


# MEMORANDUM

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To: Sue Radig, Employee Benefits Manager  
From: Diomaris Ortega, Agenda Coordinator   
Date: 10/8/2015  
Re: Pineapple Grove Professional Center Lease Agreement– Employee Health  
and Wellness Center

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For your records and disbursement, please find attached one (1) fully executed copy of the Lease Agreement with Pineapple Grove Professional Center for the Employee Health and Wellness Center.

This item was approved by the City Commission on September 15, 2015, Item 7.B. A copy has been retained in the City Clerk Department for official records.

Please call me at 243-7059 if you have any questions.

Thank you.

Attachment

## **Pineapple Grove Professional Center Lease**

This lease is made and entered into effective the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between Pineapple Grove Holdings LLC (herein called "Landlord") and City of Delray Beach, Florida (please add formal name of municipality) (herein called "Tenant").

### **BASIC LEASE TERMS**

- |       |  |  |
|-------|--|--|
| I.    | Landlord's Name and Contact Information                            | Pineapple Grove Holdings LLC<br>Attn: Dr. John R. Westine<br>250 Dixie Boulevard<br>Delray Beach, FL 33444<br>(561) 278-3202 |
| II.   | Tenant's Name and Contact Information                              | City of Delray Beach<br>C/O _____<br>100 NW 1 <sup>st</sup> Avenue<br>Delray Beach, FL 33444.                                |
| III.  | Term of Lease  | 1 year<br>Three 1 year options with notice   |
| IV.   | Occupancy Date   | March 1, 2016  |
| V.    | Lease Commencement Date  | March 1, 2016  |
| VI.   | Rent Commencement Date   | March 1, 2016  |
| VI.   | Lease Expiration Date  | February 28, 2017  |
| VII.  | Lease Premises Address<br>(Herein called "Property" or "Building") | Pineapple Grove Professional Center<br>525 North East Third Avenue<br>Delray Beach, FL 33483<br>Suites 104 and 105           |
| VIII. | Square Footage of Leased Premises                                  | 2230   |
| IX.   | Operating Expenses   | intentionally deleted  |
| X.    | Base Rent  | \$4,211.49   |
| XI.   | Tenant Improvements  | All future Tenant improvements are at the expense of the Tenant and must be approved in writing by the Landlord.             |

XII. Signage

Landlord will pay the cost of listing the Tenant's name on a directory sign. This directory sign will be located facing North East Third Avenue. Tenant is responsible for paying the cost of additional desired office signage selected/approved by the Landlord. No other signage on the "Property" is permitted without written consent of the Landlord.

XIII. Security Deposit

None. However, a prepaid base rent amount equal to first and last months' rent shall be provided to Landlord within 10 days of execution of this Lease.

XIV. Permitted Use

The leased square footage shall not be utilized for any other purpose than that which is described below without the written consent of the Landlord.

City of Delray Beach operated Wellness/Medical Practice

XV. Tenant's Proportionate Share of Operating Expenses

Intentionally deleted.

XVI. Termination Option

In the event that the Tenant is legally unable to operate its business in the Leased premises, for any reason, Tenant shall have the right to terminate this Lease upon thirty (30) days prior written notice to the Landlord and the payment of a Termination Fee to the Landlord equal to five (5) months Base Rent.

XV. Total Monthly Amount Due

\$4,211.49

Tenant as a municipality is exempt from paying State of Florida sales tax.

Tenant's utilities shall be separately metered and are the responsibility of the Tenant.

Total monthly amount due shall increase 4% annually with any options.

## **Article I: Basic Lease Provisions**

### **1.1 Leased Premises.**

In consideration of the rents and agreements contained in this lease, the Landlord leases to the Tenant and the Tenant leases from the Landlord Suites 104 and 105 of the "Building" or "Property" known as the Pineapple Grove Professional Center, located at 525 North East Third Avenue, Delray Beach Florida 33483.

### **1.2 Additional Use of Areas**

Tenant Use and Occupation of the Leased Premises shall include the non-exclusive use, in common with other Tenants entitled thereto, of the parking areas, sidewalks, and common areas which now exist or may be constructed in the future by the Landlord subject to reasonable rules and regulations prescribed by the Landlord. Landlord has the right at anytime, without notice to the Tenant, to change the size, layout, and location of any and all common areas, excluding the interior of the Leased Premises. However, Landlord shall always provide the same amount of parking and sidewalks as currently exists.

Tenant shall not cause any of the sidewalks, entrances, and passages in and about the "Building" or "Property" nor any other common areas to be obstructed or used for any purpose other than ingress or egress. Tenant shall instruct its agents, employees, and invitees not to use the sidewalks and other common areas for loitering, lounging or gathering and not to litter within such areas. Solicitation or distribution of Tenant sales material is prohibited in any of the common areas.

### **1.3 Term of the Lease**

The term of the lease shall be for one (1) year and shall commence March 1, 2016, shall end, unless otherwise extended or terminated as provided herein, at midnight on February 28, 2017.

The Tenant shall have the option to extend this Lease for three (3) additional terms of one (1) year under the same conditions and agreements stated in this Lease, however, Base Rent shall be increased 4% annually. To exercise this Option, the Tenant shall deliver to the Landlord, one hundred eight (180) days prior to the expiration of the current term, written notice stating Tenant's intention to exercise the Option.

### **1.4 Termination Option**

In the event that the Tenant is unable to legally operate its business in the Leased premises, for any reason, Tenant shall have the right to terminate this Lease upon thirty (30) days prior written notice to the Landlord and the payment of a Termination Fee to the Landlord equal to five (5) months Base Rent.

1.5 Failure of the Tenant to Take Possession  
Intentionally deleted.

Tenant shall not be permitted to take possession of Leased Premises until Lease is fully executed and payment of prepaid rent has been received by Landlord.

1.6 Control of Common Areas by Landlord

All "Common Areas", including, but not limited to all parking areas, driveways, ingresses, egresses, other facilities, areas and improvements furnished by the Landlord, are subject to the exclusive control and management of Landlord. Landlord shall construct, maintain, and operate lighting facilities on all "Common Areas". Landlord shall have the right to police the "Common Areas" and change the area, level, location, and arrangement of parking areas and any other improvements or facilities in the "Common Area." However, Landlord shall always provide the same amount of parking and sidewalks as currently exists.

1.7 Service and Delivery Vehicles

Service and delivery vehicles may load and unload their products for a period not to exceed one (1) hour. There shall be no overnight parking of any vehicle unless approved in writing by the Landlord.

**Article II: Payment of Rent and Other Expenses**

2.1 Payment Amounts and Time of Payment

Upon commencement of the Lease, Tenant agrees to pay Landlord, by the first of each month thereafter, the monthly Rent.

2.2 Place of Payment and Notices

Tenant will pay all rental amounts, fees and charges and present Landlord with all notices at 250 Dixie Boulevard, Delray Beach, Florida. Any payment received by Landlord after fifteenth day of the month that it is due shall incur a "late charge" equal to one hundred dollars (\$100.00).

### 2.3 Sales Tax

Tenant shall not pay any sales tax from which it is exempt.

### 2.4 Proportionate Share of Operating Expenses

Intentionally deleted.

## **Article III: Delivery of Premises**

### 3.1 Delivery of Premises

Other than Tenant Improvements specified in Paragraph XI of the Basic Lease Terms, Landlord shall otherwise deliver the premises to the Tenant in "As Is" condition. Landlord reserves the right at any time, with or without notice to Tenant, to perform maintenance operations, to make repairs, alterations, and additions to the Lease Premises.

## **Article IV: Conduct of Business By Tenant**

### 4.1 Use of Leased Premises

Tenant will occupy and use the Leased Premises for the duration of the Initial Lease term and any Option Periods exclusively for the permitted uses specified in Paragraph XIV of the Basic Lease Terms unless given written, specific consent by Landlord. In the event Tenant uses the Leased Premises for a purpose other than stated in this agreement, Landlord may, in addition all other remedies available to it, terminate this Lease or restrain said improper use by injunction. Tenant may not use the Lease Premises to conduct any activity or enterprise which is prohibited by any state or federal law, ordinance, or regulation.

Tenant shall not perform, nor permit, any acts or carry on any practices which may damage the Building or Property or its improvements or be a nuisance to other tenants of the Property or their customers, employees, or invitees or which will result in the increase in casualty insurance premiums.

### 4.2 Environmental Representations and Warranties

Tenant agrees not to store in, on, or outside of the Leased Premises any hazardous, flammable, combustible, or explosive, materials of any type, as defined by local, state, or federal agency, or any other type of toxic, corrosive reactive, or ignitable material.

### 4.3 Environmental Actions

- (a) Tenant agrees not to store in, on, or outside of the leased Premises any hazardous, flammable, combustible, or explosive, materials or any type, as defined by local, state, or federal agency, or any other type of toxic corrosive reactive, or ignitable material.

- (b) Tenant agrees to document all hazardous waste disposals and to keep the same on file for no less than five (5) years following the Termination Date of this Lease. Tenant agrees not to generate hazardous effluents.
- (c) Tenant agrees to allow reasonable access to the Leased Premises for monitoring of the aforementioned by Landlord, and the Florida Department of Environmental Regulation to assure compliance with the above conditions relating to the use of the Leased Premises. At any time during the term of this Lease and for a period of two years after the conclusion of this Lease, Landlord shall have the right to have one Class I or Class II environmental audit performed upon the Leased Premises and adjacent areas at the Landlord's expense to insure Tenant's performance under this agreement.
- (d) Tenant shall install and maintain at readily available locations within the Lease Premises fire extinguishers that meet all codes and requirements of the local fire authority.

#### 4.4 Environmental Indemnification

Tenant, and any guarantor, shall, at their sole cost and expense, indemnify, protect, and hold harmless Landlord, including Landlord's employees and agents, against Tenant's negligence to the limits set forth in F.S. 768.28, which is currently \$100,000.00 per person and \$200,000.00 per occurrence.

Hazardous Materials are defined as any and all hazardous or toxic materials, wastes, or substances, which are defined, determined, or identified as such in, or are subject to, any governmental regulation.

### **Article V: Security Deposit**

#### 5.1 Security Deposit

Intentionally deleted.

#### 5.2 Uses and Return of Deposit

Intentionally deleted.

### **Article VI: Construction and Alterations**

#### 6.1 Construction and Alterations

Tenant shall not make or cause to be made any alterations, additions, or improvements to the Leased Premises or the Common Area without the written consent of the Landlord. Improvements, additions, or alterations include, but are not limited to, the following: exterior signs, plumbing fixtures, shades or awnings.

Tenant shall present Landlord with plans and specifications for any proposed alterations and must demonstrate to Landlord that the proposed alterations comply with local zoning and building codes. All construction within the Leased Premises must be completed in a good and workmanlike manner and in compliance with all governmental regulations. Tenant agrees to indemnify Landlord and hold it harmless against any loss, liability, damage, resulting from



such work. However, Landlord is aware and agrees to allow Tenant to modify the premises in order to incorporate an X-ray room in the premises, which will involve the relocation of a non-load bearing wall.

#### **6.2 Responsibility of the Tenant**

Any and all interior decorations by the Tenant shall remain the property of Tenant during the Term of the Lease and any elected Options. Upon expiration of the Lease, Landlord shall have the right to require Tenant to remove such decorations. Any decorations not removed by Tenant at the expirations of the Lease Term become property of Landlord. All alterations or improvements paid for by Landlord, if any, referred to in Paragraph XI of the Basic Lease Terms, remain the property of Landlord upon termination of the Lease. Tenant shall be required to pay Landlord for damages to the Leased Premises which exceed ordinary wear and tear. Tenant shall pay Landlord within ten (10) days of written demand, the reasonable cost of repairing damages which the parties agree, exceed wear and tear.

### **Article VII: Responsibility of Landlord**

#### **7.1 Responsibility of Landlord**

Landlord agrees to repair and maintain in good order and condition the Building and the Common Areas of the Property. Tenant is responsible for keeping in good repair and condition the Leased Premises. Tenant is responsible for the cost of repair for any damage caused by the negligence of Tenant, its employees, agents, contractors, customers or invitees. Tenant is responsible for plumbing repairs within the Leased Premises caused by the actions of its employees, agents, contractors, customers or invitees. Landlord shall be responsible for the air conditioning/heating equipment and ductwork. Tenant shall have no responsibility for the repair or replacement of such equipment, provided that Tenant has not been damaged by Tenant, normal wear and tear excepted.

In no event shall Landlord be liable for damages or injuries arising from Tenant's failure to make said repairs, nor shall Landlord be liable for damages or injuries arising out of defective workmanship or materials in making such repairs. At the termination of Lease, Tenant shall deliver to Landlord the Leased Premises in good repair and condition except for reasonable wear and tear or damage from fire or other casualty.

#### **7.2 Responsibility of Tenant**

Tenant agrees to repair and maintain in good order and condition the nonstructural interior portions of the Lease Premises, including doors, windows, and floor covering. Tenant shall not in any way affect or modify any walls, ceilings, or floors without the Landlords' written consent, except as set forth in Section 6.1. Tenant shall not place any merchandise, equipment, or personal property in the Common Areas.



Plumbing fixtures and system within the Leased Premises shall not be used for any purpose other than those for which they were installed. No rubbish, personal hygiene products, rags, garbage, or food products shall be deposited herein. Tenant shall also not attach any equipment that exceeds the capacity of the utility lines leading to the Leased Premises or the Building.

Tenant shall comply with all requirements of the law, ordinances, and regulations of all governmental authorities.

Tenant shall provide its own janitorial services at its own expense in order to keep the Leased Premise neat, clean and orderly. Tenant shall keep the Leased Premises sanitary and free from objectionable orders, insects and pests. Tenant shall not permit and will take affirmative action to disallow the usage or possession of any illegal substance in, on, or upon the Leased Premises.

Tenant shall keep all garbage and refuse in a container located on the Property, but outside the Leased Premises, provided by the Landlord. Under no circumstances may Tenant store refuse or a refuse container at the rear of the Building or in the Common Area of the Property.

Tenant shall comply with all reasonable rules and regulations of Landlord at the time of the execution of this Lease and at any time or times as deemed necessary at the sole discretion of the Landlord in connection with the Leased Premises and the Building.

Tenant shall give Landlord immediate telephonic notice and followed by written notice of any fire or damage occurring on or to the Leased Premises.

Leased premises shall not be used living or sleeping quarters. No animals shall be kept within the Leased Premises.

#### 7.3 Failure of Tenant to Repair

If Tenant refuses or neglects to repair properly any damage as required under this Lease or to the reasonable satisfaction of Landlord, Landlord may make the repair after written notice to Tenant. The written notice shall give Tenant forty-eight (48) hours to either, make the repair, or satisfy Landlord that the repair will be completed in a timely fashion. Should Tenant fail to respond at all or respond in a fashion that is unsatisfactory to Landlord, Landlord may proceed with the repairs and Tenant shall pay the cost of repair within ten (10) days of written demand which shall include proof of cost.

#### 7.4 Tenant's Surrender of Premises

At the expiration of the tenancy, Tenant shall surrender the Leased Premises in the same condition as the Leased Premises were in upon Date of Commencement,

except reasonable wear and tear. Tenant shall also surrender all keys to the Leased Premises.

### **Article VIII: Utilities**

#### **8.1 Utilities**

Tenant shall be solely responsible for and promptly pay all utilities separately metered for use in the Leased Premises. Landlord shall have the right at any time during the term to have a separate water meter installed for the Leased Premises, at Landlord's expense, and require Tenant to obtain separate water and sewer service in Tenant's name and at Tenant's expense.

### **Article IX: Insurance and Indemnity**

#### **9.1 Liabilities, Fire, Inventory Insurance and Warehouseman's Coverage**

Tenant shall, during the entire term of this Lease, keep in full force and effect the following insurance coverage:

Commercial general liability insurance with combined bodily injury and property damage with respect to the Leased Premises in an amount not less than \$1,000,000.00 per occurrence. The policy shall contain a clause that the insurer will not cancel or change the insurance policy without giving Landlord ten days prior written notice. A Certificate of Insurance shall be delivered to Landlord prior to the Commencement Date of the Lease.

"Fire and Extended Coverage" in an amount not less than 100% of the scheduled value of the Leased Premises and its contents. The proceeds of this policy, so long as the Lease remains in effect, shall be used to repair or replace the fixtures and equipment injured as required by this Lease. The policy shall name the Landlord as a loss payee, and shall contain a clause that the insurer will not cancel or change the insurance policy without giving Landlord ten days prior written notice.

### **Article X: Assignment and Subletting**

#### **10.1 Assignment and Subletting**

Tenant may not sublet or assign all or any portion of the Leased Premises without written consent of Landlord. Notwithstanding any sublease or assignment, Tenant will remain fully liable on this Lease and shall not be released from performing all of the terms, agreements or conditions of this Lease.

## **Article XI: Waste, Governmental Regulation**

### **11.1 Waste or Nuisance**

Tenant shall not commit or cause to be committed any waste upon the Leased Premises or any nuisance or other act or thing which may disturb the quiet enjoyment of the other tenants on the Property, or which may adversely affect Landlord's interest in the Leased Premises or the Property.

### **11.2 Government Regulations**

Tenant shall at Tenant's expense comply with all applicable governmental regulations, now in force, or which may hereafter be in force, pertaining to the use or occupancy of the Leased Premises. Tenant shall indemnify, defend, hold harmless, Landlord for all losses, costs, expenses, or damages resulting from Tenant's failure to comply with all applicable governmental regulations, up to the amount set forth in F.S. 768.28, which is currently \$100,000.00 per person and \$200,000.00 per occurrence.

## **Article XII: Eminent Domain**

### **12.1 Total Condemnation**

If the whole of the Leased Premises are acquired or condemned by eminent domain for any public purpose or quasi-public purpose or use, then the term of the Lease shall cease and terminate as of the date of title vesting in such proceeding. All Base Rent amounts and Additional Rent amounts shall be paid to the date of title vesting. Tenant shall have no claim against Landlord for the value of any unexpired term of this Lease or for any losses Tenant may suffer as a result of the acquisition or condemnation by eminent domain. Tenant expressly waives any right or claim to any part of Landlord's award. Tenant shall have the right to claim and recover from the condemning authority, but not Landlord, any damages as a result of the taking.

### **12.2 Partial Condemnation**

If any part or portion of the Leased Premises are acquired or condemned by eminent domain for any public purpose or quasi public purpose or use, and in the Landlord or Tenant's opinion, that taking renders the Leased Premises unsuitable for the Tenant's business, both Tenant and Landlord shall have the right to terminate the Lease with ninety (90) days written notice to the other party. In the event that either Landlord or Tenant terminates the Lease, Tenant shall have no right to any proceeds received by Landlord from the governmental authority. Tenant shall have no claim against Landlord for the value of any unexpired term of this Lease or for any losses Tenant may suffer as a result of the acquisition or condemnation by eminent domain. Tenant expressly waives any right or claim to any part of Landlord's award. Tenant shall have the right to claim and recover from the condemning authority, but not Landlord, any damages as a result of the taking.

### **12.3 Sale Under Threat of Condemnation**

A sale by Landlord to any authority having the power of eminent domain, either under threat of condemnation or while condemnation proceedings are pending, shall be deemed a taking under the power of eminent domain for all purposes under this Lease.

## **Article XIII: Default of Tenant**

### **13.1 Events of Default**

Upon the occurrence of one or more of the events listed below, Landlord shall have any and all rights and remedies set forth within this Lease:

- (A) In the event Tenant should fail to pay any monthly installment of Base Rent on or before the 15<sup>th</sup> day of the month, when it has become due.
- (B) In the event that Tenant vacates the Leased Premises prior to the expiration of the Lease term without written consent of Landlord or abandons possessions or ceases to use the Leased Premises or the Property for the purposes herein expressed.
- (C) In the event Tenant fails to perform any of the terms, conditions, or covenants provided within the Lease after written notice from Landlord specifying the nature of the default and in the event Tenant fails to cure or remedy such default within 30 days after such notice.

### **13.2 Remedies of Landlord**

In the event of default or breach, Landlord shall have the right to immediately reenter the Leased Premises, either through summary proceedings or otherwise, and to dispossess Tenant and remove and dispose of all property therein. Landlord shall have the right to terminate the Lease upon 3 three days written notice to Tenant and thereafter enter and take possession of the Leased Premises.

Landlord may remove Tenant's property or possessions from Leased Premises and may arrange for their storage in a public facility. Landlord is not responsible for the care or safekeeping of the Tenant's property once it notifies Tenant, in writing, of the location of the property.

Any and all rights, remedies, and options given in this Lease to Landlord shall not be cumulative to and may be in addition to any right or remedy given to Landlord under any law now or hereafter in effect. Nor shall any and all rights, remedies, and options given in this Lease to Landlord act as a waiver of or in derogation of any right or remedy given to Landlord under any law now or hereafter in effect.

### **13.3 Remedies of Tenant**

In the event of default or breach, Tenant shall not be required to make lease payments beyond the date of default or breach. Tenant shall have all other remedies at law.

## **Article XIV: Waiver**

### **14.1 Waiver**

The waiver by Landlord of any breach of any term or condition contained in the Lease shall not be a waiver of such term or condition or any subsequent breach of the same or any term or condition of this lease.

## **Article XV: Legal Expenses**

### **15.1 Legal Expenses**

In the event that it shall become necessary for either party to employ the services of an attorney to enforce any of its legal rights under this Lease or to collect any monies due to it under this Lease or to remedy the breach of any covenants of this Lease, regardless of whether suit is brought, the Landlord shall be entitled to recover from Tenant its reasonable attorney's fees and costs at all pretrial, trial and appellate levels.

## **Article XVI: Access By Landlord**

### **16.1 Right of Entry**

Landlord and its agents shall have the right to enter the Leased Premises at all reasonable times to examine, make repairs, alterations, improvements or additions that Landlord deems necessary or desirable. Landlord and its agents shall have the right to enter the Leased Premises, with verbal notice to Tenant, in order to show the Leased premises to prospective tenants.

### **16.2 Roof**

Use of the roof and air space above the Leased Premises is reserves exclusively to the Landlord. Tenant is specifically prohibited from causing any penetration whatsoever of the roof surface. Tenant shall not place antennas or other equipment or property upon the roof. Tenant shall not enter upon the roof at any time without Landlord's written consent.

## **Article XVII: Tenant's Property**

### **17.1 Loss and Damage**

Landlord shall not be responsible for any damage or loss, by theft or otherwise, to Tenant's property or of property belonging to others located on the Leased Premises.

## **Article XVIII: Notices**

### **18.1 Notices**

All notices shall be in writing and shall be deemed received in three days after dispatch. Any notice by Tenant to Landlord must be served either certified or registered mail or private courier addressed to the Landlord. Notice shall be

deemed to be properly given if addressed to Tenant at its last known address. Notices sent by counsel for a party shall be effective as if sent by such party.

### **Article XIX: Miscellaneous**

#### **19.1 Time is of the Essence**

Time is of the essence for this Lease and each and all of its provisions in which performance is a factor.

#### **19.2 Radon Gas**

Radon is a naturally occurring radioactive gas that when it has accumulated in a building in sufficient quantities may present a health risk to persons who are exposed to it over time. Levels of Radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding Radon and Radon testing may be obtained from your county public health unit.

#### **19.3 Choice of Law**

This Lease shall be governed by the laws of the State of Florida. The venue for any action filed in connection with this Lease by either party shall be Palm Beach County, Florida.

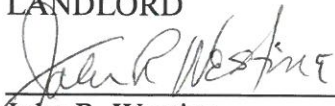
#### **19.4 Waiver of Jury Trial**

Landlord and Tenant hereby knowingly, willingly, and voluntarily waiver their right to trial by jury in any lawsuit or any legal proceeding based upon, or arising out of, this lease.


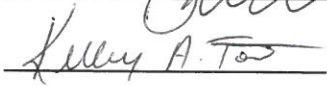
**SIGNATURES OF PARTIES ON FOLLOWING PAGE**

IN WITNESS WHEREOF, Landlord has signed this Lease this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_.

LANDLORD

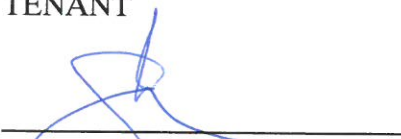
  
\_\_\_\_\_  
John R. Westine  
Pineapple Grove Holdings, LLC

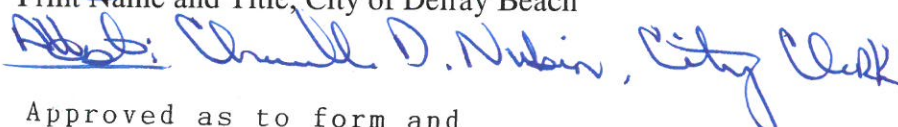
Witnesses as to Landlord

  
\_\_\_\_\_  
  
\_\_\_\_\_

IN WITNESS WHEREOF, Tenant has signed this Lease this 2nd day of October,  
2015.

TENANT

  
\_\_\_\_\_  
Cary D. Glickstein, Mayor  
Print Name and Title, City of Delray Beach

  
Abigail D. Nelson, City Clerk

Approved as to form and  
legal sufficiency:

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

  
\_\_\_\_\_