

## **COMMERCIAL LEASE**

DP&D Properties LLC, Landlord  
ISD #709 (Duluth Public Schools), Tenant

### **SECTION 1) RECITALS**

- 1.1 Landlord owns the building located at 6100 Waseca St., Duluth, Minnesota ("the Building").
- 1.2 Tenant desires to lease a portion of the Building for cold storage/warehousing purposes.
- 1.3 The parties desire to enter into this formal Lease Agreement ("the Lease") in order to establish all of the parameters of their relationship as Landlord and Tenant.
- 1.4 In consideration of the mutual covenants contained herein, the parties agree as follows.

### **SECTION 2) SUBJECT AND PURPOSE**

- 2.1 Landlord hereby leases the space representing 10,000 sq. ft. shown on the drawing of the Building attached hereto as Exhibit A ("the Premises") to Tenant, for the purposes described above, subject to all the zoning ordinances, restrictions imposed by ordinance or otherwise, and general regulations of the City of Duluth and State of Minnesota.

### **SECTION 3) TERM**

- 3.1 Landlord demises the Premises to Tenant for an initial term of one (1) year.
- 3.2 The Initial Term shall commence on July 1, 2010.

### **SECTION 4) RENT**

- 4.1 Annual rentals during the term of the Lease shall be \$37,500.
- 4.2 The annual rentals above provided are to be paid over to Landlord in equal installments on the first day of each month for that month's rental, during the term of the Lease, subject to the other provisions hereof.
- 4.3 Partial months shall be prorated.

**SECTION 5)  
INITIAL IMPROVEMENTS – INTENTIONALLY DELETED**

**SECTION 6)  
ADDITIONAL ALTERATIONS, ADDITIONS AND IMPROVEMENTS –  
INTENTIONALLY DELETED**

**SECTION 7)  
MAINTENANCE, GENERAL UPKEEP AND CLEANING**

- 7.1 Tenant shall, at all times during the Lease and at its own cost and expense, be responsible for cleaning within the leased space and not the Landlord.

**SECTION 8)  
TAXES**

- 8.1 Landlord will pay all real estate taxes due and payable on the real property herein described as and when due.

**SECTION 9)  
UTILITIES**

- 9.1 Landlord will be responsible for payment of utility charges relating to the Leased Premises.

**SECTION 10)  
INSURANCE**

- 10.1 During the term of the Lease and for any further time that Tenant shall hold the Premises, Landlord shall obtain and maintain at his expense insurance against liability for bodily injury and property damage. Tenant shall keep its property insured against all perils. Tenant shall hold Landlord harmless from any damage to Tenant's property or personal injury occurring at the property.

**SECTION 11)  
UNLAWFUL OR DANGEROUS ACTIVITY**

- 11.1 Tenant shall neither use nor occupy the Premises or any part thereof for any unlawful, disreputable or ultrahazardous business purpose, nor operate or conduct his business in a manner constituting a nuisance of any kind.



**SECTION 12)  
INDEMNITY - INTENTIONALLY DELETED**

**SECTION 13)  
DEFAULT OR BREACH**

- 13.1 If Tenant shall fail to pay Landlord any rent or additional rent when the rent shall become due and shall not make the payment within 20 days after notice thereof by Landlord to Tenant.

**SECTION 14)  
EFFECT OF DEFAULT**

- 14.1 In the event of any default hereunder, as set forth in Section 13, the rights of Landlord shall be as follows:
- 14.2 Landlord shall have the right to cancel and terminate the Lease, as well as all of the right, title and interest of Tenant hereunder, by giving to Tenant notice of the cancellation and termination. On expiration of the time fixed in the notice, the Lease and the right, title and interest of Tenant hereunder, shall terminate in the same manner and with the same force and effect, except as to Tenant's liability, as if the date fixed in the notice of cancellation and termination were the end of the term herein originally determined.

**SECTION 15)  
DESTRUCTION OF PREMISES**

- 15.1 In the event of a partial destruction of the Premises which substantially interferes with the operations of Tenant's business on the premises, Tenant shall have the right to terminate the Lease on ten (10) days' written notice unless Landlord has notified Tenant, in writing, within fifteen (15) days of the date of the partial destruction that Landlord is proceeding to make necessary repairs and that such necessary repairs can be, will be and are completed within ninety (90) days of the date of the loss. Tenant's business shall be deemed to be substantially interfered with in the event that the Premises partially destroyed include more than one-fourth of the area then under lease to and use by Tenant.

**SECTION 16)  
CONDEMNATION - INTENTIONALLY DELETED**

**SECTION 17)  
SUBORDINATION - INTENTIONALLY DELETED**

**SECTION 18)  
ACCESS TO PREMISES: SIGNS POSTED BY LANDLORD - INTENTIONALLY  
DELETED**

**SECTION 19)  
EASEMENTS, AGREEMENTS OR ENCUMBRANCES - INTENTIONALLY DELETED**

**SECTION 20)  
QUIET ENJOYMENT**

- 20.1 Landlord warrants that Tenant shall be granted peaceable and quiet enjoyment of the Premises free from any eviction or interference by Landlord if Tenant pays the rent and other charges provided herein, and otherwise fully and punctually performs the terms and conditions imposed on Tenant.
- 20.2 Tenant shall have limited access to the premises and will provide to Landlord names of three holders of the keys to the premises at the time of lease execution. Additionally, Tenant will notify property manager when trucks will be using loading docks and cooperate with other building tenant's need to access the loading docks. Landlord contacts are:  
Paul Johnson 218-348-5159  
Dale Johnson 218-348-2394  
Dave Fulda 218-348-2249

**SECTION 21)  
LIABILITY OF LANDLORD**

- 21.1 Tenant shall be in exclusive control and possession of the Premises, and Landlord shall not be liable for any injury or damages to any property or to any person on or about the Premises nor for any injury or damage to any property of Tenant.

**SECTION 22)  
RENT ABATEMENT - INTENTIONALLY DELETED**

**SECTION 23)  
WAIVERS - INTENTIONALLY DELETED**

**SECTION 24)  
NOTICE**

- 24.1 All notices to be given with respect to the Lease shall be in writing.
- 24.2 Each notice shall be sent by registered or certified mail, postage prepaid and return receipt requested, to the party to be notified at the address set forth herein or at such other address as either party may from time to time designate in writing.



24.3 Notice address for tenant:  
ISD #709  
Attn: Pat Devlin  
215 N. 1<sup>st</sup> Avenue East  
Duluth, MN 55802

24.4 Notice address for landlord:  
DP&D Properties LLC  
4961 Greystone St.  
Hermantown, MN 55811

**SECTION 25)  
ARBITRATION - INTENTIONALLY DELETED**

**SECTION 26)  
ASSIGNMENT, MORTGAGE OR SUBLEASE - INTENTIONALLY DELETED**

**SECTION 27)  
SURRENDER OF POSSESSION**

27.1 Tenant shall, on the last day of the term, or on earlier termination and forfeiture of the Lease, peaceably and quietly surrender and deliver the Premises to Landlord in a broom clean condition.

**SECTION 28)  
REMEDIES OF LANDLORD - INTENTIONALLY DELETED**

**SECTION 29)  
TOTAL AGREEMENT; APPLICABLE TO SUCCESSORS**

29.1 The Lease contains the entire agreement between the parties and cannot be changed or terminated except by a written instrument subsequently executed by the parties hereto.

29.2 The Lease and the terms and conditions hereof apply to and are binding on the heirs, legal representatives, successors and assigns of both parties.

**SECTION 30)  
MISCELLANEOUS**

30.1 The Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

30.2 Time is of the essence in all provisions of the Lease.

IN WITNESS WHEREOF, the parties have executed the Lease at Duluth, Minnesota, the day and year first above written.

Tenant:

Landlord:

By \_\_\_\_\_  
Its \_\_\_\_\_

By Dale M. Johnson  
Its CEO.

