

9/99

→ please provide date.

STANDARD FORM OF LOFT LEASE
The Real Estate Board of New York, Inc.

Agreement of Lease, made as of this _____ day of _____ in the year 2008, between
Claude Simon, Landlord/Proprietary Lessee, 160 Madison Avenue, New York, New York
party of the first part, hereinafter referred to as OWNER, and TRIPOLOGY, Inc., a Delaware corporation
party of the second part, hereinafter referred to as TENANT,

Witnesseth: Owner hereby leases to Tenant and Tenant hereby hires from Owner Entire Sixth (6th) Floor

in the building known as 160 Madison Avenue
in the Borough of Manhattan, City of New York, for the term of Two (2) years and three (3) months

(or until such term shall sooner cease and expire as hereinafter provided) to commence on the _____ day of _____ in the year 2008, and to end on the _____ day of _____ in the year 2010, and
both dates inclusive, at an monthly rental rate of \$8,125 for the first year and \$8,450 for the second plus a 3 month security of \$25,350. ⇒ please provide date.

which Tenant agrees to pay in lawful money of the United States which shall be legal tender in payment of all debts and dues, public and private, at the time of payment, in equal monthly installments in advance on the first day of each month during said term, at the office of Owner or such other place as Owner may designate, without any setoff or deduction whatsoever, except that Tenant shall pay the first monthly installment(s) on the execution hereof (unless this lease be a renewal).

In the event that, at the commencement of the term of this lease, or thereafter, Tenant shall be in default in the payment of rent to Owner pursuant to the terms of another lease with Owner or with Owner's predecessor in interest, Owner may at Owner's option and without notice to Tenant add the amount of such arrears to any monthly installment of rent payable hereunder, and the same shall be payable to Owner as additional rent.

The parties hereto, for themselves, their heirs, distributees, executors, administrators, legal representatives, successors and assigns, hereby covenant as follows:

- Rent:** 1. Tenant shall pay the rent as above and as hereinafter provided.
Occupancy: 2. Tenant shall use and occupy the demised premises for office space

provided such use is in accordance with the certificate of occupancy for the building, if any, and for no other purpose.

Alterations: 3. Tenant shall make no changes in or to the demised premises of any nature without Owner's prior written consent.¹ Subject to the prior written consent of Owner, and to the provisions of this article, Tenant, at Tenant's expense, may make alterations, installations, additions or improvements which are non-structural and which do not affect utility services or plumbing and electrical lines, in or to the interior of the demised premises, using contractors or mechanics first approved in each instance by Owner. Tenant shall, at its expense, before making any alterations, additions, installations or improvements obtain all permits, approvals and certificates required by any governmental or quasi-governmental bodies and (upon completion) certificates of final approval thereof, and shall deliver promptly duplicates of all such permits, approvals and certificates to Owner. Tenant agrees to carry, and will cause Tenant's contractors and sub-contractors to carry, such worker's compensation, general liability, personal and property damage insurance as Owner may reasonably require. If any mechanic's lien is filed against the demised premises, or the building of which the same forms a part, for work claimed to have been done for, or materials furnished to, Tenant, whether or not done pursuant to this article, the same shall be discharged by Tenant within forty-five (45) days thereafter, at Tenant's expense, by payment or filing a bond as permitted by law. All fixtures and all paneling, partitions, railings and like installations, installed in the demised premises at any time, either by Tenant or by Owner on Tenant's behalf,^{1,1} become the property of Owner and shall remain upon and be surrendered with the demised premises ~~upon the expiration of the term of this lease~~ (20) days prior to the date fixed as the termination of this lease, elects to relinquish Owner's right thereto and to have them removed by Tenant, in which event the same shall be removed from the demised premises by Tenant ~~upon the expiration of the term of this lease~~. Nothing in this article shall be construed to give Owner title to, or to prevent Tenant's removal of, trade fixtures, moveable office furniture and equipment, but upon removal of same from the demised premises, ~~upon the expiration of the term of this lease~~ Tenant shall immediately, and at its expense, repair and restore the demised premises to the condition existing prior to any such installations, and repair any damage to the demised premises or the building due to such removal.² All property permitted or required to be removed by Tenant at the end of the term remaining in the demised premises after Tenant's removal shall be deemed abandoned and may, at the election of Owner, either be retained as Owner's property or removed from the demised premises by Owner, at Tenant's expense.

Repairs: 4. Owner shall maintain and repair the exterior of and the public portions of the building. Tenant shall, throughout the term of this lease, take good care of the demised premises including the bathrooms and lavatory facilities (if the demised premises encompass the entire floor of the building), the windows and window frames, and the fixtures and appurtenances therein, and at Tenant's sole cost and expense promptly make all repairs thereto and to the building, whether structural or non-structural in nature, caused by, or resulting from, the carelessness, omission, neglect or improper conduct of Tenant, Tenant's servants, employees, invitees, or licensees, and whether or not arising from Tenant's conduct or omission, when required by other provisions of this lease, including Article 6. Tenant shall also repair all damage to the building and the demised premises caused by the moving of Tenant's fixtures, furniture or equipment. All the aforesaid repairs shall be of quality or class equal to the original work or construction. If Tenant fails, after ten (10) days notice, to proceed with due diligence to make repairs required to be made by Tenant, the same may be made by Owner at the expense of Tenant, and the expenses

thereof incurred by Owner shall be collectible, as additional rent, after rendition of a bill or statement therefor.² If the demised premises be or become infested with vermin, Tenant shall, at its expense, cause the same to be exterminated. Tenant shall give Owner prompt notice of any defective condition in any plumbing, heating system or electrical lines located in the demised premises and following such notice, Owner shall remedy the condition with due diligence, but at the expense of Tenant, if repairs are necessitated by damage or injury attributable to Tenant, Tenant's servants, agents, employees, invitees or licensees as aforesaid. Except as specifically provided in Article 9 or elsewhere in this lease, there shall be no allowance to Tenant for a diminution of rental value and no liability on the part of Owner by reason of inconvenience, annoyance or injury to business arising from Owner, Tenant or others making or failing to make any repairs, alterations, additions or improvements in or to any portion of the building or the demised premises, or in and to the fixtures, appurtenances or equipment thereof. It is specifically agreed that Tenant shall not be entitled to any setoff or reduction of rent by reason of any failure of Owner to comply with the covenants of this or any other article of this lease. Tenant agrees that Tenant's sole remedy at law in such instance will be by way of an action for damages for breach of contract.³ The provisions of this Article 4 with respect to the making of repairs shall not apply in the case of fire or other casualty with regard to which Article 9 hereof shall apply.

Window Cleaning: 5. Tenant will not clean nor require, permit, suffer or allow any window in the demised premises to be cleaned from the outside in violation of Section 202 of the New York State Labor Law or any other applicable law, or of the Rules of the Board of Standards and Appeals, or of any other Board or body having or asserting jurisdiction.

Requirements of Law, Fire Insurance, Floor Loads: 6. Prior to the commencement of the lease term, if Tenant is then in possession, and at all times thereafter, Tenant shall, at Tenant's sole cost and expense, promptly comply with all present and future laws, orders and regulations of all state, federal, municipal and local governments, departments, commissions and boards and any direction of any public officer pursuant to law, and all orders, rules and regulations of the New York Board of Fire Underwriters, Insurance Services Office, or any similar body which shall impose any violation, order or duty upon Owner or Tenant with respect to the demised premises, whether or not arising out of Tenant's use or manner of use thereof, or, with respect to the building, if arising out of Tenant's use or manner of use of the demised premises of the building (including the use permitted under the lease). Except as provided in Article 30 hereof, nothing herein shall require Tenant to make structural repairs or alterations unless Tenant has, by its manner of use of the demised premises or method of operation therein, violated any such laws, ordinances, orders, rules, regulations or requirements with respect thereto. Tenant shall not do or permit any act or thing to be done in or to the demised premises which is contrary to law, or which will invalidate or be in conflict with public liability, fire or other policies of insurance at any time carried by or for the benefit of Owner. Tenant shall not keep anything in the demised premises except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction, and then only in such manner and such quantity so as not to increase the rate for fire insurance applicable to the building, nor use the demised premises in a manner which will increase the insurance rate for the building or any

Footnotes

1. Such notice will not be unreasonably withheld.
- 1.1 shall be removed by Tenant prior to the expiration of the term (and any damage created thereby shall be repaired by Tenant) or, at Tenant's option, shall
- 1.2 reasonable wear and tear excepted.
2. Notwithstanding anything to the contrary contained herein, Tenant shall not be required to (a) to make any repairs (whether structural or non-structural) to the extent the same are necessitated by the act, omission or negligence of Owner, or its agents or employees; (b) make any structural repairs unless necessitated by any action of the tenant or otherwise required under this lease; (c) make any sprinkler installations, repairs or modifications unless required or necessitated by any action by Tenant; (d) comply with any requirements of law or of the Board of Fire Underwriters which pertain to structural repairs unless necessitated by any action of the tenant or otherwise required under this lease; or (e) comply with the provisions of the Americans with Disabilities Act (or like New York State or New York City equivalent).
3. Notwithstanding the foregoing, Owner agrees that, in making such repairs, alterations, additions or improvements, Owner shall use all reasonable efforts to minimize interference with Tenant's use and occupancy of the demised premises and its access thereto. Owner further agrees to perform all such repairs, alterations, additions or improvements in a good and workmanlike manner with due diligence.

\$25,350.00


done
pmt

Security: 32. Tenant has deposited with Owner the sum of \$ _____ as security for the faithful performance and observance by Tenant of the terms, provisions and conditions of this lease. It is agreed that in the event Tenant defaults in respect of any of the terms, provisions and conditions of this lease, including, but not limited to, the payment of rent and additional rent, Owner may use, apply or retain the whole or any part of the security so deposited to the extent required for the payment of any rent and additional rent, or any other sum as to which Tenant is in default, or for any sum which Owner may expend, or may be required to expend, by reason of Tenant's default in respect of any of the terms, provisions and conditions of this lease, including but not limited to, any damages or deficiency in the re-letting of the demised premises, whether such damages or deficiency accrued before or after summary proceedings or other re-entry by Owner. In the event that Tenant shall fully and faithfully comply with all of the terms, provisions, covenants and conditions of this lease, the security shall be returned to Tenant after the date fixed as the end of the lease, and after delivery of entire possession of the demised premises to Owner. In the event of a sale of the land and building or leasing of the building, of which the demised premises form a part, Owner shall have the right to transfer the security to the vendee or lessee, and Owner shall thereupon be released by Tenant from all liability for the return of such security; and Tenant agrees to look to the new Owner solely for the return of said security, and it is agreed that the provisions hereof shall apply to every transfer or assignment made of the security to a new Owner. Tenant further covenants that it will not assign or encumber, or attempt to assign or encumber, the monies deposited herein as security, and that neither Owner nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance.

Captions: 33. The Captions are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this lease nor the intent of any provision thereof.

Definitions: 34. The term "Owner" as used in this lease means only the owner of the fee or of the leasehold of the building, or the mortgagee in possession for the time being, of the land and building (or the owner of a lease of the building or of the land and building) of which the demised premises form a part, so that in the event of any sale or sales of said land and building or of said lease, or in the event of a lease of said building, or of the land and building, the said Owner shall be and hereby is entirely freed and relieved of all covenants and obligations of Owner hereunder, and it shall be deemed and construed without further agreement between the parties or their successors in interest, or between the parties and the purchaser, at any such sale, or the said lessee of the building, or of the land and building, that the purchaser or the lessee of the building has assumed and agreed to carry out any and all covenants and obligations of Owner hereunder. The words "re-enter" and "re-entry" as used in this lease are not restricted to their technical legal meaning. The term "rent" includes the annual rental rate whether so expressed or expressed in monthly installments, and "additional rent." "Additional rent" means all sums which shall be due to Owner from Tenant under this lease, in addition to the annual rental rate. The term "business days" as used in this lease, shall exclude Saturdays, Sundays and all days observed by the State or Federal Government as legal holidays, and those designated as holidays by the applicable building service union employees service contract, or by the applicable Operating Engineers contract with respect to HVAC service. Wherever it is expressly provided in this lease that consent shall not be unreasonably withheld, such consent shall not be unreasonably delayed.

Adjacent Excavation-Shoring: 35. If an excavation shall be made upon land adjacent to the demised premises, or shall be authorized to be made, Tenant shall afford to the person causing or authorized to cause such excavation, a license to enter upon the demised premises for the purpose of doing such work as said person shall deem necessary to preserve the wall or the building, of which demised premises form a part, from injury or damage,

 Space to be filled in or deleted.


Footnotes
12. provided such Owner assumes in writing the obligation to return said security to Tenant;

In Witness Whereof, Owner and Tenant have respectively signed and sealed this lease as of the day and year first above written.

Witness for Owner:

.....
CLAUDE SIMON, Landlord/Proprietary Lessee
..... [L.S]

Witness for Tenant

.....
TRIPOLY, COM. LLC INC.
by:
..... 

ACKNOWLEDGEMENT

STATE OF NEW YORK,
SS.:
COUNTY OF

On the _____ day of _____ in the year _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

NOTARY PUBLIC

and to support the same by proper foundations, without any claim damages or indemnity against Owner, or diminution or abatement of r

Rules and Regulations: 36. Tenant and Tenant's servants, employ agents, visitors, and licensees shall observe faithfully, and comply strictly with, the Rules and Regulations annexed hereto and such other and further reasonable Rules and Regulations as Owner or Owner's agents may from time to time adopt. Notice of any additional Rules or Regulations shall be given in such manner as Owner may elect. In case Tenant disputes the reasonableness of any additional Rules or Regulations hereafter made or adopted by Owner or Owner's agents, the parties hereto agree to submit the question of the reasonableness of such Rules or Regulations for decision to the New York office of the American Arbitration Association, whose determination shall be final and conclusive upon the parties hereto. The right to dispute the reasonableness of any additional Rules or Regulations upon Tenant's part shall be deemed waived unless the same shall be asserted by service of a notice, in writing, upon Owner, within fifteen (15) days after the giving of notice thereof. Nothing in this lease contained shall be construed to impose upon Owner any duty or obligation to enforce the Rules and Regulations or terms, covenants or conditions in any other lease, as against any other tenant, and Owner shall not be liable to Tenant for violation of the same by any other tenant, its servants, employees, agents, visitors or licensees.

Glass: 37. Owner shall replace, at the expense of Tenant, any and all plate and other glass damaged or broken from any cause whatsoever in and about the demised premises. Owner may insure, and keep insured, at Tenant's expense, all plate and other glass in the demised premises for and in the name of Owner. Bills for the premiums therefor shall be rendered by Owner to Tenant at such times as Owner may elect, and shall be due from, and payable by, Tenant when rendered, and the amount thereof shall be deemed to be, and be paid as, additional rent.

Estoppel Certificate: 38. Tenant, at any time, and from time to time, upon at least ten (10) days prior notice by Owner, shall execute, acknowledge and deliver to Owner, and/or to any other person, firm or corporation specified by Owner, a statement certifying that this lease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified and stating the modifications), stating the dates to which the rent and additional rent have been paid, and stating whether or not there exists any default by Owner under this lease, and, if so, specifying each such default.

Directory Board Listing: 39. If, at the request of, and as accommodation to, Tenant, Owner shall place upon the directory board in the lobby of the building, one or more names of persons or entities other than Tenant, such directory board listing shall not be construed as the consent by Owner to an assignment or subletting by Tenant to such persons or entities.

Successors and Assigns: 40. The covenants, conditions and agreements contained in this lease shall bind and inure to the benefit of Owner and Tenant and their respective heirs, distributees, executors, administrators, successors, and except as otherwise provided in this lease, their assigns. Tenant shall look only to Owner's estate and interest in the land and building for the satisfaction of Tenant's remedies for the collection of a judgement (or other judicial process) against Owner in the event of any default by Owner hereunder, and no other property or assets of such Owner (or any partner, member, officer or director thereof, disclosed or undisclosed), shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies under, or with respect to, this lease, the relationship of Owner and Tenant hereunder, or Tenant's use and occupancy of the demised premises.

42. Owner's consent to any proposed sublease or assignment of this sublease shall not be unreasonably withheld nor delayed. However, anything to the contrary notwithstanding, the tenant must supply the landlord with at least sixty (60) days notice in advance of the proposed commencement date of the sublease or assignment of the nature of the transaction and include all information and documentation reasonably requested by the landlord including without limitation the sublease or assignment and all agreements between the parties, financial information for all parties, and any other documentation reasonably requested. In the event of a request to either sublease or assign, landlord will have the option to instead cancel this lease on the commencement date of the proposed sublease or assignment. Any payments made to the tenant under any sublease or assignment in excess of the rent due under this lease shall be paid to the landlord whether such payments are in the form of rent, initial payments, payments made for the right to sublease or assign, or any payments made to the tenant. [Notwithstanding the foregoing, however, neither an assignment or sublease of the demised premises to a transferee which is (i) the resulting entity of a merger or consolidation of Tenant with another entity, (ii) an entity which is controlled by, controls, or is under common control with, Tenant, or (iii) the transferee of all or substantially all of Tenant's assets shall not be deemed an assignment requiring the prior consent of the Owner.]

43. So long as Tenant pays all of the rent and additional rent due under this sublease and performs all of Tenant's other obligations hereunder, Owner shall not disturb or terminate tenant's Subleasehold estate hereunder, subject, however, to the terms, provisions and obligations of this sublease and the Proprietary Lease.

44. The Owner hereby expressly covenants, represents and warrants that (i) he will not seek to modify the Certificate of Occupancy in any way that would curtail or interfere with the ~~Permitted Use~~; (ii) that the HVAC, electrical, air-conditioning and plumbing will be in working order at the time of delivery of possession to Tenant; (iii) that Owner has the full right, power and authority to enter into this Lease; (iv) that the prior written consent of 160 Madison Avenue Owners Corp. and 160 Madison Avenue Owners Company are not required for Tenant to occupy the demised premises; and (v) that the demised premises, to the best of owner's knowledge, is in full compliance with all local laws of the City of New York. The Owner makes these covenants, warranties and representations knowing that the Tenant is entering into this sublease in reliance thereon and that such covenants, warranties and representations are the essence of this sublease.

use of
the
demised
premises
as
an office.

CLAUDE SIMON, Landlord & Proprietary Lessee

Dated: _____, 2008

Tripology, Inc.

By: _____
~~TRIPOLGY.COM, LLC~~
by: ~~_____~~ Inc.

on the part of owner by reason of inconvenience, annoyance or injury to business arising from the making of any repairs, alterations, additions or improvements in or to any portion of the building or the demised premises or in or to fixtures, appurtenances or equipment thereof. Owner shall exercise reasonable diligence so as to minimize any interference with tenant's business operations, but shall not be required to perform the same on an overtime or premium pay basis. If, however, Tenant ~~is~~ can not operate its business for three (3) consecutive business days, the rent and additional rent shall be abated on a per diem basis for each full or partial day of such interruption.

Notwithstanding
the foregoing,
please
delete.

23. Tenant shall, at its own cost and expenses, obtain in advance and thereafter maintain in good standing and in its own name, any and all licenses, permits and approvals that may be required for it to use the demised premises in accordance with the terms of this lease, if any.

24. If an to the extent that any of the provisions of this rider conflict or are otherwise inconsistent with any of the preceding printed provisions of this lease, or of the rules and regulations attached to this lease, whether or not such inconsistency is expressly noted in this rider, the provisions of this rider shall prevail.

25. Tenant covenants, warrants and represents to owner that there was no broker instrumental in consummating this lease, and no conversations, or negotiations were had with any ~~broker concerning the renting of the demised premises, other than Kaufman Organization and Williams & Wilson Group.~~ Tenant shall indemnify, defend, hold and save owner harmless against any and all liability from any claims of any broker in connection with the renting of the demised premises (including, without limitation, the cost of reasonable counsel fees in connection with the defense of any such brokerage fee claims). Owner covenants, warrants and represents to tenant that no broker other than ~~Kaufman Organization and Williams & Wilson Group~~ was instrumental in consummating this lease, and no conversations or negotiations were had with any other broker concerning the renting of the premises. Owner will be responsible for payment of any brokerage fees due to ~~Kaufman Organization and Williams & Wilson Group~~ in connection with this lease and will indemnify, defend and hold harmless tenant from any other claims of any broker in connection with the renting of the demised premises (including, without limitation, the cost of counsel fees in connection with the defense of any such brokerage fee claims).

(the "Brokers")
other than
the
Brokers

were
the
Brokers.

26. If tenant holds over in possession after the expiration or sooner termination of the original term, or any extended term (if applicable), such holding over shall not be deemed to extend the term or renew the lease, but such holding over shall continue upon the covenants and conditions herein set forth except that the charges for use and occupancy of such holding over for each calendar month or part thereof shall be two (2) times the rent and additional rent then due under the lease.

27. This lease is presented to the tenant for signature by owner's designee solely in said designee's capacity as representative of owner and is hereby made expressly subject to the owner's acceptance and approval by execution by owner and delivery to tenant. This lease is not to be construed as an offer to lease and shall not in any way bind the owner or its designee until such time as the owner has executed and delivered the lease as aforementioned.

28. The parties acknowledge and agree that this agreement is a sublease of the demised premises subject to the terms of the proprietary lease between 160 Madison Avenue Owners Corporation, as lessor and Claude Simon as lessee, the terms of which lease are incorporated herein