

Lessee agrees to comply with the clearance regulations set forth on attached Exhibit "A," and, where greater clearances are required by statute or lawful order, Lessee shall provide such greater clearances. A minimum overhead clearance of twenty-five (25) feet above tops of rails shall be provided for wires above said track and for a horizontal distance of at least eight (8) feet six (6) inches from the centerline thereof. All doors, windows or gates of any building or enclosure shall be of the sliding type or shall, when opened, by swinging away from the track when such building or enclosure is so located that said doors, windows or gates if opened toward the track would, when opened, be at clearances in violation of the clearances specified on said Exhibit "A." No pipe, conduit, structure, opening or excavation of any kind whatsoever shall be made or placed by Lessee beneath any track and no gate or other obstruction shall be constructed or maintained across said track without prior written approval from Railroad. No gunpowder, dynamite, gasoline, or other explosive material shall be piled or stored by Lessee upon the leased premises within one hundred (100) feet from nearest track.

The terms of this Section 6 shall not be deemed waived by either party except by written agreement.

7. In the event Lessee shall not promptly correct any default by Lessee hereunder after receipt of notice of such default from Railroad, Railroad shall have the right to terminate this lease forthwith and to retake possession of the leased premises. Waiver of any default shall not be construed as a waiver of a subsequent or continuing default. Termination of this lease shall not affect any liability by reason of any act, default or occurrence prior to such termination.

8. ~~When the lease is terminated, the Lessee shall remove all buildings, structures and all personal property owned by Lessee, prior to the expiration or termination of this lease, said buildings, structures and personal property shall thereupon, at the option of Railroad, become the sole property of Railroad, or if Railroad so elects it may remove from the leased premises any buildings, structures and other personal property owned by Lessee, and Railroad may also restore the leased premises to substantially the condition in which they existed at the time Lessee took possession, all at the expense of Lessee, which expense Lessee agrees to pay Railroad upon demand. In the event of such failure or refusal of Lessee to surrender possession of said leased premises, Railroad shall have the right to re-enter upon said leased premises and remove Lessee, or any person, firm or corporation claiming by, through or under Lessee, therefrom.~~

9. Upon the expiration or termination of this lease, or any extension or renewal thereof, Lessee, without further notice, shall deliver up to Railroad the possession of the leased premises. Lessee, if not in default hereunder, shall be entitled, at any time prior to such expiration or termination, to remove from the leased premises any buildings or structures wholly owned by Lessee. ~~Lessee shall remove all buildings, structures and other personal property owned by Lessee, prior to the expiration or termination of this lease, said buildings, structures and personal property shall thereupon, at the option of Railroad, become the sole property of Railroad, or if Railroad so elects it may remove from the leased premises any buildings, structures and other personal property owned by Lessee, and Railroad may also restore the leased premises to substantially the condition in which they existed at the time Lessee took possession, all at the expense of Lessee, which expense Lessee agrees to pay Railroad upon demand. In the event of such failure or refusal of Lessee to surrender possession of said leased premises, Railroad shall have the right to re-enter upon said leased premises and remove Lessee, or any person, firm or corporation claiming by, through or under Lessee, therefrom.~~

10. Lessee shall not construct, reconstruct or alter structures of any character upon the leased premises without the prior written consent of Railroad. Lessee shall not commence any repairs (except emergency repairs) until fifteen (15) days after written notice to Railroad.

11. Lessee will fully pay for all materials joined or affixed to the leased premises, and pay in full all persons who perform labor upon the leased premises and will not suffer any mechanics' or materialmen's liens of any kind to be enforced against the leased premises for any work done, or materials furnished, at the Lessee's instance or request. If any such liens are filed thereon, Lessee agrees to remove the same at Lessee's own cost and expense and to pay any judgment which may be entered thereon or thereunder. Should the Lessee fail, neglect or refuse so to do, Railroad shall have the right to pay any amount required to release any such lien or liens, or to defend any action brought thereon, and to pay any judgment entered therein, and the Lessee shall be liable to the Railroad for all costs, damages, and reasonable attorney fees, and any amounts expended in defending any proceedings, or in the payment of any of said liens or any judgment obtained therefor. Railroad may post and maintain upon the leased premises notices of non-responsibility as provided by law.

12. In case the leased premises or any part thereof are in either the State of Arizona or Utah, Lessee will give Railroad and the lessor of Railroad, before allowing any construction, alteration or repair to be done upon the leased premises, a bond satisfactory in form and to be issued by some surety company to be approved by the Railroad in a sum equal to the full contract price of such construction, alteration or repair, conditioned that the Lessee shall pay or cause to be paid all contractors, sub-contractors, laborers, operatives and other persons who may labor or furnish labor, materials or tools in the performance of such construction, alteration or repair.

13. With respect to any liability for loss, damage, injury or death arising from or incident to the use of the leased premises, each party agrees that it will assume and indemnify and hold harmless the other party against all liability, cost and expense caused by its actions or omissions (or the actions or omissions of its agents, contractors, employees or invitees) or by defective property in its possession, care, custody or control. In the event of any combination of such factors involving both parties, each shall assume and will indemnify and hold harmless the other party against all liability, cost and expense for loss of or damage to property in its possession, care, custody or control, and for injury or death of its agents, contractors, employees or invitees, and any liability to third parties shall be equally divided between the parties hereto. For the purpose of this Section 13, any violation by Lessee of the provisions of Section 6 hereof shall be deemed the sole cause of any loss, damage, injury or death arising therefrom. The provisions of this Section 13 are solely for the benefit of the parties hereto and shall not give rise to a claim or cause of action by or affect the liability of any other person.

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20. Railroad shall also have the right to terminate this lease by written notice and to take exclusive possession of the premises in the event:

- (a) Lessee shall be adjudged a bankrupt.
- (b) Lessee becomes insolvent.
- (c) Any action or proceeding for debtor relief of Lessee be commenced by Lessee.
- (d) Lessee seeks general debtor relief by extra-judicial means.

Receipt of rent or other payments from any person for use of the leased premises shall not constitute a waiver of Railroad's right to terminate as above set forth. If there are two or more Lessees hereunder, or if Lessee is a partnership, Railroad's right to terminate shall arise in the event any one of the Lessees or partners is adjudged a bankrupt, becomes insolvent, seeks general debtor relief or commences or becomes subject to any of the proceedings set forth above.

21. In the event any essential portion of the improvements on the leased premises is so damaged by fire or other casualty as not to be restorable within ninety (90) days, either party may terminate this lease by written notice. If the improvements can be restored within ninety (90) days, Lessee shall promptly make such restoration at Lessee's own expense, failing in which Railroad may forthwith terminate this lease by written notice.

22. In the event all or any portion of the leased premises shall be condemned for public use, Lessee shall receive compensation only for the taking and damaging of Lessee's improvements. Any compensation or damages for taking said premises or Lessee's leasehold interest therein awarded to Lessee shall be assigned to Railroad.

23. It is agreed that in the event assessments for public improvements are made against the said leased premises, the rental in effect at such time shall be increased by six per cent (6%) per annum of the proportion of such assessments applicable to the said premises.