

FIRST AMENDMENT TO AGREEMENT GRANTING LICENSE TO ENTER ON  
ADJOINING PREMISES, DATED DECEMBER 14, 2015

WHEREFORE, the parties wish to amend the Agreement Granting License to Enter on Adjoining Premises made on December 14, 2015 by and between Triangle Industrial Rehab Corp. (“Licensee”) with principal offices at 95 Delancey Street, NYC and John and Carmen Grossman (“Licensor”) owners of 125 Clinton Avenue, Brooklyn, NY (“125 Clinton” or “Licensor’s Premises”) as follows:

- License. Licensee is hereby granted a license to enter upon the premises of Licensor located at 125 Clinton Avenue, Brooklyn, NY to install Overhead Protection on the property of Licensor (“Overhead Work”). Subject to compliance with the terms and conditions set forth herein, Licensor hereby grants a revocable license to Licensee and its contractors, agents and employees (the “Licensee Parties”) to enter upon the portions of Licensor’s premises as described in Exhibit “A,” being limited to the rear and front yards of Licensor’s premises (the “License Areas”) and expressly limited to such areas and for the sole purpose of the Overhead Work. The Overhead Work shall be in the form of a sidewalk bridge installed at locations in the front and rear yards of the premises of Licensor as indicated on Exhibit “A.” Licensee’s obligation under this First Amendment to pay the license fee shall commence on the date that the license term commences as provided in paragraph 2 of this First Amendment.
- License Fee.
- Front yard. The term of the license for the front yard shall be for a six month period, starting from the date as set forth in the Licensee’s notice for access, which will be sent to the Licensors in the manner set forth herein at least 7 days prior to the date of the requested access, but may be extended by the Licensee for up to an additional six months upon showing of good cause, but in no event shall the license term for the front yard extend beyond January 31, 2019. Licensee agrees to work diligently to complete the work within the six month period, but if unable to do so and Licensee shows that it has worked diligently then the period may be extended, but in no event shall the front yard work extend beyond January 31, 2019. The license fee for the initial six months shall be \$1000.00 per month for the front yard, to be paid in the amount of \$6000.00 upon execution of this First Amendment. The license fee for an extension period shall be \$2000.00 per month for the front yard to be prepaid in advance through January 31, 2019 upon the granting of an extension. If Licensee completes all the work in less time then a prorated portion of the extension fee shall be refunded by Licensors to Licensee. The Overhead Protection in the front yard shall be installed within one (1) month of the date of execution of this First Amendment. The term of the license for the

front yard shall end on the last day that the front yard is fully restored as provided in Paragraph 5(d) of this First Amendment and the Overhead Protection is completely removed from the front yard.

- Back yard. The term of the license for the back yard shall be for a two month period, starting from the date as set forth in the Licensee's notice for access, which will be sent to the Licensors in the manner set forth herein at least 7 days prior to the date of the requested access, but may be extended by the Licensee upon showing of good cause, but in no event shall the license term for the back yard extend beyond April 30, 2018. Licensee agrees to work diligently to complete the work within the two month period, but if unable to do so and Licensee shows that it has worked diligently then the license term may be extended, but in no event shall the back yard work extend beyond April 30, 2018. The license fee for the initial two months shall be \$1500.00 per month for the back yard, to be paid in the amount of \$3000.00 upon execution of this First Amendment. The License Fee for an extension period shall be \$3000.00 per month for the back yard, to be prepaid in advance through April 30, 2018 upon the granting of an extension. If Licensee completes all the work in less time, then a prorated portion of the extension fee shall be refunded by Licensors to Licensee. The Overhead Protection in the back yard shall be installed within two (2) weeks of the date of execution of this First Amendment. The license term for the back yard shall end on the last day that the back yard is fully restored as provided in Paragraph 5(d) of this First Amendment and the Overhead Protection is completely removed from the back yard.
- The license fee is in addition and without prejudice to any rights which Lessor may have under applicable law and Section 881 of the Real Property Actions and Proceedings Law.
- If the Overhead Work is completed and actual damages are owed to the Lessor, those amounts will be due in addition to the license fee.
- Plan Review; Oversight. Licensee represents and warrants that the plans attached as Exhibit "A" show the Overhead Work.
  - Lessor, its agents, employees, contractors, consultants and representatives shall have the right to review all plans and specifications for the Overhead Work at the office of Licensee, 95 Delancey Street, 2<sup>nd</sup> Floor, New York, New York 10002, on reasonable prior notice during business hours on business days, as may be necessary to determine, in

Licensor's reasonable opinion, whether any of the Overhead Work could have any adverse effect on the structural integrity of the Licensor's building, including the foundation.

- Licensor, its agents, employees, contractors, consultants and representatives shall have an absolute right, without the imposition of any obligations or responsibilities as a result thereof, to accompany and observe the Licensee Parties during the performance of the Overhead Work, subject to reasonable safety and security precautions imposed by Licensee in the construction space.
- No consent by Licensor, if such consent is required hereunder (and no approval of any plans and specifications or other information submitted in connection with a request for consent) and no oversight by Licensor, its agents, employees, contractors, consultants or other representatives shall constitute an assumption by Licensor, its agents, employees, contractors, consultants or other representatives of any of any liability for the Overhead Work to which the same relates, the accuracy, suitability or soundness of such plans and specifications or other information or their conformity with Applicable Law or a limitation on the rights of Licensor or the obligations of Persons performing such the Overhead Work, and the Licensee shall remain solely responsible therefor.
- Licensee's Warranties, Covenants and Agreements. Licensee warrants, covenants and agrees as follows:
  - Performance of Work. The Overhead Work shall be performed at Licensee's sole cost and expense, in a good, orderly, safe and workmanlike manner in accordance with all Applicable Laws and in such manner as will not violate any warranties in effect with respect to the Licensor's property and will minimize interference with Licensor's use of the property. Licensee and the Licensee Parties shall take commercially reasonable measures to prevent any material damage to the Adjoining Property. Without limiting the generality of the foregoing, (i) all Persons involved in or performing any portion of the Licensee Improvements shall at all times be appropriately supervised, licensed and insured; (ii) Licensee shall ensure that the construction space is secured at all times during the term of this License so there will be no increased risk to Licensor or occupants of Licensor's property of crime or unauthorized entry onto the Licensor's property as a result of Licensee's use thereof; it being understood and agreed by Licensee that all security and safety measures taken by Licensee or its contractors or required by Licensee to be taken by its contractors on and for the Licensee Property shall be taken by Licensee and its contractors with respect to the Licensor's property to the extent such measures are consistent with good practice or required by the Building Code; and (iii) Licensee shall be solely responsible for the appropriate

handling, storage and disposal of all materials generated during the Work, including but not limited to any Hazardous Materials.

- Staging and Equipment. Licensee shall not: (i) stage any equipment or materials needed for the Licensee Improvements in areas of the Licensor's property; (ii) allow its Contractors to leave equipment or materials for the Overhead Work unattended in the Licensor's property or overnight, except in areas expressly authorized in writing by Licensor; or (iii) leave any work areas unsupervised while any work is being performed or unprotected at any other time. Notwithstanding the foregoing, any equipment or materials brought into the Licensor's property by Licensee Parties shall be at their own and sole risk.
- Additional Conditions of Access. Licensee shall not use the Licensor's building to gain access to the construction space.
- Restoration. Upon completion of the term of this First Amendment, the Licensee shall return Licensors' property to its existing original condition and remove any and all materials used by Licensee as well as any resultant debris from the Licensed Area at Licensee's sole expense. Licensee shall be responsible to Licensor for any actual damages, including without limitation any damage to property or interference with the use of Licensors' property which Licensors may suffer as a result of the granting of this license. Licensee will promptly reimburse Licensors for any such damages. It is expressly understood and agreed that Licensor shall incur no cost or expense of any kind or nature, direct or indirect, unexpected or expected, in connection with the license granted hereunder or the work to be performed by Licensee under this First Amendment. Licensee's obligations to remove the Overhead Protection shall survive the termination of this First Amendment. All costs associated with installation, maintenance and removal of Overhead Protection from the License Areas shall be paid by Licensee.
- Insurance. Licensee shall continue to maintain or cause to be maintained, at its sole cost and expense, at all times during the performance of the Overhead Work, the insurance coverage as set forth in this First Amendment. Licensee shall provide evidence of the Licensee Parties' comprehensive general liability insurance with limits amounts as set forth in insurance certificates attached as Exhibit "B," which insurance shall be written with financially responsible carriers. Certificates of Insurance shall be provided naming Licensee certificate holder. In addition, contractor's commercial general liability policy, shall name Licensee additional insured. Said certificates shall be delivered before installation of Overhead Protection at 125 Clinton Avenue. This First Amendment shall not be effective until the policy satisfying the foregoing is delivered to Licensor and approved by Licensor's insurance advisors.

- All damage or injury to the License Areas, caused by or resulting from any negligent acts or omissions of Licensee or the Licensee Parties shall be repaired promptly by Licensee at its sole cost and expense, to the condition existing immediately prior to such injury or damage.
- Termination.
  - This First Amendment grants to Licensee a revocable license to access the Licensor's property and does not constitute the granting of an easement or any other interest in real estate.
  - If any of the following "Events of Default" occur, Licensor shall have the right to terminate this First Amendment upon five (5) business days written notice to Licensee:
    - Licensee fails to cure any monetary default or Insurance Default within ten (10) days after notice to Licensee thereof; or
    - Licensee fails to cure any non-monetary default within ten (10) days after notice thereof; except in connection with a non-monetary default which is not susceptible of cure within said ten-day period (excluding an Insurance Default), in which event the time to cure the same shall be extended for such time as shall be reasonably necessary to cure such default, provided that Licensee shall commence the cure within such ten (10) day period and prosecutes such cure diligently and on a reasonably continuous basis to completion.
  - Licensee acknowledges and agrees that termination of the License granted herein does not relieve it of any of its obligations, covenants, undertakings, and duties hereunder, all of which shall survive such termination, unless expressly provided otherwise herein. Without limiting the generality of the foregoing, Licensee shall be solely responsible for all costs incurred by it in connection with any such termination, including but not limited to termination fees and surcharges Licensee may owe to its contractors, subcontractors, consultants or other third parties.
- Indemnification. Licensee shall indemnify, defend (using counsel reasonably approved by Licensor), and hold harmless the Licensor from and against any and all causes of action, damages, claims, counterclaims, demands, judgments, liens, litigation, liability, penalties, orders, loss of rents, other losses, costs, or expenses (including without limitation reasonable attorneys' fees, expenses and court costs and the costs of prosecuting the within indemnification) (collectively, "Liabilities") which may at any time be asserted against or incurred by the Licensor due to: (a) any acts or omissions of any Licensee Parties in the performance of the Overhead Work; (b) any interference by the Licensee Parties

with the use or enjoyment of the Licensor's property by the Licensor, its tenants or other occupants; (c) Licensee's breach of any of its obligations under this First Amendment; (d) any damage to persons or property, in, on or adjacent to the Licensor's property or otherwise, arising from acts or omissions of the Licensee Parties in connection with the Overhead Work, the License or the access granted herein; (e) the presence of or exposure of persons to any Hazardous Materials attributable to, arising out of or caused by the Licensee; (f) any liability associated with any offsite disposal of any Hazardous Materials relating to or generated by or during the any work; and (g) any liability associated with a violation by a Licensee Party of applicable law in connection with the Licensee Improvements. Licensor shall provide Licensee with prompt written notice of any claim and cooperate, without cost or expense to Licensor, in the defense or settlement of any such claim. Without limiting the generality of the foregoing, Licensee shall be liable to Licensor for all court costs and reasonable attorney's fees and expenses (at all levels of trial and appeal) which Licensor may incur in connection with the enforcement of this First Amendment, except with regard to actions where a final unappealable order of a court having jurisdiction finds Licensee not to be liable. In no event shall Licensee be liable for any Liabilities arising out of or due to the gross negligence or intentional misconduct of a Licensor Party. The indemnification provisions contained herein shall survive the expiration or termination of this First Amendment and the License granted herein.

- Licensee agrees to perform all work in a workmanlike manner by individuals and entities licensed as required and in compliance with any and all statutes, laws, rules and regulations of any governmental authority or agency having jurisdiction, and to avoid any disruption or interference with the occupancy of Licensor's building and the tenants thereof. All work shall be performed between the hours of 9am and 5pm Mondays through Fridays, except that work may be performed at other times when necessary to correct any hazardous conditions, subject to compliance with law. Licensee shall give reasonable advance written notice of all work performed and the parties will act in good faith to schedule all work.
- Any consent or approval of Licensor required under the terms of this First Amendment, including consent for the Overhead Work to begin, must be in writing and will not be valid unless given by a Licensor or Licensor's attorney. Any consent or approval required of Licensor in any provision of this First Amendment may be withheld in Licensor's sole and absolute discretion, unless the provision requiring such consent or approval specifically states that Licensor shall not withhold such consent or approval unreasonably. Licensor shall not withhold its consent of or approval to the commencement of the Overhead Work unreasonably.
- This First Amendment and the Agreement constitutes the entire understanding between the parties regarding the subject matter hereof and shall bind the parties hereto and their respective successors, assigns or other legal representatives. This First Amendment supersedes any prior verbal understanding or written agreement

between the parties relative to the subject matter hereof, and may not be amended, supplemented or discharged except by an instrument in writing signed by both parties.

- Licensee shall not assign this First Amendment without the express prior written consent of Lessor.
- Nothing contained in this First Amendment shall be construed to create an agency, partnership or joint venture arrangement between the parties. The parties' relationship shall at all times be and remain licensor-licensee.
- This First Amendment shall be governed by and construed under and in accordance with the laws of the State of New York, without regard to its conflicts of law provisions. LICENSOR AND LICENSEE HEREBY VOLUNTARILY, KNOWINGLY AND IRREVOCABLY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION BROUGHT UNDER THE AGREEMENT OR THIS FIRST AMENDMENT. In the event that either party shall commence an action to enforce its rights hereunder or to clarify said rights, the party substantially prevailing shall be entitled to recover the costs of such action from the other party, including, without limitation, reasonable legal fees.
- Authorized Representative. Licensee hereby designates Colin Carpenter, 95 Delancey Street, 2nd Floor, New York, NY 10002 (Tel.: 212-254-4374, Cell: 917-337-0919) or such other representative(s) as Licensee may designate by written notice to Lessor (each a "Licensee Representative") who shall be available during on a 24 hour basis, for emergencies or any other issues arising under this First Amendment.
- Notices. All notices of default, demands, requests for or grants of consents or approvals, which any of the parties to this First Amendment may desire or be required to give hereunder shall be in writing and shall be given by (a) personal delivery, (b) facsimile transmission, (c) a nationally recognized courier service, fees prepaid, or (d) electronic mail, provided one of the above listed methods is also utilized, addressed as follows:

If to Lessor:

John and Carmen Grossman  
c/o Vernon & Ginsburg, LLP  
261 Madison Avenue, 26<sup>th</sup> Floor  
New York, New York 10016  
Attention: Darryl M. Vernon  
Facsimile No.: (212) 697-4432  
email: [dvernon@vgllp.com](mailto:dvernon@vgllp.com)

If to Licensee:

Triangle Industrial Rehab Corp  
c/o Colin Carpenter  
95 Delancey Street, 2<sup>nd</sup> Floor  
New York, NY 10002  
Facsimile No.: (212) 353-0564  
email: colinbcarpenter@yahoo.com

- This First Amendment may be executed in two or more counterparts, each of which, when taken together, shall constitute one and the same instrument. Electronically transmitted signatures shall be deemed binding and effective.
- Licensor's Professional Fees. Licensee shall pay Licensors \$3,500.00 for Licensors' professional fees (including legal and engineers) incurred in the preparation of this agreement, which shall be due simultaneously with the execution of this First Amendment.
- Licensee shall cause to be installed a sign on the parapet of the bridge located on the sidewalk fronting 125 Clinton Avenue. The text of this sign shall be "125 Clinton Avenue" (or other text as the Licensor shall direct).
- Licensee shall provide lien waivers in respect of the work performed at 125 Clinton Avenue.

IN WITNESS WHEREOF, the parties hereto have executed this 1<sup>st</sup> Amendment as of the date first written above.

**Triangle Industrial Rehab Corp.**

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By: Baruch Singer, President

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**John Grossman**

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**Carmen Grossman**