landlord's risk.

16.04. Each insurance policy must contain the following clauses:

"This insurance is not canceled, limited in scope or coverage, or non-renewed until after 30 days' prior written notice has been given to:

- (a) City Clerk, City of San Antonio  
P. O. Box 839966  
San Antonio, Texas 78283-3966 Attention: Risk Manager

"The insurance provided by Tenant is primary and non-contributory to any insurance or self--insurance maintained by the City of San Antonio."

Each insurance policy required by this Lease, excepting policies for Workers' Compensation and Employer's Liability, must contain the following clause:

"The City of San Antonio, its officials, employees, representatives and volunteers are added as additional insureds as respects operations and activities of, or on behalf of, the named insured performed under this Lease with the City of San Antonio."

16.05. Tenant must require its insurance carrier(s) to deliver to Landlord and City Clerk, upon request and without expense, copies of policies, certificate of insurance and endorsements pertinent to the limits required by Landlord. Landlord may request changes in policy terms, conditions, limitations, or exclusions (except where established by law). If Landlord does so and the changes would increase premiums, Landlord will provide 30 days' prior notice to Tenant and an opportunity to discuss the changes, If Landlord still wants the changes after discussion, Tenant must make the changes and pay the cost thereof.

16.06. If Tenant makes leasehold improvements, Tenant must further provide Builder's Risk Insurance Coverage, Worker's Compensation and Employer's Liability Insurance Coverage, Professional Liability Insurance Coverage and any other liability or other insurance coverage in the amounts and types of coverage approved by Landlord's Risk Manager, covering all risks of physical loss during the term of any construction contract and until work is accepted by the City of San Antonio. Tenant must procure and maintain the insurance, as well as other insurance coverage enumerated above, in full force and effect during the construction phase. Payment and performance bonds naming Landlord as indemnitee must be provided by Tenant or its contractors or subcontractors. If the construction is minor, Tenant may send a written request to the City's Director of Convention, Sports and Entertainment Facilities to waive the requirements in this Section, but a waiver may be granted only by Landlord's Risk Manager, whose decision is final.

16.07. Before commencement of the Contract Term, Tenant must deliver certificates to Landlord's Risk Manager and the City Clerk from Tenant's insurance carrier, reflecting all required insurance

coverage. All endorsements and certificates must be signed by an authorized representative of the insurance company and must include the signatory's company affiliation and title. If requested by Landlord, Tenant must send Landlord documentation acceptable to Landlord that confirms that the individual signing the endorsements and certificates is authorized to do so by the insurance company. The Certificates and Endorsements must be approved by the Landlord's Risk Manager before the commencement of the Lease.

16.08. The Notices and Certificates of Insurance must be provided to:

- (a) City Clerk, City of San Antonio  
P. O. Box 839966  
San Antonio, Texas 78283-3966 Attention: Risk Manager

16.09. Nothing herein limits Tenant's liability for damages arising from Tenant's activities or the activities of Tenant's agents, sublessees, or invitees under this Lease.

16.10. Landlord and its agents and employees are not liable, and Tenant waives all claims, for any damage to persons or property sustained by Tenant or any person claiming through Tenant, that may occur on the Premises, or for the loss of or damage to any property of Tenant or of others by theft or otherwise, whether caused by other tenants or persons in the Premises or by occupants of adjacent property or the public, except where Landlord's negligence is the sole active cause.

16.11. Tenant may maintain the required liability insurance in the form of a blanket policy covering other Tenant locations. As long as their respective insurers so permit in writing, Landlord and Tenant hereby mutually waive their respective rights of recovery against each other for any loss insured by fire, extended coverage and other property insurance policies existing for the benefit of the respective parties. Each party must apply to its own insurer for the waivers. Each party must obtain any special endorsements, if required by their insurer, to evidence compliance with this provision.

## **17. Indemnification.**

17.01. These definitions apply to the indemnity provisions of this Contract:

17.01.01. "Indemnified Claims" mean all loss, cost, liability, or expense, directly or indirectly arising out of acts or omissions of any person other than an Indemnitee that give rise to assertions of Indemnitee liability under this Contract, whether or not the person is a party to this agreement. Indemnified Claims include attorneys' fees and court costs and include claims arising from property damage and from personal or bodily injury, including death.

17.01.02. "Indemnitees" means HPARC and the City of San Antonio and its elected officials, officers, employees, agents, and other representatives, collectively, against whom an Indemnified Claim has been asserted.

17.01.03. "Indemnitor" means Tenant.

- 17.02. Indemnitor must indemnify Indemnitees, individually and collectively, from all Indemnified Claims.
- 17.03. If indemnitor and one or more Indemnitees are finally adjudged to be jointly liable for Indemnified Claim, Indemnitor need not further indemnify the so-adjudged Indemnitees from liability arising from the Indemnitees' adjudicated share of liability. But despite allegations of Indemnitee negligence, Indemnitor must nevertheless defend all Indemnitees until final adjudication. Indemnitor may not recover sums previously spent defending or otherwise indemnifying the Indemnitees who have been adjudged to be negligent and must continue to indemnify other Indemnitees.
- 17.04. There are no third-party beneficiaries of this indemnity other than the category of people and entities included within the definition of Indemnitees.
- 17.05. Indemnitor must promptly advise the City of San Antonio in writing of any Indemnified Claim and must, at its own cost, investigate and defend the Indemnified Claim. Whether or not the City of San Antonio is an Indemnitee as to a particular Indemnified Claim, the City of San Antonio may require Indemnitor to replace the counsel Indemnitor has hired to defend Indemnitees. The City may also require Indemnitor to hire specific-named counsel for so long as the named counsel's hourly rates do not exceed the usual and customary charges for counsel handling sophisticated and complex litigation in the locale where the suit is pending. No such actions release or impair Indemnitor's obligations under this indemnity paragraph, including its obligation to pay for the counsel selected by City. Regardless of who selects the counsel, the counsel's clients are Indemnitees, not Indemnitor.
- 17.06. In addition to the indemnity required under this Contract, each Indemnitee may, at its own expense, participate in its defense by counsel of its choosing without relieving or impairing Indemnitor's obligations under this indemnity paragraph.
- 17.07. Indemnitor may not settle any Indemnified Claim without the consent of the City of San Antonio, whether or not the City is an Indemnitee as to the particular Indemnified Claim, unless (A) the settlement will be fully funded by Indemnitor and (B) the proposed settlement does not contain an admission of liability or wrongdoing by any Indemnitee. The City's withholding its consent as allowed in the preceding sentence does not release or impair Indemnitor's obligations of this indemnity paragraph. Even if the City of San Antonio is not an Indemnitee as to a particular Indemnified Claim, Indemnitor must give City at least 20 days advance written notice of the details of a proposed settlement before it becomes binding. Any settlement purporting to bind an Indemnitee must first be approved by City Council.
- 17.08. Nothing in this Contract waives governmental immunity or other defenses of Indemnitees under applicable law.
- 17.09. If, for whatever reason, a court refuses to enforce this indemnity as written, and only in that case, the parties must contribute to any Indemnified Claim 5% by the Indemnitees and 95% by the Indemnitor. Indemnitor need look only to the City of San Antonio for Indemnitees' 5% if the City of San Antonio is an Indemnified Party as to a particular Indemnified Claim.

**18. Assignment and Subletting.**

- 18.01. Any attempt at transfer, assignment, or subletting of Tenant's rights, duties, and obligations hereunder, without the Landlord's prior written consent, is void and terminates the Lease. Tenant must, upon such termination, immediately and peacefully vacate the Premises within three days after Landlord's notice to Tenant.
- 18.02. Landlord's consent on one occasion does not waive need for consent to any later attempted transfer, assignment, or subletting.
- 18.03. Any consent to a transfer, assignment, or subletting must be written in form satisfactory to Landlord and must be signed by the transferor, assignor, or sublessor. The transferee, assignee, or sublessee must agree in writing for the benefit of Landlord to assume and perform the terms, covenants, and conditions of this Lease. One executed copy of the written instrument must be delivered to Landlord.
- 18.04. Tenant must remain fully and primarily liable under this Lease, notwithstanding any assignment or sublease, and each assignee or sublessee is required to attorn to Landlord by instrument reasonably satisfactory to Landlord.
- 18.05. Tenant must attorn to any assignee or transferee of Landlord, provided such assignee or transferee agrees in writing not to disturb Tenant's possession of the Premises.

**19. Damage or Destruction of Premises.**

- 19.01. If the Premises are partially damaged or destroyed by fire or other casualty, Tenant must give immediate written notice to Landlord. After consulting with Tenant, Landlord will determine whether the Premises are partially unfit for Tenant's intended business purposes. Landlord may, but is not obligated to repair the damage and restore the Premises to substantially the same condition as existed immediately before the casualty.

If Landlord chooses to rebuild the Premises and continue this Lease, Landlord must notify Tenant of such intention within 90 days ("Landlord's Notice to Rebuild") after the date of notice of damage. Otherwise, the Lease canceled.

Restoration would be at Landlord's expense, unless the damage is due to Tenant's negligence, but repairs are limited to the extent of insurance proceeds available to Landlord and will proceed only if the San Antonio City Council first approves the use of the proceeds.

As a condition precedent to the restoration, Tenant must assign all insurance proceeds received by Tenant as a result of the casualty attributable to elements that the Landlord will restore. Landlord will not restore leasehold improvements.

If the Premises are not repaired or restored by Landlord within 180 days after the date of Landlord's Notice to Rebuild, subject to force majeure, in the form of acts of God, war, strikes, shortages of labor or materials, acts of terrorism, or any other reason beyond the control of Landlord, then Tenant may terminate this Lease upon 30 days' prior written notice to Landlord.

- 19.02. If more than 25% of the gross leased floor area of the Premises is damaged or destroyed, and Landlord determines, after consulting with Tenant, that the remainder of the Premises cannot be used for Tenant's intended business purposes, then either Landlord or Tenant may terminate this Lease. Upon termination, both Landlord and Tenant are released from liability relating to the period after termination.
- 19.03. Landlord's obligation to rebuild or repair is limited to restoring the Premises to substantially the condition existing at the beginning of this Lease. If Landlord repairs or rebuilds, Tenant must proceed with reasonable diligence at its sole cost and expense to rebuild, repair, and restore signs, fixtures, furnishings, and equipment in a manner and to a condition at least equal to that existing before the damage or destruction. Failure by Tenant to complete restoration within 90 days after Landlord's notice is mailed, subject to force majeure, is a separate event of default. If the San Antonio City Council does not use Landlord's insurance proceeds for repairs or restoration, then Tenant may retain Tenant's insurance proceeds.

**20. Eminent Domain.**

- 20.01. If the entire Premises are taken by eminent domain by any public or quasi-public authority, this Lease terminates as of the date of such taking. Both Landlord and Tenant are thereupon released from any liability thereafter accruing hereunder as of the earlier of the date of taking or date on which Premises become unusable. If more than 25% of the gross leased floor area of the Premises is taken under the power of eminent domain by any public or quasi-public authority, or, if by reason of any appropriation or taking, regardless of the amount so taken, and Landlord determines, upon consultation with Tenant, that the remainder of the Premises cannot continue to be used by Tenant for Tenant's intended business purposes, then either Landlord or Tenant may terminate this Lease as of the date Tenant is required to vacate a portion of the Premises so taken, by giving written notice within 60 days after the date of taking. If termination occurs, both Landlord and Tenant will thereupon be released from any liability relating to the period after termination.
- 20-02. If this Lease is terminated because of condemnation, Landlord receives the entire award. Tenant waives all claims to any condemnation award for the land, but Tenant may seek compensation or damages for its trade fixtures, finish-out, equipment, personal property, and relocation expenses through a separate award. All Rent for the last month of Tenant's occupancy will be prorated, and Landlord will refund to Tenant the appropriate portion of Rent paid in advance.
- 20.03. If both Landlord and Tenant choose not to terminate this Lease, Tenant must remain in that portion of the Premises not taken. Landlord may then, if it chooses, at its cost and expense, restore the remaining portion of the Premises to a complete unit of like quality and character as existed prior to the taking. Landlord's obligation to restore does not exceed the amount of condemnation proceeds received by Landlord. Thereafter, the Rent will be adjusted on an equitable basis, taking into account the relative value of the portion taken as compared to the portion remaining. During such restoration, all rent abates as to the portion not useable by

Tenant. Tenant must assign all its condemnation proceeds to Landlord, if needed, to complete the restoration. Tenant is responsible for any finish-out that is included in the amount given by Landlord to Tenant from Landlord's condemnation proceeds for "finish-out" restoration. A voluntary sale or conveyance under threat of condemnation is deemed an appropriation or taking under the power of eminent domain.

**21. Default.**

Each of the following, independently of any other of the following, is an event of default:

- A. Tenant's failure to pay any sums due under this lease ("monetary default") and the failure is not cured within 10 days after notice thereof.
- B. Tenant's failure to perform or observe any of other term, provision, condition, or covenant of this lease and the failure is not cured within 30 days after notice thereof, except if more than 30 days is reasonably required to cure a non-monetary default, it is an event of default of Tenant fails to begin cure within 30 days of notice or if Tenant fails to diligently pursue cure once begun. No cure may take more than 60 days from notice.
- C. Tenant's permitting any lien to be placed against the Premises, after 30 days' notice and opportunity to cure.
- D. Any other event denominated as an event of default elsewhere in this lease; after 30 days' notice and opportunity to cure.

**22. Remedies and Other Events of Termination.**

- 22.01. If Tenant defaults, after the above notice and cure periods, Landlord may terminate this Lease. Landlord may then resume possession of the Premises and re-let them for the remainder of the original term at the best rent it may obtain.
- 22.02. Upon repossession, whether or not this Lease is terminated, Landlord's duty to re-let the Premises or otherwise to mitigate damages under this Lease is limited to the minimum requirements of Texas law. To the maximum extent permitted by applicable law, Landlord is deemed to have used objectively reasonable efforts to re-let the Premises and mitigate Landlord's damages by: (i) posting a "For Lease" sign on Premises; (ii) advising Landlord's lease agent, if any, of the availability of the Premises; and (iii) advising at least one outside commercial brokerage entity of the availability of the Premises.
- 22.03. In addition to the remedies explicitly set forth, Landlord has all remedies for Tenant's default otherwise provided by Texas law. All rights, options, and remedies of Landlord contained in this Lease are cumulative, and Landlord may pursue any one or all of such remedies or any other remedy or relief available at law or in equity.
- 22.04. Either party may terminate this agreement without cause on 240 days prior written notice to the other party.

- 22.05. Upon any expiration or termination of this Lease, Tenant must quit and peacefully surrender the Premises to Landlord. Upon termination or at any time thereafter, Landlord may, without further notice, enter the Premises and possess them, by force, summary proceedings, ejectment or otherwise, and may dispossess Tenant and remove Tenant and all other persons and property there from.
- 22.06. If Landlord re-lets, rent received from re-letting is applied:
1. to payment of any cost of re-letting;
  2. to payment of any cost of repairs to the Premises;
  3. to payment of any indebtedness due hereunder from Tenant to Landlord;

The residue, if any, belongs to Landlord. Tenant must also pay to Landlord, as soon as determined, any costs and expenses incurred by Landlord in re-letting or in making repairs not covered by rent received from re-letting.

- 22.07. If Landlord terminates this Lease or takes possession of the Premises for Tenant's default, Tenant must forthwith remove its trade fixtures, equipment, signs, furnishings, other personal property, and non-structural improvements (goods and effects), unless Landlord gives notice of intent to exercise a lien. If Tenant fails to timely remove its goods and effects, Landlord may, without liability, remove them and store them for the Tenant's account at a place selected by Landlord, with all costs to be borne by Tenant.
- 22.08. All money spent by Landlord for the account of Tenant is additional rent.
- 22.09. In accordance with § 137 of the San Antonio City Charter, Landlord may further terminate this Lease after 30 days' notice and opportunity to cure for any of the following:
- A. This Lease is deemed by the San Antonio City Council to be inconsistent with the public use of the property.
  - B. Tenant's use of the Premises is finally adjudicated to be a nuisance by a court of competent jurisdiction. ·

### **23. Dispute Resolution.**

- 23.01. As a condition precedent to bringing any action arising out of or relating to this agreement, including an action for declaratory relief, but not an action specifically excepted below, the disputants must first submit in good faith to mediation. The parties may not assert limitations, laches, waiver, and estoppel based upon attempts to mediate.
- 23.02. Filing suit on a claim that should be mediated waives the filer's right to demand mediation. But one party's waiver does not affect another party's right. A defendant does not waive mediation if, within a reasonable time after appearing, the defendant notifies the plaintiff or its counsel in writing of its intent to require mediation.

- 23.03. Mediation must be conducted in San Antonio, Bexar County, Texas.
- 23.04. The party desiring relief has the burden to initiate mediation. Waiting for another party to initiate mediation does not waive the right to it.
- 23.05. If the parties can otherwise agree on a mediator, they may do so. Alternatively, either party may petition any court of competent jurisdiction to appoint a mediator. The only predicate issues the court need consider before appointing a mediator are whether (i) the copy of the contract before the court is authentic and (ii) the contract was duly signed and delivered by all parties to be bound to mediate. If neither of those issues is denied under oath, the court may appoint a mediator upon motion, without trial.
- 23.06. Mediator fees must be borne equally.
- 23.07. The parties need not mediate before either party seeks emergency injunctive relief or Landlord seeks forcible entry and detainer relief.

**24. Miscellaneous Provisions.**

- 24.01. Authority to Execute. The parties executing this Lease on behalf of Tenant personally warrant they each have full authority to bind Tenant.
- 24.02. Applicable Law. The construction of this Agreement and the rights, remedies, And obligations arising thereunder are governed by the laws of the state of Texas. But the Texas conflicts of law rules must not cause the application of the laws of a jurisdiction other than Texas. The obligations performable hereunder by both parties are performable in San Antonio, Bexar County, Texas.
- 24.03. Severability. If any portion hereof is determined to be invalid or unenforceable, the determination does not affect the remainder hereof.
- 24.04. Successors. This Agreement inures to the benefit of and binds the heirs, representatives, successors, and permitted assigns of each party. This clause does not authorize any assignment not otherwise authorized.
- 24.05. Integration. This written Agreement represents the final Agreement between the Parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the Parties. There are no oral agreements between the Parties.
- 24.06. Modification. This Agreement may not be changed orally but only by a written agreement, signed by the party against whom enforcement of any modification is sought. No such modification, express or implied, affects the right of the modifying party to require observance of either any other term or the same term or condition as it applies on a subsequent or previous occasion.
- 24.07. Third Party Beneficiaries. This Agreement is for the benefit of the parties and their successors and permitted assigns only. There are no third-party beneficiaries.
- 24.08. Notices. Any notice provided for or permitted hereunder must be in writing and by certified mail, return receipt requested, addressed to the parties at their respective addresses set forth in the preamble. Notice is complete three days after deposit, properly addressed and postage prepaid,

with the United States Postal Service. Failure to use certified mail does not defeat the effectiveness of notice actually received, but such notice is effective only on actual receipt. Address for notice may be changed by giving notice hereunder.

- 24.09. Captions. Paragraph captions in this Agreement are for ease of reference only and do not affect the interpretation hereof.
- 24.10. Counterparts. This Agreement may be executed in multiple counterparts, each of which is an original, whether or not all parties sign the same document. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this agreement, it is not necessary to produce or account for more counterparts than are necessary to show execution by or on behalf of all parties.
- 24.11. Further Assurances. The parties must execute and deliver all additional documents and instruments necessary to affect fully the provisions hereof. But no such document(s) may alter the parties' rights or obligations as contained in this agreement.
- 24.12. Ambiguities Not to Be Construed against Drafter. Any ambiguities found in this lease must be resolved without resort to construction against the drafter.
- 24.13. No Special Relationship. The parties' relationship is an ordinary commercial one. They do not intend to create the relationship of principal and agent, partnership, joint venture, or any other special relationship.

**25. Prohibited Interests in Contracts.**

- 25.01. The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:
  - (i) a City officer or employee;
  - (ii) his parent, child or spouse;
  - (iii) a business entity in which the officer or employee, or his parent, child or spouse owns 10% or more of the voting stock or shares of the business entity or 10% or more of the fair market value of the business entity;
  - (iv) a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner, or a parent or subsidiary business entity.
- 25.02. Tenant warrants and certifies as follows:
  - (i) Tenant and its officers, employees and agents are neither officers nor employees of the City.
  - (ii) Tenant has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.
- 25.03. Tenant acknowledges that City's reliance on the above warranties and certifications is reasonable.

**EXECUTED and AGREED as of the dates indicated below.**

**CITY OF SAN ANTONIO**

**UNAM-USA**

\_\_\_\_\_  
Erik Walsh, City Manager

\_\_\_\_\_  
Jose Antonio Vela, Director

Date \_\_\_\_\_

Date \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
City Attorney

Exhibit A



City of San Antonio does not guarantee the accuracy, adequacy, completeness or usefulness of any information. The City does not warrant the completeness, timeliness, or positional, thematic, and attribute accuracy of the GIS data. The GIS data, cartographic products, and associated applications are not legal representations of the depicted data. Information shown on these maps is derived from public records that are constantly undergoing revision. Under no circumstances should GIS-derived products be used for final design purposes. The City provides this information on an "as is" basis without warranty of any kind, express or implied, including but not limited to warranties of merchantability or fitness for a particular purpose, and assumes no responsibility for anyone's use of the information.

## **Exhibit B**

### **Landlord's Rules for Use of the Premises**

Tenant will observe and comply with the City Charter, City Code, Uniform Development Code, and all other laws, rules, and regulations, whether state, federal, or local, including but not limited to, Landlord's

1. fire-arm prohibition and smoking ordinance, and provisions concerning operation of businesses in the Downtown Central Business District
2. No advertisements, signs, logos, posters, advertising placards, names, insignia, trademarks, descriptive material, decorations, or displays or any other such like item or items may be affixed or maintained on windows, or placed in, on or about the Premises, including the exterior thereof; without the prior written approval of Landlord through the Director of the Department of Parks and Recreation (or Convention, Sports and Entertainment Facilities Department) and any and all other necessary departments, boards or commissions of the City of San Antonio, including, but not limited to, the Historic and Design Review Commission. Tenant must remove all signs when Tenant vacates the Premises.
3. No activity or method of operation is allowed in, on or about the Premises that exposes patrons thereof to nudity or to partial nudity or that violates Landlord's Sexually Oriented Business Ordinance. For the purposes of this provision, the following definitions apply:
  - A. Nudity means total absence of clothing or covering for the human body.
  - B. Partial nudity means exposure of the female breast or the exposure of the male or female pubic area or buttocks.
4. Neither massage businesses, tanning salons, gambling casinos, nor gambling of any nature is allowed in, on, or about the Premises.
5. Discrimination on account of race, color, sex, age, handicap or national origin, directly or indirectly, in employment or in the use of or admission to the Premises is prohibited.
6. Tenant must not, except as otherwise permitted by applicable law, pay less than the minimum wage required by Federal and State statutes and Landlord ordinances to persons employed in its operations hereunder.
7. Tenant shall not place speakers or amplified music on or near the Premises or in any other location outside the Premises that can be seen from the adjacent public areas. Tenant must comply with Landlord's laws pertaining to noise, including Landlord's Noise Ordinance, as may be amended from time to time. Failure to comply with this section may, at Landlord's option, constitute a default under this Lease.
8. If Landlord notifies Tenant that any of Tenant's employees are discourteous or objectionable or rude, Tenant must take immediate appropriate remedial action, including, if warranted, removal of the employee from employment on the Premises.

9. Tenant must not permit the loading or unloading of trucks or similar delivery devices in the Premises except in the loading and service areas and at such reasonable times as designated by Landlord. Neither may Tenant cause undue obstruction of streets, sidewalks, doorways, corridors, stairways, or entrances of the Premises. At any time that Tenant moves equipment or furniture in or out of the Premises, Tenant must cover or otherwise protect flooring, walls, doors and other finishes of the Premises from damage.
10. Tenant shall dispose of garbage and refuse in accordance with City of San Antonio municipal Ordinances and in the space designated by Landlord. No trash shall be stored in other portions of Hemisfair District.
11. Tenant, its employees, and/or its agents, representatives, or volunteers, shall not solicit business and shall not distribute handbills or other advertising matters in other areas of Hemisfair District or adjoining sidewalks of the Premises, or streets.
12. Nothing may be attached or placed on the roof, exterior walls, or any other areas of the Premises, including but not limited to antennas, sound amplification equipment, or other telecommunication equipment, without Landlord's prior written consent.
13. No loudspeakers, television, phonographs, radios, flashing lights, or other devices shall be used in a manner so as to be heard or seen outside of the Premises without the prior written consent of Landlord.
14. No auction, fire, bankruptcy, going out of business, or other selling-out sales may be conducted on or about the Premises without the prior written consent of the Landlord.
15. No awning or other projections may be attached to the outside walls of the Premises without the prior written consent of Landlord and any appropriate municipal authority.
16. Tenant must keep the Premises clear and free of rodents, bugs, and vermin. Pets are not allowed in the Premises.
17. No tables or chairs or any improvements, trade fixtures, equipment, other furniture, fixtures, furnishings, personal property or any other property of Tenant whatsoever may encroach into Hemisfair District or public right-of-way, including, but not limited to, the public sidewalk area.
18. Landlord is not responsible for any loss, theft, damage, or destruction of or to any of Tenant's tables, chairs or any other improvements, whether structural or non-structural, trade fixtures, equipment, other furniture, fixtures, furnishings, or any other property.
19. Plumbing fixtures may be used only for their intended purposes. No trash or other materials that may cause stoppage or damage may be placed in or on such fixtures.
20. No draperies, shutters or window coverings of any kind shall be installed by Tenant, without Landlord's prior written approval.
21. The Premises must not be used as sleeping or lodging quarters.
22. All valuables, including purses, should be kept in a safe and/or locked area.

23. Tenant must keep the areas immediately in front of windows neat and orderly. No boxes, trash, trash containers, signs, decorations, or stored materials or supplies may be placed in front of or attached to the windows.
24. If Tenant requires additional locks, Tenant must request them from Landlord and pay all charges therefor. Tenant must not install any locks without Landlord's prior written approval. If Landlord approves such installation, Tenant must give Landlord duplicate keys.
25. Bicycles must be stored in bicycles racks outside of the Premises or, if they are brought into the Premises, bicycles must be stored out of public view.
26. Electrical appliances such as coffee pots shall be used only in the break room or kitchen area of the Premises (except for Tenant's equipment, used in the regular course of business). Tenant must ensure that all such appliances are turned off at the close of business each day or when not in use for long periods of time.
27. No items may be placed or displayed in other portions of Hemisfair District without Landlord's prior written approval.