

ORIGINAL

COUNTY OF EL DORADO L E A S E # 617 -L0711

THIS LEASE is made by and between **COUNTY OF EL DORADO**, a political subdivision of the State of California, hereinafter called "Lessee", and **BRIW OFFICE INVESTORS**, herein after referred to as "Lessor".

IT IS AGREED between the parties hereto as follows:

1. PREMISES

Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, for and in consideration of the rents, covenants and agreement hereinafter set forth, the "Premises" is more particularly described as follows:

**Office Space (Space B)
3057 Briw Road
Placerville, CA 95667**

The Premises consists of 9,056 square feet of improved office space together with the use of the common area parking lot.

2. TERM

The term of this Lease shall be for five (5) years commencing on April 1, 2007 and ending on March 31, 2012, subject however, to earlier termination as hereinafter more particularly provided in Paragraph 20.

3. PAYMENT

Lessee agrees to pay to Lessor as rent the sum of **Thirteen Thousand One Hundred Forty-Four Dollars and Twenty-Five Cents (\$13,144.25)** per month payable on the first day of each and every month commencing on or about April 1, 2007 and each and every month thereafter. Said monthly rent amount shall be adjusted on April 1, 2008, and annually thereafter, in an amount equal to two and a half (2.5%) percent of the then current monthly rent amount. Rent shall be paid to the order of: **Briw Office Investors, P.O. Box 2211, Placerville, CA 95667. Attn: James E. Carter**

4. OPTION FOR ADDITIONAL TERMS

Lessee shall have the option to Lease the subject Premises for three (3) additional one (1) year term after the initial Lease expiration date of April 1, 2012. Lessee shall notify Lessor in writing approximately ninety (90) days prior to the expiration of the first five (5) year term and each additional one (1) year term thereafter, should Lessee elect to exercise said option (s).

Additionally, Lessee shall have the "first right of refusal" for any additional space or spaces that may become available at said facility location during the entire term of this agreement. Lessor agrees to provide Lessee with a sixty (60) day period during which time the Lessee may express its interest in leasing said available space or spaces.

5. USE OF PREMISES

The Premises are leased to the Lessee for the purpose of conducting business and activities permitted by law, including any government operations or uses related thereto.

6. PROHIBITED USE

Lessee shall not commit or permit the commission of any acts on the Premises nor permit the use of the Premises in any way that will:

- (a) Increase the existing fire rates or cancel any fire, casualty, liability or other insurance policy insuring the building or its contents;
- (b) Violate or conflict with any law, statute, ordinance, governmental rule or regulation whether now in force or hereinafter enacted, governing the Premises;
- (c) Obstruct or interfere with the rights of other tenants or occupants of the building or injure or annoy them; and
- (d) Constitute commission of a waste on the Premises.

7. INSURANCE

Lessor shall provide proof of a policy of insurance satisfactory to the El Dorado County Risk Manager and documentation evidencing that Lessor maintains insurance that meets the following requirements:

- A. Commercial General Liability Insurance of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

- B. **Workers' Compensation and Employers' Liability Insurance covering all employees of Lessor as required by law in the State of California.**
- C. **Lessor shall furnish a certificate of insurance satisfactory to the Lessee as evidence that the insurance required above is being maintained.**
- D. **The insurance shall be issued by an insurance company acceptable to Lessee or be provided through partial or total self-insurance likewise acceptable to Lessee.**
- E. **Lessor agrees that the insurance required above shall be in effect at all times during the term of this Lease. In the event said insurance coverage expires at any time or times during the term of this Lease, Lessor agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Lease, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Lessee and Lessor agrees that the Lease shall not commence prior to the giving of such approval. In the event the Lessor fails to keep in effect at all times insurance coverage as herein provided, Lessee may, in addition to any other remedies it may have, terminate this Lease upon the occurrence of such event.**
- F. **The certificate of insurance must include a provision stating that the insurer will not cancel the insured's coverage without 30 day prior written notice to the Lessee.**
- G. **Any deductibles or self-insured retention must be declared to and approved by the Lessee. At the option of the Lessee either the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the Lessee, its officers, officials and employees; or Lessor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.**
- H. **Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the Lessee, its officers, officials, employees or volunteers.**
- I. **The insurance companies shall have no recourse against the Lessee, its officers, officials or employees for payment of any premiums or assessments under any policy issued by any insurance company.**

- J. Lessor's obligations shall not be limited by the foregoing requirements and shall survive the expiration of this Agreement.
- K. In the event Lessor cannot provide an occurrence policy, Lessor shall provide insurance covering claims made as a result of performance of this Lease for not less than three (3) years following completion of this Lease.
- L. The Certificate of Insurance shall meet additional standards as may be determined by the Lessee, either independently or in consultation with Lessee's Risk Manager, as essential for protection of Lessee.
- M. Lessor shall provide property insurance on all real property owned by Lessor covered by this Lease under a standard "all risk" policy. The policy shall insure for not less than ninety percent (90%) of the replacement value of the property.

8. INDEMNIFICATION

LESSOR shall indemnify, defend, and hold harmless Lessee, its officers, agents and employees, from and against any claims, actions, suits, costs, expenses (including reasonable attorney's fees) and other cost of defense incurred or liabilities, whether for damage to or loss of property, or injury to or death of person, which in any way arise from or are connected with the acts or omissions of Lessor or its officers, agents, employees, contractors, subcontractors, or business invitees, or Lessor's use of the Premises, unless such damage, loss, injury, or death shall be caused by the sole, or active negligence of County, or the willful misconduct of County, as expressly provided by statute.

Lessee shall indemnify, defend, and hold harmless Lessor, its officers, agents, and employees, from and against any claims, actions, suits, costs, expenses (including reasonable attorney's fees) and other cost of defense incurred or liabilities, whether for damage to or loss of property, or injury to or death of person, which in any way arise from or are connect with the acts or omissions of Lessee or its officers, agents, employees, contractors, subcontractors, or business invitees, or Lessee's use of the Premises to the extent such loss, damage, injury, or liability is not covered by the insurance required as provided for in paragraph 7. "INSURANCE" above, unless such damage, loss, injury or death shall be caused by the sole, or active negligence of Lessor, or the willful misconduct of Lessor.

The duties of Lessor or Lessee to indemnify and save each other harmless include the duties to defend as set forth in California Civil Code Section 2778. The provisions of this section shall survive the termination of the Lease for any event occurring prior to the termination.

9. ALTERATIONS

Lessee shall not make or permit any other person to make any alterations to the Premises without the written consent of Lessor first obtained. Should Lessor consent to the making of any alterations to the Premises by the Lessee, subsequent to execution of this Lease, said alterations shall be made at the sole cost and expense of Lessee by a contractor or other person selected by Lessee and approved in writing by Lessor before work commences. Any and all alterations, with the exception of previously approved relocatable walls and other alterations readily removable without significant damage to the building Premises, interior or exterior, shall on expiration or sooner termination of this Lease, become the property of Lessor and remain on the Premises.

10. MAINTENANCE AND REPAIRS

Lessee shall, at all times during the term of this Lease and any renewal or extension thereof, maintain, at Lessee's sole cost and expense, the Premises, in a good, clean, and safe condition, and shall on expiration or sooner termination of this Lease surrender the Premises to Lessor in as good condition and repair as they are in on the date of this Lease, reasonable wear and tear and damage by the elements excepted. Lessee shall immediately notify Lessor of any damage to the Premises.

Lessee shall keep, maintain, and clean twelve (12) existing Steel Case workstations, which are leased to the Lessee with the Premises.

11. ADA MODIFICATIONS

Lessor agrees at its sole cost and expense to make changes necessary to bring the subject premises up to the accessibility standards of the Americans with Disabilities Act (ADA).

12. INSPECTION BY LESSOR

Lessee shall permit Lessor or Lessor's agent, representative, or employees to enter the Premises at all reasonable times for the purpose of inspecting the Premises to determine

whether Lessee is complying with the terms of the Lease and for the purpose of doing other lawful acts that may be necessary to protect Lessor's interest in the Premises under this Lease.

13. SERVICES FURNISHED BY LESSOR

Lessor is responsible for the payment of all local, state and federal taxes associated with or attributable to the property subject to this Lease Agreement, the operation of this Lease and the income flowing to Lessor through this Lease agreement. Lessor shall, at Lessor's own cost and expense, maintain the exterior walls, exterior windows, automobile parking areas, exterior lighting, sidewalks, retaining walls, ramps, rough plumbing, rough electrical, heating and air-conditioning, landscaped areas, air-conditioning and heating equipment and ductwork, and roof and structural supports of the building of which the Premises are a part, in good order and repair, excepting any repairs caused by the negligent or willful act of Lessee or Lessee's agents or servants.

Lessor shall replace, at Lessor's sole cost and expense, existing toilets in the women's restroom in phases within eight (8) months of execution of this lease agreement.

14. UTILITIES

(a) Water and sewer suitable for the intended use of the Premises shall be provided and paid by Lessor.

(b) Gas and/or electric utilities shall be obtained and paid by Lessee.

(c) Janitorial services, including the cleaning of windows and replacement of light globes or fluorescent tubes, shall be paid by Lessee.

(d) Garbage removal shall be provided and paid for by Lessor. Lessee shall prohibit the dumping of personal garbage in the receptacles provide by Lessor.

(e) Lessee shall obtain and pay for telephone service.

(f) Snow removal shall be provided for and paid by the Lessor. (if applicable)

15. AIR-CONDITIONING AND HEATING

Lessor has provided, and shall maintain, or cause to be maintained, in the building of which the Premises are a part, an air conditioning and heating system.

16. DESTRUCTION OF PREMISES

Should said Premises, or the building of which they are a part, be damaged or destroyed by any cause not the fault of Lessee, Lessor shall at Lessor's sole cost and expense promptly repair the same and the rent payable under this Lease shall be abated for the time and to the extent Lessee is prevented from occupying the Premises in their entirety; provided, however, that should the cost of repairing the damage or destruction exceed twenty-five (25%) percent of the full replacement cost of the Premises, Lessee may choose, in lieu of Lessor making the repairs required by this paragraph to terminate this Lease by giving Lessor ten (10) days' written notice of such termination.

17. CONDEMNATION OF PREMISES

Should all or any part of the Premises be taken by any public or quasi-public agency or entity under the power of eminent domain during the term of the Lease:

- (a) Either Lessor or Lessee may terminate this Lease by giving the other thirty (30) days' written notice of termination; provided, however, that Lessee cannot terminate this Lease unless the portion of the Premises taken by eminent domain is so extensive as to render the remainder of the Premises useless for the purposes intended by this Lease.
- (b) Any and all damages and compensation awarded or paid because of the taking, except for amounts paid Lessee for moving expenses or for damage to any personal property or trade fixtures owned by Lessee, shall belong to Lessor, and Lessee shall have no claim against Lessor or the entity exercising eminent domain power for the value of the unexpired term of this Lease.
- (c) Should any portion of the building containing the Premises, other than the Premises, be taken by eminent domain, Lessor or Lessee may, at its option, terminate this Lease.

18. ASSIGNMENT OR SUBLEASING

Lessee shall not sub-lease, encumber, assign, or otherwise transfer its rights or interests under this Lease, without the express written consent of the Lessor first had and received, provided said consent by Lessor shall not be unreasonably withheld.

19. ACTS CONSTITUTING BREACHES BY LESSEE

Lessee shall be guilty of a material default and breach of this Lease should:

- (a) Any rent be unpaid when due and remain unpaid for thirty (30) days after written notice to pay such rent or to surrender possession of the Premises has been given to Lessee by Lessor;
- (b) Lessee default in the performance of or breach any provision, covenant, or condition of this Lease other than one for the payment of rent and such default or breach is not cured within thirty (30) days after written notice thereof is given by Lessor to Lessee; or
- (c) Lessee breaches this Lease and abandons the Premises prior to the expiration of the term of this Lease.

20. NON-APPROPRIATION

Lessor acknowledges that Lessee's funding for this Lease is in large part dependent upon receipt of certain state, federal and other funds by Lessee. Lessee may terminate this Lease upon sixty (60) days notice if funds are not budgeted in any fiscal year for the leasehold of these Premises. If the termination for lack of funding provision of this paragraph is utilized by the Lessee, Lessee agrees not to lease other space for the non-funded function for the remainder of the then-current fiscal year.

21. LESSOR'S LIABILITY

In the event of a transfer of Lessor's title or interest to the property during the term of this Lease, Lessee agrees that the grantee of such a transfer will be substituted as Lessor under this Agreement, provided that all deposits are transferred to the grantee. Lessor shall be released from all future liability under this Lease Agreement, but shall not be released from the obligation to indemnify Lessee under paragraph 8 above for acts or omissions occurring prior to the transfer unless so released by Lessee in writing.

22. NOTICES

Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Lease or by law to be served on or given to either party hereto by the other party hereto shall be in writing and shall be deemed duly served and given

when personally delivered to the party, Lessor or Lessee, to whom it is directed or any managing employee of such party or, in lieu of such personal service, when deposited in the United States mail, first-class postage prepaid, addressed to:

Lessor: Briw Office Investors
Attn: Jim Carter
P.O. Box 2211
Placerville, CA 95667

Telephone: (530) 621-0950

Lessee: County Of El Dorado, General Services Department
360 Fair Lane
Placerville, California 95667

Attention: Joanne M. Narloch
Telephone: (530) 621-5846

Either party, Lessor or Lessee, may change its address for purposes of this paragraph by giving written notice of the change to the other party in the manner provided in this paragraph.

23. BINDING ON HEIRS AND SUCCESSORS

This Lease shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the parties, Lessor and Lessee, hereto.

24. TIME OF ESSENCE

Time is expressly declared to be the essence of this Lease.

25. WAIVER

The waiver of any breach of any of the provisions of this Lease by Lessor shall not constitute a continuing waiver or a waiver of any subsequent breach by Lessee either of the same or of another provision of this Lease.

26. SOLE AND ONLY AGREEMENT

This instrument constitutes the sole and only agreement between Lessor and Lessee respecting the Premises and correctly sets forth the obligations of Lessor and Lessee to each other as of its date. Any agreements or representations respecting the Premises or their

leasing by Lessor to Lessee not expressly set forth in this instrument are null and void.

27. HOLD OVER

Any holding over after the expiration of this Lease shall be construed as a month-to-month tenancy at the monthly rental amount then in effect. In the event the Lessor wishes to terminate said month to month tenancy, Lessor shall provide Lessee written notice at least ninety (90) days prior to said termination.

28. SEVERABILITY

If any provision, clause or part of this Lease Agreement, or the application thereof under certain circumstances; is held invalid, the remainder of this Lease Agreement or the application of such provisions, clauses, or parts under other circumstances shall not be affected thereby.

29. CALIFORNIA FORUM AND LAW

Any dispute resolution action arising out of this Lease Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

30. ATTORNEY'S FEES

Should any litigation be commenced between Lessor and Lessee concerning the Premises, this Lease, or the rights and duties of either Lessor or Lessee in relation thereto, the party, Lessor or Lessee, prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for its attorney's fees in the litigation which shall be determined by the court in such litigation or in a separate action brought for that purpose.

31. LEASE ADMINISTRATION

The County officer or employee with responsibility for administering this Lease is Joanne M. Narloch, Director, General Services Department or successor.

DEPARTMENT CONCURRENCE:

Dated: 3/1/07 Signed: Laura Roth

**Laura Roth, Director
Department of Child Support Services**

IN WITNESS WHEREOF, the parties hereto have executed this Lease Agreement the day and year first below written.

LESSOR: BRIW OFFICE INVESTORS

Dated: 2-27-07 Signed: James E. Carter
James E. Carter, Partner

Dated: 02/27/07 Signed: Michael L. Lubinski
Michael L. Lubinski, Partner

LESSEE: COUNTY OF EL DORADO

Dated: 3/27/07 Signed: Helen K. Baumann
HELEN K. BAUMANN, Chairman
Board of Supervisors

**ATTEST:
Cindy Keck, Clerk of the
Board of Supervisors**

By: Cindy Keck
Deputy Clerk

Dated: 3/27/07

