

**INCORPORATED COUNTY OF LOS ALAMOS ORDINANCE NO. 701**

**AN ORDINANCE AUTHORIZING THE COUNTY MANAGER OR DESIGNEE TO EXECUTE SUBLEASES FOR THE COUNTY-LEASED PROPERTY LOCATED AT 1505 15<sup>TH</sup> STREET, LOS ALAMOS, NEW MEXICO**

**WHEREAS**, the Incorporated County of Los Alamos ("County") leases and sublets property located at 1505 15<sup>th</sup> Street, Los Alamos, New Mexico; and

**WHEREAS**, Section 3-54-1, N.M.S.A. (1978) provides that a municipality may lease any real property of any value normally leased in the regular operations of the real property; and

**WHEREAS**, Section 203 of the Los Alamos County Charter provides that any conveyance or lease or authorization to convey or lease real property owned by County shall be by ordinance; and

**WHEREAS**, the County Council desires to authorize the County Manager or designee to execute subleases for the County-leased property located at 1505 15<sup>th</sup> Street, Los Alamos, New Mexico, on reasonable terms substantially in form attached hereto as Exhibit "A".

**NOW, THEREFORE, BE IT ORDAINED** that:

**Section 1. Finding.** The Incorporated County of Los Alamos is authorized to lease real property pursuant to the provisions of Section 3-54-1, N.M.S.A. (1978).

**Section 2. Authorization to Lease the Premises; Execution of Lease by Authorized Officers.** The County Manager or designee is hereby authorized to execute sublease agreements for the County-leased property located at 1505 15<sup>th</sup> Street, Los Alamos, New Mexico, on reasonable terms substantially in form attached hereto as Exhibit "A".

**Section 3. Effective Date.** This ordinance shall become effective thirty (30) days after publication of notice of its adoption.

**ADOPTED** this 10<sup>th</sup> day of November, 2020.

**COUNCIL OF THE INCORPORATED COUNTY  
OF LOS ALAMOS**

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**Sara C. Scott**  
Council Chair

**ATTEST: (Seal)**

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**Naomi D. Maestas**  
County Clerk

ATTACHMENT "B"



## **AGREEMENT TO SUBLET**

This **Agreement to Sublet** ("Agreement") is to sublet \_\_\_\_\_ (\_\_\_\_\_) square feet of real estate property according to the terms specified below.

The Sublessor agrees to sublet, and the Subtenant agrees to take the Premises described below. Both parties agree to keep, perform, and fulfill the Premises, conditions and agreements expressed below:

1. **LESSOR.** The Lessor is: \_\_\_\_\_
2. **SUBLESSOR.** The Sublessor is: **Incorporated County of Los Alamos**
3. **SUBTENANT.** The Subtenant is: \_\_\_\_\_
4. **PREMISES.** The location of the premises is: **Room     at 1505 15<sup>th</sup> Street, Suite     ,  
Los Alamos, New Mexico, 87544.**
5. **TERM.** The term of this Sublease is \_\_\_\_\_ (\_\_\_\_) year beginning \_\_\_\_\_, and continuing until \_\_\_\_\_. The parties hereto may by mutual agreement extend the term of this Agreement for \_\_\_\_\_ (\_\_\_\_) additional \_\_\_\_\_ (\_\_\_\_) year terms.
6. **RENT PAYMENTS.** Subtenant agrees to pay Sublessor sublease fee ("Rent"), as provided below, on or before the 15<sup>th</sup> day of each consecutive month during the term of this Sublease. Rent is due in accordance with Sublease, whether or not an invoice is received by Subtenant. Subtenant shall pay Sublessor any accrued Rent plus the Security Deposit when the Agreement to Sublet is signed. Security Deposits do not earn interest. In accordance with Paragraph 11 below, Sublessor may apply the Security Deposit to the last Rent payment or may refund the Security Deposit to Subtenant when the Lease Term expires.

The Rent is payable to Sublessor at 1000 Central Avenue, Suite 300, Los Alamos, New Mexico 87544. The Rent is payable as follows:

\_\_\_\_\_ to \_\_\_\_\_:  
Annual Price Per Square Foot: \_\_\_\_\_ Dollars (\$\_\_\_\_\_) x \_\_\_\_\_ (\_\_\_\_\_) square feet = \_\_\_\_\_ (\$\_\_\_\_\_)  
Rent Per Month: \_\_\_\_\_ (\$\_\_\_\_\_)

\_\_\_\_\_ to \_\_\_\_\_:  
Annual Price Per Square Foot: \_\_\_\_\_ Dollars (\$\_\_\_\_\_) x \_\_\_\_\_ (\_\_\_\_\_) square feet = \_\_\_\_\_ (\$\_\_\_\_\_)  
Rent Per Month: \_\_\_\_\_ (\$\_\_\_\_\_)

**7. AGREEMENT TERMINATION.** This Agreement shall terminate on \_\_\_\_\_. Notwithstanding anything to the contrary, any party can terminate this Agreement to Sublet upon thirty (30) days advance written notice to the other party. Rent shall terminate as of the termination date provided within the notice to the other party. There shall be no holding over under the term of this Agreement under any circumstances.

**8. UTILITIES.** Rent payment includes the following utility charges: Gas, Water, Sewer, Sanitation and Electric. All other utilities and costs connected with the premises shall be paid directly by the Subtenant.

**9. JANITORIAL.** Lessor shall provide janitorial services.

**10. PROPERTY CONDITION.** Subtenant agrees to surrender and deliver to the Sublessor the premises and all furniture and decorations within the premises in as good a condition as they were at the beginning of the term of this Agreement, reasonable wear and tear excepted. The Subtenant shall be liable to the Sublessor for any damages occurring to the premises or the contents thereof or to the building which are done by the Subtenant or guests of the Subtenant. The Subtenant shall not attach or change any lock on the premises so as to deny access to Sublessor or Lessor. The Subtenant is responsible for each key issued; all keys must be returned to the Sublessor upon termination of this Agreement. Failure to do so shall result in re-keying costs to the Subtenant; the Subtenant shall be responsible for all costs associated with re-keying. Lost or stolen keys must be reported immediately to the Sublessor.

**11. DEPOSIT.** Subtenant agrees to pay Sublessor a deposit upon execution of this Agreement in the amount of \_\_\_\_\_ (\$\_\_\_\_\_) to cover damages beyond normal wear and tear, unpaid rent, and unpaid utilities. Sublessor agrees that if the premises and contents thereof are returned in the same condition as when received by the Subtenant, reasonable wear and tear thereof excepted, and if there is no unpaid rent or unpaid utility bills owed by the Subtenant, Sublessor shall refund to the Subtenant the sum of \_\_\_\_\_ (\$\_\_\_\_\_) at the end of the term of this Agreement, or within thirty (30) days thereafter. Any reason for retaining a portion of the deposit shall be explained in writing to the Subtenant within thirty (30) days.

**12. INVENTORY AND CONDITION.** At the time of the taking possession of the premises by the Subtenant, the Sublessor shall provide the Subtenant three (3) business days to note inventory and condition of walls, floor, ceiling, windows, blinds, lock, cabinets (if applicable) and sink (if applicable) of the room(s).

**13. ORIGINAL LEASE.** This Agreement incorporates and is subject to the original Lease Agreement between the Sublessor and Lessor, \_\_\_\_\_, a copy of which is attached hereto, and which is hereby referred to and incorporated as if it were set out here at length. The Subtenant agrees to abide by the conditions set forth therein for the duration of this Agreement (see Appendix "A").

**14. OTHER TERMS AND CONDITIONS.** Subtenant shall obtain an appropriate level of liability insurance as required by Subtenant's profession at Subtenant's own expense, and keep it in full force for the entire period of this Agreement. Additionally, Subtenant shall maintain premises liability insurance coverage in an amount of at least ONE MILLION DOLLARS (\$1,000,000.00) upon which County shall be named as an additional insured. Subtenant further agrees to indemnify County for costs, judgments and fees (including reasonable attorneys' fees)

incurred as a result of Subtenant's occupancy or use of the premises. Subtenant shall provide services to residents of Los Alamos County who are sick and/or indigent, as defined by Sublessor, in accordance with the terms of any and all existing Health Care Assistance Program Agreements between Sublessor and Subtenant.

**15. SOLE AGREEMENT.** The parties hereby agree that this document, along with all existing Health Care Assistance Program Agreement between Sublessor and Subtenant, contains the entire agreement between the parties and shall not be modified, changed, altered or amended in any way except through a written amendment signed by all of the Parties hereto. Any oral representations made at the time of executing this Agreement are not legally valid, and therefore, are not binding upon either party.

**16. GOVERNING LAW.** This Agreement shall be governed, construed and interpreted by, through and under the Laws of the State of New Mexico. Venue for any action brought pursuant to this Agreement shall be proper only in the First Judicial District Court of the State of New Mexico, Los Alamos County.

**17. CONSTRUCTION.** The words "Sublessor" and "Subtenant" as used herein include the plural as well as the singular. The pronouns used herein shall include, where appropriate, either gender or both, singular and plural.

**18. ACKNOWLEDGEMENT OF COPY RECEIVED.** Each party signing this Agreement to Sublet acknowledges receipt of a copy thereof.

**19. LANDLORD APPROVAL.** This Sublease is not binding upon either party unless approved by the landlord as provided below, provided such approval is required by the original Lease.

**20. NO IMPLIED WAIVERS.** The failure of any party to enforce any provision of this Agreement is not a waiver of the provisions or of the right of such party thereafter to enforce that or any other provision.

**21. SEVERABILITY.** If any provision of this Agreement is held to be unenforceable for any reason, (i) such provision will be reformed only to the extent necessary to make the intent of the language enforceable, and (ii) all other provisions of this Agreement will remain in effect.

**22. LEGAL RECOGNITION OF ELECTRONIC SIGNATURES:** Pursuant to NMSA 1978 § 14-16-7, this Agreement may be signed by electronic signature.

**23. DUPLICATE ORIGINAL DOCUMENTS:** This document may be executed in counterparts, each of which shall be deemed an original.

The parties hereby bind themselves by their signature affixed below on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**SUBLESSOR:**

**ATTEST**

**INCORPORATED COUNTY OF LOS ALAMOS**

\_\_\_\_\_  
**NAOMI D. MAESTAS**  
**COUNTY CLERK**

**By:** \_\_\_\_\_  
**HARRY BURGESS** **DATE**  
**COUNTY MANAGER**

**Approved as to form:**

**SUBTENANT:**

\_\_\_\_\_  
**J. ALVIN LEAPHART**  
**COUNTY ATTORNEY**

\_\_\_\_\_  
**DATE**

I hereby give my consent, as landlord, to subletting of the above described premises as set out in this Agreement to Sublet.

**LESSOR OR AGENT OF \_\_\_\_\_:**

**By:** \_\_\_\_\_  
**DATE**

**INVENTORY CHECK ATTACHED:**    ☐ Yes    ☐ No

**ORIGINAL LEASE ATTACHED:**    ☐ Yes    ☐ No

**PROOF OF INSURANCE ATTACHED:**    ☐ Yes    ☐ No

**COUNTY LEASE AGREEMENT**

(continued on next page)

COPY

**AMENDMENT NO. 2  
INCORPORATED COUNTY OF LOS ALAMOS  
COMMERICAL LEASE**

This **AMENDMENT NO. 2** is entered into by and between **Nectar Property, LLC** of 1505 15<sup>th</sup> Street, Los Alamos, New Mexico 87544, herein called the "Lessor," and the **Incorporated County of Los Alamos**, an incorporated county, home rule municipality and political subdivision of the State of New Mexico, herein called "Lessee."

**WHEREAS**, County and Contractor entered into First Amended Commercial Lease dated January 25<sup>th</sup>, 2012, for the leasing of a portion of the building at 1505 15<sup>th</sup> Street, Los Alamos, NM (the "Building") that is situated on land lease from the County of Los Alamos by Lessor pursuant to that certain Ground Lease dated November 1, 2011;

**WHEREAS**, the First Amended Commercial Lease was executed with the intent to update the dates and term of the lease;

**WHEREAS**, the First Amended Commercial Lease contained an error in expressing "a period of ten (10) years beginning on November 1, 2011 and ending on October 31, 2015;"

**NOW, THEREFORE**, for good and valuable consideration, County and Contractor agree as follows:

To delete **Section 1. Term and Rent** in its entirety and replace it with the following:

1. **Term and Rent.** The term of this Lease shall be for a period of ten (10) years, beginning on November 1, 2011 and ending on October 31, 2021.

Lessee, for and in consideration of this Lease and demise of the premises by Lessor to Lessee, hereby agrees and covenants with Lessor to pay rent for the premises, without notice or demand, the sum on Seven Thousand Seven Hundred Twenty-Five Dollars and 17/100 (\$7,725.17) per month on the first working day of each month for the first eleven (11) months of each year and payment twelve (12) of each year in the amount of Seven Thousand Seven Hundred Twenty-Five Dollars and 13/100 (\$7,725.13). Total yearly sum of Ninety-Two Thousand Seven Hundred Two Dollars (\$92,702.00). Rent shall be paid to Lessor at its offices at 1505 15<sup>th</sup> Street Suite C, Los Alamos, New Mexico 87544, or at such other place as Lessor may designate from time to time for this purpose.

Rent is calculated as of total heated space of 4106 square feet. (1) Twenty-Two Dollars (\$22.00) per square feet annually times the area of heated interior space within the premises, plus (2) Ten Dollars (\$10.00) per square feet annually times the area of unheated storage space within the premises. Unheated storage space shall remain the same price over the full term of the lease.

Lessee shall pay for their share of utilities separate and apart from the Lease as set forth in Paragraph 8 herein.

County shall have first Right of Refusal for the purchase of Building during term of Lease at appraised value.

Except as expressly modified by this Amendment No. 2, the terms and conditions of the First Amended Commercial Lease remain unchanged and in effect.

**IN WITNESS WHEREOF**, the parties have executed this Amendment No. 2 on the date(s) set forth opposite the signatures of their authorized representatives to be effective for all purposes on the date first written above.

**ATTEST**



**JANET FOSTER  
COUNTY CLERK**

**Approved as to form**

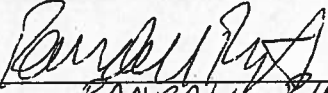
  
**REBECCA M. EHLER  
COUNTY ATTORNEY**



**INCORPORATED COUNTY OF LOS ALAMOS**

By:  10/4/12  
**HARRY BURGESS** - **DATE**  
**COUNTY ADMINISTRATOR**

**NECTAR PROPERTY, A NEW MEXICO LIMITED  
LIABILITY CORPORATION**

By:  10/4/2012  
**NAME: RANDALL RUTI** **DATE**  
**TITLE: MEMBER**



**FIRST AMENDED  
COMMERCIAL LEASE**

This Amended Commercial Lease, herein called "Lease," dated January 25, 2012, for purposes of reference, is made between **Nectar Property, LLC**, of 1505 15<sup>th</sup> St, Los Alamos, New Mexico 87544, herein called "Lessor," and the **Incorporated County of Los Alamos**, an incorporated county, home rule municipality and political subdivision of the State of New Mexico, herein called "Lessee."

Lessor owns the building at 1505 15<sup>th</sup> Street, Los Alamos, New Mexico (the "Building") that is situated on land lease from the county of Los Alamos by Lessor pursuant to that certain Ground Lease dated June 28, 2005 (the "Ground Lease" and subsequent Ground Lease dated November 1, 2011).

Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the premises (the "Premises") situated in the Building, consisting of 4343 square feet of space comprised of 4020 square feet of heated exclusive space, 86 sq ft of common space (a 44% prorata share of 197 sq ft of interior heated common space) and 237 square feet of storage space upon the following TERMS AND CONDITIONS:

1. **Term and Rent.** The term of this Lease shall be for a period of ten (10) years, beginning on November 1, 2011 and ending on October 31, 2015.

Lessee, for and in consideration of this Lease and demise of the premises by Lessor to Lessee, hereby agrees and covenants with Lessor to pay as rent for the premises, without notice or demand, the sum of Seven Thousand Seven Hundred Twenty-Five Dollars and 17/100 (\$7,725.17) per month on the first working day of each month for the first eleven (11) months of each year and payment twelve (12) of each year in the amount of Seven Thousand Seven Hundred Twenty-Five Dollars and 13/100 (\$7,725.13). Total yearly sum of Ninety-Two Thousand Seven Hundred Two Dollars (\$92,702.00). Rent shall be paid to Lessor at its offices at 1505 15<sup>th</sup> St., Suite C, Los Alamos New Mexico 87544, or at such other place as Lessor may designate from time to time for this purpose.

Rent is calculated as of total heated space of 4106 square feet. (1) Twenty-Two Dollars (\$22.00) per square feet annually times the area of heated interior space within the premises, plus (2) Ten Dollars (\$10.00) per square feet annually times the area of unheated storage space within the premises. Unheated storage space shall remain the same price over the full term of the lease.

Lessee shall pay for their share of utilities separate and apart from the Lease as set forth in Paragraph 8 herein.

County shall have first Right of Refusal for purchase of Building during term of Lease at appraised value.

2. **Use of Premises.** Lessee shall use and occupy the premises as office space for Los Alamos County Business or not for profits or counseling and other routine functions of Lessee related to serving the community of Los Alamos, and for no other purpose.

3. **Care and Maintenance of Premises.** Lessee agrees and covenants to keep the premises in as good order, condition and repair as when the same were entered upon, loss by fire (unless cause by the negligence of Lessee, its agents, employees or invitees), inevitable accident, or ordinary wear excepted. Notwithstanding the provisions above, Lessor shall maintain the structural portions of the premises, including the basic plumbing, air conditioning, heating and electrical systems installed by Lessor, unless the condition requiring such maintenance is caused in part or in whole by the act, neglect, fault, or omission of any duty by Lessee, its agents, servants, employees, or invitees in which case Lessee shall pay Lessor the reasonable costs of such maintenance or repair. Lessor will also provide weekly janitorial services for the premises and the common space, consisting of the vacuuming of offices and hallways, dusting of furniture, and cleaning of restrooms. There shall be no abatement of rent or liability of Lessor by reason of any injury or interference with Lessee's business arising from the making of any repairs, alterations, or improvements in or to any portion of the Building or the premises or in or to fixtures, appurtenances, and equipment therein. Lessee waives the right to make repairs at Lessor's expense under any law, statute, or ordinance now or hereafter in effect.
4. **Alterations.** Lessee shall not, without first obtaining the written consent of Lessor, make any alterations, additions or improvements, in, to or about the premises.
5. **Ordinance and Statutes.** Lessor and Lessee shall comply with all statutes, ordinance and requirements of all municipal, state and federal authorities now in force, of which hereafter be in force, pertaining to the premises, occasioned by or affecting the use thereof by Lessee.
6. **Ground Lease.** Lessee acknowledges that this Lease is subject to the Ground Lease, as amended, and agrees to comply with all provisions of the Ground Lease that relate to the use and occupancy of the premises. The remaining payment for year 2011, shall be prorated and paid to Los Alamos County prior to the execution of said Commercial Lease.
7. **Assignment and Subletting.** Lessee may assign this lease or sublet any portion of the premises without prior written consent of the Lessor for the Use of Premises as defined herein.
8. **Utilities.** Lessee shall be responsible for 44% of utility charges as they become due, including those for gas, electricity, water, sewer, and trash removal.
9. **Entry and Inspection.** Lessee shall permit Lessor and Lessor's agents to enter upon the premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same, and will permit Lessor at any time within ninety (90) days prior to the termination of this Lease, to place upon the premises any usual "To Let" or "For Lease" signs, and permit persons desiring to lease the same to inspect the premises thereafter.
10. **Possession.** If Lessor is unable to deliver possession of the premises at the commencement hereof, Lessor shall not be liable for any damage caused thereby, nor shall this Lease be void or voidable, but Lessee shall not be liable for any rent until

possession is delivered. Lessee may terminate this Lease if possession is not delivered within fifteen (15) days after the commencement of the term hereof.

11. **Insurance.** During the term of this Lease, Lessee, at its sole cost and expense, shall carry and maintain the following types of insurance and shall furnish Lessor with copies of said policies within ten (10) days after execution of this Lease.

Property Insurance. Property insurance, including coverage against damage cause by fire, windstorm, explosion, aircraft, vehicles, smoke, riot, or vandalism on all of Lessee's personal property.

Liability Insurance. Comprehensive general liability insurance and personal injury liability insurance, insuring Lessee against liability for injury to persons or damage to property occurring in or about the premises or injury to persons or damage to property occurring in or about the premises or arising out of the ownership, maintenance, use of occupancy thereof. Said insurance shall specify a single occurrence policy limit of at least One Million Dollars (\$1,000,000).

Workers Compensation. Worker's compensation insurance insuring Lessee from all claims for personal injury, disease, and/or death under the worker's compensation law of New Mexico, plus at least Five Hundred Thousand Dollars (\$500,000) of employers' liability coverage.

All policies of insurance carried by Lessor or Lessee with respect to the premises or the Building shall provide for a waiver of subrogation by the insurer, and all policies of property or liability insurance carried by Lessee shall name Lessor and the County of Los Alamos, as ground Lessor under the Ground Lease, as additional insureds.

12. **Eminent Domain.** If the premises or any part thereof or any estate therein or any other part of the Building materially affecting Lessee's use of the premises, shall be taken by eminent domain, this Lease shall terminate on the date when the title vests pursuant to such taking. The rent, and any additional rent, shall be apportioned as of the termination date, and any rent paid for any period beyond that date shall be repaid to Lessee. Lessee shall not be entitled to any part of the award for such taking or any payment in lieu thereof, but Lessee may file a claim for any taking of fixtures and impairments by Lessee, and for moving expenses.

13. **Destruction of Premises.** In the event of a partial destruction of the premises during the term hereof, from any cause, Lessor shall forthwith repair the same, provided that such repairs can be made within sixty (60) days under existing governmental laws and regulations, but such partial destruction shall not terminate this lease, except that Lessee shall be entitled to a proportionate reduction of rent while such repairs are being made, based upon the extent to which the making of such repairs shall interfere with business of Lessee on the premises. If such repairs cannot be made within said sixty (60) days, this lease may be terminated at the option of either party. In the event that the building in which the demised premises by the situated is destroyed to an extent of not less than one-third of the replacement costs thereof, Lessor may elect to terminate this lease whether the demised premises be injured or not. A total destruction of the building in which the premises may be situated shall terminate this Lease.

14. **Late Charge and Interest.** If any sum due hereunder is not paid within five (5) days after the date due, Lessee shall pay to Lessor a late charge of 7% of the sum not paid when due. In addition, any sums not paid within ten (10) days after the date due shall bear interest at 12% per annum until paid.

15. **Lessor's Remedies on Default.** If Lessee defaults in the payment of rent when due and such default is not cured within ten (10) days after notice from Lessor, or if Lessee defaults in the performance of any of the other covenants or conditions hereof and such default is not cured within thirty (30) days after notice from Lessor (or if such default is of such nature that it cannot be completely cured within such period, if Lessee does not commence such curing within such thirty (30) day period and thereafter proceed with reasonable diligence and in good faith to cure such default as expeditiously as possible), Lessor may terminate this Lease at any time thereafter by notice of termination to Lessee. On the date specified in such notice the term of this Lease shall terminate, and Lessee shall then quit and surrender the premises to Lessor, but Lessee shall not thereby be released from its liability under this Lease. If this Lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the premises by any lawful means and remove Lessee or other occupants and their effects. Lessor shall also be entitled to exercise all other rights available under New Mexico law to a landlord on the default of a tenant. No failure to enforce any provision of this Lease shall be deemed a waiver by Lessor. Funding: This Lease is subject to the funds appropriated by County Council. Should funds not be appropriated, said portion of lease that are not sublet shall terminate. Lessee agrees to make reasonable efforts to give contractor ninety (90) days advance notice that funds have not been and are not expected to be appropriated for such purpose.

16. **Notice.** Any notice required under this Agreement shall be made in writing, postage pre-paid to the following addresses, and shall be deemed given up hand delivery, verified delivery by telecopy (followed by copy sent by United States Mail), or three (3) days after deposit in the United States Mail:

Lessee:

Incorporated County of Los Alamos  
c/o County Administrator  
133 Central Park Square  
Los Alamos, New Mexico 87544

Lessor:

Nectar Properties LLC  
1505 15<sup>th</sup> Street, Suite C  
Los Alamos, New Mexico 87544

17. **Security Deposit.** A security deposit equivalent to one month's rent shall be paid to Lessor upon signing this Lease, and held by Lessor during the entire lease period. Lessor shall have the right to apply all or any portion of the security deposit to cure any default by Lessee, and in such event Lessee shall immediately restore the security deposit to its required amount.

18. **Waiver.** No failure of Lessor to enforce any term hereof shall be deemed to be a waiver.

19. **Notices.** Any notice which either party may or is required to give, shall be given by mailing the same, postage prepaid, to Lessee at the premises, or Lessor at the address specified above, or at such other places as may be designated by the parties from time to time.

20. **Heirs, Assigns, Successors.** This Lease is binding upon and inures to the benefit of the heirs, assigns and successors in interest to the parties.

21. **Subordination.** This Lease is and shall be subordinated to all existing and future liens and encumbrances against the Building. Upon the request of any lender foreclosing any such lien or encumbrance, Lessee shall recognize and attorn to the lender as Lessor hereunder.

22. **Entire Agreement.** The foregoing constitutes the entire agreement between the parties and may be modified only by a writing signed by both parties.

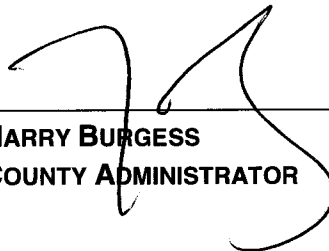
**IN WITNESS WHEREOF,** Lessor and Lessee have caused this Amended Lease to be executed to be effective as of the date first written above.

**ATTEST**

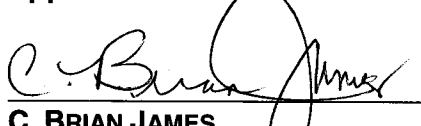
**INCORPORATED COUNTY OF LOS ALAMOS**

  
JANET FOSTER  
COUNTY CLERK



BY:  1/25/12  
HARRY BURGESS  
COUNTY ADMINISTRATOR  
DATE

**Approved as to form:**

  
C. BRIAN JAMES  
ACTING COUNTY ATTORNEY

COUNTY OF LOS ALAMOS  
STATE OF NEW MEXICO

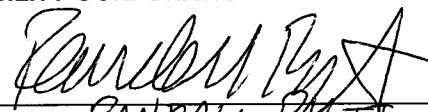
Book 157 Page 584

This Instrument Was Filed For Record On 01/27/2012 10:00 AM  
And Was Duly Recorded as Instrument # 211699  
Of The Records Of Los Alamos County

Witness My Hand And Seal Of Office  
County Clerk, Los Alamos, NM  
Naomi D Maestas - Deputy



**NECTAR PROPERTY, A NEW MEXICO LIMITED  
LIABILITY CORPORATION**

BY:  1/19/2012  
NAME: RANDALL RATTI  
TITLE: MEMBER  
DATE



## COMMERCIAL LEASE

This Lease, dated November 1, 2011, for purposes of reference, is made between **Nectar Property, LLC**, of 1505 15<sup>th</sup> St, Los Alamos, New Mexico 87544, herein called "Lessor," and the **Incorporated County of Los Alamos**, an incorporated county, home rule municipality and political subdivision of the State of New Mexico, herein called "Lessee."

Lessor owns the building at 1505 15<sup>th</sup> Street, Los Alamos, New Mexico (the "Building") that is situated on land lease from the county of Los Alamos by Lessor pursuant to that certain Ground Lease dated June 28, 2005 (the "Ground Lease" and subsequent Ground Lease dated November 1, 2011).

Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the premises (the "Premises") situated in the Building, consisting of 4343 square feet of space comprised of 4020 square feet of heated exclusive space, 86 sq ft of common space (a 44% prorata share of 197 sq ft of interior heated common space) and 237 square feet of storage space upon the following TERMS AND CONDITIONS:

1. **Term and Rent.** The term of this Lease shall be for a period of four (4) years, beginning on August 31, 2011 and ending on August 31, 2015.

Lessee, for and in consideration of this Lease and demise of the premises by Lessor to Lessee, hereby agrees and covenants with Lessor to pay as rent for the premises, without notice or demand, the sum of Seven Thousand Seven Hundred Twenty-Five Dollars and 17/100 (\$7,725.17) per month on the first working day of each month for the first eleven (11) months of each year and payment twelve (12) of each year in the amount of Seven Thousand Seven Hundred Twenty-Five Dollars and 13/100 (\$7,725.13). Total yearly sum of Ninety-Two Thousand Seven Hundred Two Dollars (\$92,702.00). Rent shall be paid to Lessor at its offices at 1505 15<sup>th</sup> St., Suite C, Los Alamos New Mexico 87544, or at such other place as Lessor may designate from time to time for this purpose.

Rent is calculated as of total heated space of 4106 square feet. (1) Twenty-Two Dollars (\$22.00) per square feet annually times the area of heated interior space within the premises, plus (2) Ten Dollars (\$10.00) per square feet annually times the area of unheated storage space within the premises. Unheated storage space shall remain the same price over the full term of the lease.

Lessee shall pay for their share of utilities separate and apart from the Lease as set forth in Paragraph 8 herein.

County shall have first Right of Refusal for purchase of Building during term of Lease at appraised value.

2. **Use of Premises.** Lessee shall use and occupy the premises as office space for Los Alamos County Business or not for profits or counseling and other routine functions of Lessee related to serving the community of Los Alamos, and for no other purpose.

3. **Care and Maintenance of Premises.** Lessee agrees and covenants to keep the premises in as good order, condition and repair as when the same were entered upon, loss by fire (unless cause by the negligence of Lessee, its agents, employees or invitees), inevitable accident, or ordinary wear excepted. Notwithstanding the provisions above, Lessor shall maintain the structural portions of the premises, including the basic plumbing, air conditioning, heating and electrical systems installed by Lessor, unless the condition requiring such maintenance is caused in part or in whole by the act, neglect, fault, or omission of any duty by Lessee, its agents, servants, employees, or invitees in which case Lessee shall pay Lessor the reasonable costs of such maintenance or repair. Lessor will also provide weekly janitorial services for the premises and the common space, consisting of the vacuuming of offices and hallways, dusting of furniture, and cleaning of restrooms. There shall be no abatement of rent or liability of Lessor by reason of any injury or interference with Lessee's business arising from the making of any repairs, alterations, or improvements in or to any portion of the Building or the premises or in or to fixtures, appurtenances, and equipment therein. Lessee waives the right to make repairs at Lessor's expense under any law, statute, or ordinance now or hereafter in effect.
4. **Alterations.** Lessee shall not, without first obtaining the written consent of Lessor, make any alterations, additions or improvements, in, to or about the premises.
5. **Ordinance and Statutes.** Lessor and Lessee shall comply with all statutes, ordinance and requirements of all municipal, state and federal authorities now in force, of which more hereafter be in force, pertaining to the premises, occasioned by or affecting the use thereof by Lessee.
6. **Ground Lease.** Lessee acknowledges that this Lease is subject to the Ground Lease, as amended, and agrees to comply with all provisions of the Ground Lease that relate to the use and occupancy of the premises. The remaining payment for year 2011, shall be prorated and paid to Los Alamos County prior to the execution of said Commercial Lease.
7. **Assignment and Subletting.** Lessee may assign this lease or sublet any portion of the premises without prior written consent of the Lessor for the Use of Premises as defined herein.
8. **Utilities.** Lessee shall be responsible for 48% of utility charges as they become due, including those for gas, electricity, water, sewer, and trash removal.
9. **Entry and Inspection.** Lessee shall permit Lessor and Lessor's agents to enter upon the premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same, and will permit Lessor at any time within ninety (90) days prior to the termination of this Lease, to place upon the premises any usual "To Let" or "For Lease" signs, and permit persons desiring to lease the same to inspect the premises thereafter.
10. **Possession.** If Lessor is unable to deliver possession of the premises at the commencement hereof, Lessor shall not be liable for any damage caused thereby, nor shall this Lease be void or voidable, but Lessee shall not be liable for any rent until

possession is delivered. Lessee may terminate this Lease if possession is not delivered within fifteen (15) days after the commencement of the term hereof.

11. **Insurance.** During the term of this Lease, Lessee, at its sole cost and expense, shall carry and maintain the following types of insurance and shall furnish Lessor with copies of said policies within ten (10) days after execution of this Lease.

Property Insurance. Property insurance, including coverage against damage cause by fire, windstorm, explosion, aircraft, vehicles, smoke, riot, or vandalism on all of Lessee's personal property.

Liability Insurance. Comprehensive general liability insurance and personal injury liability insurance, insuring Lessee against liability for injury to persons or damage to property occurring in or about the premises or injury to persons or damage to property occurring in or about the premises or arising out of the ownership, maintenance, use of occupancy thereof. Said insurance shall specify a single occurrence policy limit of at least One Million Dollars (\$1,000,000).

Workers Compensation. Worker's compensation insurance insuring Lessee from all claims for personal injury, disease, and/or death under the worker's compensation law of New Mexico, plus at least Five Hundred Thousand Dollars (\$500,000) of employers' liability coverage.

All policies of insurance carried by Lessor or Lessee with respect to the premises or the Building shall provide for a waiver of subrogation by the insurer, and all policies of property or liability insurance carried by Lessee shall name Lessor and the County of Los Alamos, as ground Lessor under the Ground Lease, as additional insureds.

12. **Eminent Domain.** If the premises or any part thereof or any estate therein or any other part of the Building materially affecting Lessee's use of the premises, shall be taken by eminent domain, this Lease shall terminate on the date when the title vests pursuant to such taking. The rent, and any additional rent, shall be apportioned as of the termination date, and any rent paid for any period beyond that date shall be repaid to Lessee. Lessee shall not be entitled to any part of the award for such taking or any payment in lieu thereof, but Lessee may file a claim for any taking of fixtures and impairments by Lessee, and for moving expenses.
13. **Destruction of Premises.** In the event of a partial destruction of the premises during the term hereof, from any cause, Lessor shall forthwith repair the same, provided that such repairs can be made within sixty (60) days under existing governmental laws and regulations, but such partial destruction shall not terminate this lease, except that Lessee shall be entitled to a proportionate reduction of rent while such repairs are being made, based upon the extent to which the making of such repairs shall interfere with business of Lessee on the premises. If such repairs cannot be made within said sixty (60) days, this lease may be terminated at the option of either party. In the event that the building in which the demised premises by the situated is destroyed to an extent of not less than one-third of the replacement costs thereof, Lessor may elect to terminate this lease whether the demised premises be injured or not. A total destruction of the building in which the premises may be situated shall terminate this Lease.



14. **Late Charge and Interest.** If any sum due hereunder is not paid within five (5) days after the date due, Lessee shall pay to Lessor a late charge of 7% of the sum not paid when due. In addition, any sums not paid within ten (10) days after the date due shall bear interest at 12% per annum until paid.
15. **Lessor's Remedies on Default.** If Lessee defaults in the payment of rent when due and such default is not cured within ten (10) days after notice from Lessor, or if Lessee defaults in the performance of any of the other covenants or conditions hereof and such default is not cured within thirty (30) days after notice from Lessor (or if such default is of such nature that it cannot be completely cured within such period, if Lessee does not commence such curing within such thirty (30) day period and thereafter proceed with reasonable diligence and in good faith to cure such default as expeditiously as possible), Lessor may terminate this Lease at any time thereafter by notice of termination to Lessee. On the date specified in such notice the term of this Lease shall terminate, and Lessee shall then quit and surrender the premises to Lessor, but Lessee shall not thereby be released from its liability under this Lease. If this Lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the premises by any lawful means and remove Lessee or other occupants and their effects. Lessor shall also be entitled to exercise all other rights available under New Mexico law to a landlord on the default of a tenant. No failure to enforce any provision of this Lease shall be deemed a waiver by Lessor. Funding: This Lease is subject to the funds appropriated by County Council. Should funds not be appropriated, said portion of lease that are not sublet shall terminate. Lessee agrees to make reasonable efforts to give Lessor ninety (90) days advance notice that funds have not been and are not expected to be appropriated for such purpose.
16. **Notice.** Any notice required under this Agreement shall be made in writing, postage pre-paid to the following addresses, and shall be deemed given up hand delivery, verified delivery by telecopy (followed by copy sent by United States Mail), or three (3) days after deposit in the United States Mail:

Lessee:

Incorporated County of Los Alamos  
c/o County Administrator  
133 Central Park Square  
Los Alamos, New Mexico 87544

Lessor:

Nectar Property LLC  
1505 15<sup>th</sup> Street, Suite C  
Los Alamos, New Mexico 87544

17. **Security Deposit.** A security deposit equivalent to one month's rent shall be paid to Lessor upon signing this Lease, and held by Lessor during the entire lease period. Lessor shall have the right to apply all or any portion of the security deposit to cure any default by Lessee, and in such event Lessee shall immediately restore the security deposit to its required amount.

18. **Waiver.** No failure of Lessor to enforce any term hereof shall be deemed to be a waiver.

19. **Notices.** Any notice which either party may or is required to give, shall be given by mailing the same, postage prepaid, to Lessee at the premises, or Lessor at the address specified above, or at such other places as may be designated by the parties from time to time.

20. **Heirs, Assigns, Successors.** This Lease is binding upon and inures to the benefit of the heirs, assigns and successors in interest to the parties.

21. **Subordination.** This Lease is and shall be subordinated to all existing and future liens and encumbrances against the Building. Upon the request of any lender foreclosing any such lien or encumbrance, Lessee shall recognize and attorn to the lender as Lessor hereunder.

22. **Entire Agreement.** The foregoing constitutes the entire agreement between the parties and may be modified only by a writing signed by both parties.

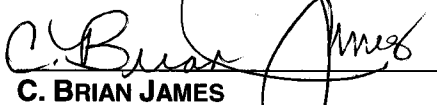
**IN WITNESS WHEREOF,** Lessor and Lessee have caused this Lease to be executed to be effective as of the date first written above.

**ATTEST**


  
\_\_\_\_\_  
JANET FOSTER  
COUNTY CLERK



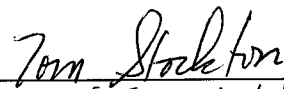
**Approved as to form:**

  
\_\_\_\_\_  
C. BRIAN JAMES  
ACTING COUNTY ATTORNEY

**INCORPORATED COUNTY OF LOS ALAMOS**

By:  \_\_\_\_\_ 11/1/11  
RANDY M. AUTIO DATE  
ACTING COUNTY ADMINISTRATOR

**NECTAR PROPERTY, A NEW MEXICO LIMITED LIABILITY CORPORATION**

By:  \_\_\_\_\_ 11/2/11  
NAME: Tom Stockton DATE  
TITLE: Partner

COUNTY OF LOS ALAMOS  
STATE OF NEW MEXICO

Book 156 Page 550

This Instrument Was Filed For Record On 11/02/2011 10:46 AM  
And Was Duly Recorded as Instrument # 210665  
Of The Records Of Los Alamos County

Witness My Hand And Seal Of Office  
County Clerk, Los Alamos, NM

Adrianna T Ortiz - Deputy



5



ATTACHMENT "B"