

**LEASE OF PREMISES AT 2141 BROADWAY, OAKLAND, CA**

**BASIC LEASE INFORMATION**

EFFECTIVE DATE: November 9, 2012

LANDLORD: LAURIE COOPERMAN ROSEN, GEORGE ROSEN, ET AL.

TENANT: Matthew Senate and Eddan Katz, dba the Sudo Rooml

BUILDING: 2141 Broadway, Oakland, California

PREMISES: An exclusive right to the office known as the "Art Room" as well as common area usage of the large interior space within the 2141 Broadway large suite, with the route of ingress and egress through the doorway at 2141 Broadway, and the rear route of ingress/access (out to 22<sup>nd</sup> Street) in case of emergency or if needed to assist a handicapped patient or visitor. plus use of common area bathrooms located at the rear of the building.

TERM COMMENCEMENT: November 9, 2012

INITIAL TERM EXPIRATION: Month to month

OPTIONS: None

EXTENDED TERM EXPIRATION: N/A

RENT: Base Rent: \$1,500.00 per month, industrial gross. Utilities, CAM and Janitorial to be billed monthly or as necessary by Landlord. CAM rate is 6% (.06) by space for purposes of calculating utilities due each month. However, Landlord will commence charging utilities at 4% and will monitor usage, reserving the right to increase the rate to no more than 6% based on observed usage. No rent will be charged for the remaining month of November, 2012, but utilities will accrue at move-in date. Total move-in will be \$3,000 Security deposit . December rent of \$1,500 will be due at the beginning of December, 2012. Utilities are billed in arrears.

Increases: None during the first year. If tenancy goes beyond one year the Rent will be increased by 3% or the Bay Area CPI, whichever is higher.

SECURITY DEPOSIT: \$3,000.00

TENANT'S ADDRESS: Eddan Katz  
49 Moss Ave.  
Oakland, CA 94610  
[eddan@eddan.com](mailto:eddan@eddan.com)  
tel (415)728-5800

Matthew Senate  
  
  
[mattsenate@gmail.com](mailto:mattsenate@gmail.com)  
(818)599-0567

LANDLORD'S ADDRESS: George Rosen and Laurie Cooperman Rosen  
2145 Broadway, Box B  
Oakland, CA 94612  
Phone: (510) 635-9500  
Cell: (510) 504-4259  
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[Lscoop@comcast.net](mailto:Lscoop@comcast.net)

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**BASIC LEASE INFORMATION**

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**BASIC LEASE INFORMATION**

## **LEASE OF PREMISES AT 2141 BROADWAY, OAKLAND, CA**

THIS LEASE is made and entered into as of the Effective Date, by and between GEORGE ROSEN and LAURIE COOPERMAN ("Landlord"), and Matthew Senate and Eddan Katz dba the Sudo Room ("Tenant").

.1 **Premises.** Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord on a month-to-month basis at the rental and upon the conditions set forth below, the Premises described in the Basic Lease, which is located along the 22<sup>nd</sup> St. corridor closest to Broadway within the space at 2141 Broadway, Oakland, California, and includes use of ingress and egress on and through the 2141 Broadway entrance of the building and restrooms at the rear of the building. If for any reason due to property improvements ingress and egress through the 2141 door is temporarily blocked, ingress and egress will be provided through 22<sup>nd</sup> St. entrance at the side of the building. Other than as expressly set forth in this Lease, Tenant shall accept the Premises in its "as-is" condition at the commencement of the term. There are no implied warranties of merchantability, habitability, fitness for a particular purpose or otherwise with respect to the Premises.

.2 **Definitions.** The terms defined in this Section 2 shall for all purposes of this Lease and all agreements supplemental hereto have the following meanings:

.2.1. "Alterations" shall mean any alterations, additions, modifications, renovations or other improvements (including fixtures, furniture and equipment) to the Premises.

.2.2. "Anniversary Date" shall mean that calendar date that falls in each successive year exactly one year after the Commencement Date.

.2.3. "Building" shall mean the building that houses the Premises, which is located at 2141 Broadway, Oakland, California.

.2.4. "Commencement Date" shall mean the date upon which Landlord and Tenant close an escrow for the sale of building from Tenant to Landlord.

.2.5. "Default Interest Rate" shall mean the lesser of ten percent (10%) per annum or the highest rate of interest allowed by law.

.2.6. "Laws" shall mean any judicial decision and any statute, constitution, ordinance, resolution, regulation, code, rule, order or other requirements of any municipal, county, state, federal, or other governmental branch, agency or authority, in effect either as of the Effective Date or at any time during the Term, including any regulation, order, or policy of any quasi-governmental or quasi-official entity or body (e.g., a board of fire examiners or a public utility or special district).

.2.7. "Lease Year" shall mean the calendar year commencing on November 1 of the year in which the Term Commencement Date occurs, and ending on the subsequent April 30, and all ensuing calendar years. "Plans" shall mean all plans, drawings, specifications and other documents and materials pertaining to any Alterations.

.2.8. "Representative" shall mean any agent, employee, representative, consultant, contractor or subcontractor of either Tenant or Landlord. "Taxes" shall mean (i) all real property taxes and assessments (and all other taxes which may be levied in lieu of real estate taxes or assessments), improvement and other bonds, fees, commercial and gross rental taxes, and any other governmental charges or levies, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind and nature, which are assessed, levied, confirmed, imposed or become a lien upon the Building (or any portion thereof or interest therein); (ii) the costs to Landlord of contesting the amount, validity or applicability of any Taxes; and (iii) any tax imposed in substitution, partially or totally, for any tax previously included within the definition of Taxes herein, or any additional tax, the nature of which may or may not have been previously included within the definition of Taxes. Taxes shall not include the taxes and charges payable by Tenant under Section 5.2 of this Lease.

### **.3 Term.**

.3.1. Initial Term. The term of this Lease shall commence and, unless sooner terminated as hereinafter provided, shall end on the dates respectively specified in the Basic Lease Information.

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.3.2.Option. Landlord has the option to move tenant to a comparable space with 1 week's notice at any time. Tenant may either accept such offer or end the lease at his discretion.

.3.3.Taxes. Although Landlord is fully responsible for Real Property Taxes and Owner's Insurance during the first lease year (commencing with date of occupancy in 2012), Tenant shall be responsible for all increases in Personal Property Taxes and Business/Liability/Property Insurance over the base year as noted above in this lease. If office is to be used for meeting and working with customers on-site, Liability Insurance will be required.

#### **.4 Rent**

.4.1.Rent Payments. Tenant covenants and agrees to pay to Landlord when due, without notice or demand, during the Term, as Rent, the sums as specified below, on the first (1st) day of each month during the Term beginning on the Rent Commencement Date. All payments of Rent and other payments required to be made to Landlord under this Lease shall be in lawful money of the United States of America and shall be paid to Landlord at the Landlord's Address or to such other person and/or at such other place as Landlord may designate from time to time in writing.

.4.2.Rent Amounts. The Rent shall be as follows:

(a) Commencing on the Rent Commencement Date, the Rent throughout the first year of the Initial Term shall be One Thousand Five Hundred (\$1,500) dollars per month. If Tenancy is still in effect at the end of one year, Rent shall be increased by the amount of the Bay Area CPI or 3%, whichever is higher.

.4.3.Late Payment. The Rent is due on the First (1st) day of each month, and is late if not postmarked or delivered to the Landlord on or before the Seventh (7th) of each month. A 5% late fee will be charged on all monies owed after the 7th of each month.

.5 Taxes. Throughout the Term, Landlord shall pay or cause to be paid, as and when the same shall become due, all Taxes; provided, however, if any tax or assessment is permitted by law to be paid in installments, Landlord may pay the same in installments as and when each such installment becomes due.

.6 Use. The Premises shall be used and occupied by Tenant as office, R&D and/or artist space. Tenant may not change the use of the Premises without the prior consent of the Landlord, which shall not be unreasonably withheld or delayed. Tenant shall, at Tenant's expense, comply promptly with all Laws in effect during the Term or any portion thereof. Tenant shall not use nor permit the use of the Premises in any manner that will tend to create waste or a nuisance, including noise that disturbs other tenants. Tenant shall not permit any hazardous or toxic materials to be stored on the Premises (unless normally used in the ordinary course of Tenant's business, in which case such materials shall be maintained and stored in accordance with applicable laws, rules and regulations). Complaints from other tenants will be cause for immediate investigation and lease termination, if the cause of such complaint is legitimate and not resolved in short order.

#### **.7 Utilities**

.7.1.Utilities. Tenant shall, at its sole cost and expense, arrange for the supply of garbage and janitorial services within Tenant's own separate space, or will reimburse landlord for any costs associated with trash removal and other janitorial cost incurred. Tenant will be responsible for reimbursing Landlord or Landlord's assignees for all other services, including Electric, Gas, Water and Common Area (6%-- six percent--of share of building's utilities), Maintenance of corridors, Bathrooms, hallways, means of egress, elevators and outer areas. Tenant shall pay all of his share of fees and charges for water, gas, electricity, garbage, and sanitary sewer services supplied to the Premises, irrespective of whether or not the services are maintained in Landlord or Tenant's name. To the extent any such services are not separately metered or billed, Tenant shall reimburse Landlord for the cost thereof on a pro rata basis based upon either the relative square footage (for PG&E) or number of persons occupying and traffic (for Common Area Maintenance) of all of the premises that share utility services. Utilities to accrue to Tenant effective with date of move-in. As long as utilities are shared among tenants, Tenant agrees to keep its share of utilities as low as possible by: 1) using energy-efficient bulbs and appliances; 2) turning off lighting, HVAC and equipment at night, when not in use, and/or whenever feasible and not in use. Tenant agrees to keep the common area, its own area and the bathroom clean and free of debris at all times. Under no conditions may trash be placed in any common or open area of the building, with the exception of placing it out on the street at time of expected pick-up if such service has been arranged by tenant.

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.7.2.Interruption. In the event of any interruption in or failure or inability to provide any services or utilities to the Premises for any reason (a "Service Failure"), such Service Failure shall not, regardless of its duration or severity, constitute a default by Landlord under this Premises or otherwise impose upon Landlord any liability whatsoever, or constitute an eviction of Tenant, constructive or otherwise, or entitle Tenant to an abatement of Rent or to terminate this Premises, or otherwise release Tenant from any of Tenant's obligations under this Lease, provided, however, that Rent shall be abated during the period any services or utilities are unavailable if such unavailability is caused solely by Landlord or Landlord's Representatives and prevents operation of Tenant's business in the Premises for more than two (2) days.

.7.3.Internet. The internet is provided by Landlord as an amenity to Tenant at no extra charge. Landlord is not responsible for any interruption to service., and Tenant will not receive any reneidation for any time that the internet is down. Landlord agrees to work diligently to restore service as required. Wireless only internet is available at this time in the leased space. Tenant is also welcome to obtain its own internet or wire in directly to the building's internet, which is centered on the second floor not too far from the leased premises.

## **.8 Alterations**

.8.1.Landlord's Alterations. Landlord shall bear all costs, expenses or fees associated with replacement or repair of the roof and interior plumbing and electrical to the common areas. Landlord shall bear all costs, expenses or fees incurred with respect to such improvements and repairs provided that such improvements or repairs were not due to the negligence of Tenant or Tenant's customers or employees.

.8.2.Signage and Marketing. Office door signage as permissible by City Regulations and at discretion of the Landlord.

.8.3.Design. All major design Plans shall be prepared by licensed architects and, where appropriate, mechanical, electrical and structural engineers, and other licensed professionals.

.8.4.Construction. All Alterations shall be undertaken in a good and workmanlike manner consistent with the first-class standards of each trade, free of material defects, and in compliance with all Laws. Landlord shall cause their Alterations to be constructed in as expeditious a manner as reasonably possible. Tenant shall provide Landlord and its construction professionals with whatever access may be necessary to the premises, upon reasonable notice, in order for Landlord to complete its Alterations. Throughout the performance of the Alterations, Landlord and Tenant shall both cause their contractors and subcontractors to carry such insurance, including the following: (i) Commercial General Liability insurance including coverage for products and completed operations; (ii) property insurance including coverage for all goods, materials, installed or not, installation floater, and coverage for all tools at the premises, and endorsed to waive subrogation against the Landlord; (iii) Workers' Compensation and Employer's Liability coverage, endorsed to waive subrogation against the Landlord. Policies shall include coverage for "owners and contractor's protective" exposure. Tenant and Landlord shall be named as additional insureds under such insurance.

.8.5.Non-Interference. Prior to commencing any remodeling or repairs that might interfere with Tenant's use of premises, Landlord shall give Tenant a schedule as to when work will take place.

## **.9 Maintenance and Repair**

.9.1.Tenant's Obligations. Tenant shall, at Tenant's expense, maintain the interior portion of the Premises, the windows, plate glass, interior walls, doors and lighting facilities and equipment servicing the Premises in good condition and repair. Under no circumstances shall Tenant be responsible for any structural repair of the Building, seismic or otherwise, unless caused or triggered by Tenant's use. At the Expiration of the Term, Tenant shall deliver possession of the Premises in good condition and repair, only ordinary wear and tear excepted.

.9.2.Landlord's Obligations. Landlord shall, during the term, keep in good order, condition and repair the foundation, exterior walls (excluding the interior surface of the exterior walls), doors (other than doors located within the Premises), elevators, downspouts, plumbing and electrical lighting facilities and equipment servicing the Premises, gutters and roof of the Building. Except as otherwise specified herein, Landlord shall, at its sole cost and expense, make any alterations or repairs to the Building which are necessary for Building Code or ADA-compliance or required for seismic retrofitting.

## **.10 Insurance and Indemnity**

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10.1. Tenant shall obtain and maintain during the term of this Lease commercial general liability insurance with a combined single limit for personal injury and property damage in an amount not less than \$500,000 and employer's liability and workers' compensation insurance as required by law. Tenant's commercial general liability insurance policy shall be endorsed to provide that (1) it may not be cancelled or altered in such a manner as adversely to affect the coverage afforded thereby without thirty (30) days' prior written notice to Landlord, (2) Landlord is named as additional insured, (3) the insurer acknowledges acceptance of the mutual waiver of claims by Landlord and Tenant pursuant to Section 10.2 below, and (4) such insurance is primary with respect to Landlord and that any other insurance maintained by Landlord is excess and noncontributing with such insurance. Tenant shall also obtain and maintain insurance ("Personal Property Insurance") covering leasehold improvements paid for by Tenant and Tenant's personal property and fixtures in, on, or at the Premises, in an amount not less than one hundred percent (100%) of the full replacement cost, without deduction for depreciation, providing protection against events protected under "All Risk Coverage," as well as against sprinkler damage, vandalism, and malicious mischief. Any proceeds from the Personal Property Insurance shall be used for the repair or replacement of the property damaged or destroyed, unless this Lease is terminated under an applicable provision herein. If the Premises are not repaired or restored following damage or destruction in accordance with other provisions herein, Landlord shall receive any proceeds from the Personal Property Insurance allocable to Tenant's leasehold improvements. Tenant shall deliver to Landlord duplicates of such policies or certificates thereof with endorsements, and at least thirty (30) days prior to the expiration of such policy or any renewal thereof, Tenant shall deliver to Landlord replacement or renewal binders, followed by duplicate policies or certificates within a reasonable time thereafter. This clause may be waived for single offices without regular client traffic at discretion of the landlord.

10.2. Landlord hereby waives all claims against Tenant and Tenant's Representatives for loss or damage to the extent that such loss or damage is insured against under any valid and collectable insurance policy insuring Landlord or would have been insured against but for any deductible amount under any such policy. Tenant hereby waives all claims against Landlord and Landlord's Representatives for loss or damage to the extent such loss or damage is insured against under any valid and collectable insurance policy insuring Tenant or required to be maintained by Tenant under this Lease, or would have been insured against but for any deductible amount under any such policy.

10.3. As such waiver does not violate public policy and insurance is available to protect it, Landlord and Tenant each hereby waives all claims against the other and the other's representatives for damage to any property or injury to or death of any person in, upon or about the Premises, the Building, or the Project arising at any time and from any cause, and Landlord and Tenant shall each hold the other and the other's representatives harmless from and defend the other and the other's representatives against (i) all claims and liabilities for damage to any property or injury to or death of any person arising in or from the use of the Premises by the other, except as to the other and the other's representatives such claims or liabilities as are caused by the gross negligence or willful misconduct of the person or entity otherwise entitled to indemnification, or (ii) arising from the negligence or willful misconduct of the other, its employees, agents, or contractors in, upon, or about those portions of the Building or the Project other than the Premises. The foregoing indemnity obligations of Landlord and Tenant shall include attorneys' fees, investigation costs, and all other costs and expenses incurred by the other or by any of the other's representatives from the first notice that any claim or demand is to be made or may be made. The provisions of this Section 10.3 shall survive the expiration or termination of this Lease with respect to any damage, injury, or death occurring prior to such time.

## **11 Damage or Destruction.**

11.1. If, during the term, the Premises are totally or partially destroyed, or any other portion of the Building is damaged in such a way that Tenant's use of the Premises is materially interfered with, (other than as a result of Tenant's willful misconduct), from a risk which is wholly covered by insurance proceeds made available to Landlord for such purpose, Landlord shall proceed with reasonable diligence to repair the damage or destruction and this Lease shall not be terminated; provided, however, that if in the opinion of Landlord's architect or contractor the work of repair cannot be completed in ninety (90) days following such damage or destruction, Landlord or Tenant may at their election terminate this Lease by notice given to the other within thirty (30) days following the event or such longer period as may reasonably be necessary to obtain information from its architect or contractor.

11.2. If, during the term, the Premises are totally or partially destroyed, or any other portion of the Building is damaged in such a way that Tenant's use of the Premises is materially interfered with, from a risk which is not wholly covered by insurance proceeds made available to Landlord for repair or reconstruction, Landlord may, at its election, with notice to Tenant given within thirty (30) days following the event or such longer period as may reasonably be necessary for Landlord to obtain information from its architect or contractor, either

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restore the Premises or terminate this Lease.

.11.3. In case of destruction or damage which materially interferes with Tenant's use of the Premises, if this Lease is not terminated as above provided, rent shall be abated during the period required for the work of repair based upon the degree of interference with Tenant's use of the Premises. Except for abatement of rent, Tenant shall have no claim against Landlord for any loss suffered by Tenant due to damage or destruction of the Premises or any work of repair undertaken as herein provided.

.12 **Eminent Domain**. If all or any part of the Premises shall be taken as a result of the exercise of the power of eminent domain or sold by Landlord under threat thereof, this Lease shall terminate as to the part so taken as of the date of taking or sale and, in the case of a partial taking, either Landlord or Tenant shall have the right to terminate this Lease as to the balance of the Premises by notice to the other within thirty (30) days after such date if the portion of the Premises taken shall be of such extent and nature as substantially to handicap, impede, or impair Tenant's use of the balance of the Premises for Tenant's purposes. In the event of any taking or such sale, Landlord shall be entitled to any and all compensation, damages, income, rent, awards, or any interest therein whatsoever which may be paid or made in connection therewith, and Tenant shall have no claim against Landlord for the value of any unexpired term of this Lease or otherwise. In the event of a partial taking of the Premises that does not result in a termination of this Lease, the monthly rental thereafter to be paid shall be equitably reduced on a square footage basis.

.13 **Assignment and Subletting**.

.13.1. Tenant shall not assign this Lease or any interest herein or sublet the Premises or any part thereof without the prior consent of Landlord. As a further condition to any consent granted by Landlord, the proposed assignee or sublessee shall agree in writing to perform for the benefit of Landlord all of the Tenant's obligations under this Lease or so much thereof as are allocable to any portion of the Premises proposed to be sublet, without absolving Tenant of such responsibility.

.13.2. As used in Section 13.1, the term "assign" or "assignment" shall include, without limitation, any sale, transfer, or other disposition of all or any portion of Tenant's estate under this Lease, whether voluntary or involuntary, and whether by operation of law or otherwise.

.13.3. No sublessee shall have a right further to sublet, and any assignment by a sublessee of its sublease shall be subject to Landlord's prior consent in the same manner as if Tenant were entering into a new sublease.

.13.4. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting. In the event of default by any assignee of Tenant or any successor of Tenant in the performance of any of the terms hereof, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against such assignee or successor. Landlord may consent to subsequent assignments or subletting of this Lease or amendments or modifications to this Lease with assignees of Tenant, without notifying Tenant, or any successor of Tenant, and without obtaining its or their consent thereto, and such action shall not relieve Tenant of liability under this Lease.

.14 **Default by Tenant**.

.14.1. Any of the following events shall constitute events of default under this Lease:

(a) a default by Tenant in the payment of any rent or other sum payable hereunder when due;

(b) a default by Tenant in the performance of any of the other terms, covenants, agreements, or conditions contained herein and, if the default is curable, the continuation of such default for a period of ten (10) days after notice by Landlord or beyond the time reasonably necessary for cure if the default is of the nature to require more than ten (10) days to remedy, provided that if Tenant has defaulted in the performance of the same obligation more than one time in any twelve-month period and notice of such default has been given by Landlord in such instance, no cure period shall thereafter be applicable hereunder;

(c) the abandonment of the Premises.

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.14.2. Even though Tenant has breached this Lease and abandoned the Premises, this Lease shall continue in effect for so long as Landlord does not terminate Tenant's right to possession or accept Tenant's surrender of the Premises, and Landlord may enforce all its rights and remedies under this Lease, including the right to recover rental as it becomes due under this Lease. Acts of maintenance or preservation, efforts to re-let the Premises, or the appointment of a receiver upon initiative of Landlord to protect Landlord's interest under this Lease, shall not constitute a termination of Tenant's right to possession.

.14.3. The remedies provided for in this Lease are in addition to any other remedies available to Landlord at law or in equity, by statute or otherwise.

.15 **Landlord's Right to Cure Defaults.** If Tenant shall fail to pay any sum of money, other than rental, required to be paid by it hereunder or shall fail to perform any other act on its part to be performed hereunder and such failure shall continue for thirty (30) days after notice thereof by Landlord, Landlord may, but shall not be obligated so to do, and without waiving or releasing Tenant from any obligations of Tenant, make any such payment or perform any such other act on Tenant's part to be made or performed as in this Lease provided. All sums so paid by Landlord and all necessary incidental costs shall be deemed additional rent hereunder and shall be payable to Landlord on demand, and Landlord shall have (in addition to any other right or remedy of Landlord) the same rights and remedies in the event of the nonpayment thereof by Tenant as in the case of default by Tenant in the payment of rental.

.16 **Default by Landlord.** Landlord shall not be in default under this Lease unless Landlord fails to perform obligations required of Landlord hereunder within a reasonable time, but in no event later than thirty (30) days after notice by Tenant to Landlord specifying wherein Landlord has failed to perform such obligation; provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days are required for performance, then Landlord shall not be in default if Landlord commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

.17 **Landlord's Representations and Warranties.** Landlord represents and warrants to Tenant as follows:

.17.1. Landlord makes no representations or warranties to Tenant concerning the existence of Hazardous Substances, including without limitation asbestos containing materials, lead based paint, or electrical transformers, fluorescent light fixtures with ballasts, or other equipment containing PCBs, in, on or around the Premises or the real property on which the Premises is located.

.17.2. There is no pending or threatened litigation, governmental investigation, or like proceeding before any court, tribunal, or other governmental or quasi-governmental agency respecting the Premises or the operation thereof which will materially affect Tenant's ability to operate its business as contemplated hereunder.

.17.3. There are no pending condemnation or eminent domain proceedings against the Premises.

.18 **Landlord's Access to Premises.** Subject to Tenant's prior written consent, (which shall not be unreasonably withheld or delayed) and the terms and conditions of the Sublease (as defined hereafter), Landlord shall have the right to enter the Premises to make inspections, to provide necessary services, or to show the unit to prospective buyers, mortgagees, tenants or workers. As provided by law, in the case of an emergency, Landlord may enter the Premises without Tenant's consent. Once Tenant has given one month's notice to Landlord to vacate, Landlord shall be allowed to advertise and show the Premises to prospective tenants

.19 **Estoppel Certificate.**

.19.1. Tenant and Landlord shall at any time, within ten (10) days following request from the other party, execute, acknowledge and deliver to the other party a written statement certifying (1) that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect), (2) the date to which Rent, the Security Deposit, and other sums payable hereunder have been paid, (3) acknowledging that there are not, to Tenant's/ Landlord's knowledge, any uncured defaults on the part of Landlord/Tenant hereunder, or specifying such defaults, if any, which are claimed, and (4) such other matters as may reasonably be requested by Tenant/Landlord. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Building or the business of Tenant or any sublessee or assignee.

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.19.2. The failure of either party to deliver such statement within such time shall be conclusive upon that party: (1) that this Lease is in full force and effect, without modification except as may be represented by the requesting party, (2) that there are no uncured defaults in requesting party's performance, and (3) that not more than one month's rent has been paid in advance.

.19.3. If Landlord desires to finance or refinance the Building, within ten (10) days of Landlord's request, Tenant shall deliver to any lender designated by Landlord such financial statements of Tenant as may be reasonably required by such lender. All such financial statements shall be received by Landlord in confidence and shall be used for the purposes herein set forth.

## **.20 Subordination and Non-Disturbance.**

.20.1. Upon the request of Landlord in writing, Tenant shall subordinate this Lease and the liens hereof to the lien of any Mortgage (as hereinafter defined) covering the Premises, irrespective of the time of execution or the time of recording of the Mortgage; provided however, that, prior to any such subordination, the Mortgagee (as hereinafter defined) shall enter into a written agreement with Tenant in recordable form, specifying that, in the event of foreclosure or other action taken under the Mortgage, this Lease and the rights of Tenant hereunder shall not be disturbed but shall continue in full force and effect so long as Tenant shall not be in default hereunder. Tenant agrees that if the Mortgagee or any person claiming under the Mortgagee shall succeed to the interest of Landlord in this Lease, Tenant will recognize said Mortgagee or person as its landlord under the terms of this Lease; provided, however, that said Mortgagee or person shall assume in writing all of the obligations of Landlord hereunder during the period that said Mortgagee or person holds Landlord's interest in the Premises. If any Mortgagee shall elect to have this Lease prior to the Mortgage, it shall give written notice thereof to Tenant, whether this Lease is dated prior or subsequent to the date of said Mortgage or the date of recording thereof.

.20.2. As used herein, the term "Mortgage" means mortgages, deeds of trust and other similar instruments, and modifications and extensions thereof and the term "Mortgagee" means any lender which holds a mortgage, or any party which is a beneficiary under a deed of trust.

.20.3. Tenant agrees to execute any documents required to effectuate such subordination or to make this Lease prior to the lien of any mortgage, deed of trust or ground lease, as the case may be, and failing to do so within ten (10) days after written demand, does hereby make, constitute and irrevocably appoint Landlord as Tenant's attorney

.20.4. in fact and in Tenant's name, place and stead, to do so.

.20.5. In the event that the Property is encumbered by one or more deeds of trust, Landlord shall use its best commercial efforts to obtain from each beneficiary thereof, within thirty (30) days after the date of execution of this Lease, a non-disturbance agreement in recordable form pursuant to which such lender will not, in the event of a foreclosure, disturb Tenant's occupancy of the Premises so long as Tenant is not in default. In such non-disturbance agreement, Tenant will attorn to the lender or other purchaser at a foreclosure sale.

## **.21 Miscellaneous Provisions.**

.21.1. Notices. All notices, demands, consents, requests or other communications required to or permitted to be given pursuant to this Lease shall be in writing, shall be given only in accordance with the provisions of this Section, shall be addressed to the parties in the manner set forth below, and shall be conclusively deemed to have been properly delivered: (a) when hand delivered during normal business hours); (b) upon receipt when sent by facsimile to the number set forth in the Basic Lease Information (provided, however, that notices given by facsimile shall not be effective unless the receiving party delivers the notice also by one other method permitted under this Section); (c) upon the day of delivery if the notice has been deposited in a authorized receptacle of the United States Postal Service as first-class, registered or certified mail, postage prepaid (c) upon delivery to Lessee's office and/or d) upon one (1) business day after the notice has been deposited with either FedEx or United Parcel Service to be delivered by overnight delivery. Notices shall be delivered to the parties at the addresses in the Basic Lease Information with a copy to:

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For Landlord:

George Rosen and Laurie Cooperman Rosen  
2141 Broadway  
Oakland, CA 94612  
(510)635-9500  
(510)969-4030 (fax)  
[Lscoop@comcast.net](mailto:Lscoop@comcast.net)

For Tenant:

Eddan Katz  
49 Moss Ave.  
Oakland, CA 94610  
[eddan@eddan.com](mailto:eddan@eddan.com)  
tel (415)728-5800

Matthew Senate  
  
[mattsenate@gmail.com](mailto:mattsenate@gmail.com)  
(818)599-0567

A party may designate another address for notice purposes upon written notice thereof pursuant to the provisions of this Section.

.21.2. Successors. This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, permitted assigns and representatives.

.21.3. Attorney's Fees. If a dispute of any type arises, or an action is filed under this Lease based in contract, tort or equity, or this Lease gives rise to any other legal proceeding between any of the parties hereto, the prevailing party shall be entitled to recover from the losing party reasonable attorneys' fees, costs and expenses. The terms "attorneys' fees," "costs" and "expenses" shall also include, without limitation, fees and costs incurred in the following proceedings: (1) mediations; (2) arbitrations; (3) bankruptcy proceedings; (4) appeals; (5) post judgment motions and collection actions; and (6) garnishment, levy and debtor examinations. The prevailing party shall also be entitled to attorneys' fees and costs after any dismissal of an action.

.21.4. Amendments. This Lease is subject to amendment only by a writing that makes reference to this Lease and is signed by all parties hereto.

.21.5. Integration. This Lease is the entire Lease between the parties regarding its subject matter and supersedes any prior oral or written Leases among them regarding the subject matter contained herein.

.21.6. Severability. If a court of competent jurisdiction finds any provision in this Lease to be invalid, illegal, or otherwise unenforceable, that determination will not affect any other provision of this Lease. The invalid provision will be severed from this Lease and all remaining provisions will continue to be enforceable by its terms and of full force and effect.

.21.7. Waiver. No waiver of any provision of this Lease or consent to any action shall constitute a waiver of any other provision of this Lease or consent to any other action. No waiver or consent shall constitute a continuing waiver or consent, or commit a party to provide a future waiver, unless such provision is expressly set forth in writing. Any waiver given by a party shall be void if the party requesting such waiver has not provided a full and complete disclosure of all material facts relevant to the waiver requested.

.21.8. Force Majeure. Neither party will be liable for any failure or delay in the performance of its obligations hereunder which are due, in whole or in part, directly or indirectly, to any cause beyond the reasonable control of such party, including without limitation, fire, explosion, earthquake, storm, flood or other weather, unavailability of necessary utilities or raw materials, strike, lockout, unavailability of any component, activities of a combination of workers or other labor difficulties, war, insurrection, riot, act of God or public enemy, law, act, order, export control regulation, proclamation decree, regulations, ordinance, or instruction of government or other public authorities, or judgment or decree of a court of competent jurisdiction (not arising out of any breach by such party of this Lease). In the event of such occurrence, the party so affected will give prompt notice to the other party, stating the period of time the occurrence is expected to continue.

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.21.9. General Interpretation. The terms of this Lease have been negotiated by the parties hereto and the language used in this Lease shall be deemed to be the language chosen by the parties hereto to express their mutual intent. The parties acknowledge and agree that each party and its counsel have reviewed and revised this Lease and that no rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall be employed in the interpretation of this Lease.

.21.10. Counting of Days. The time in which any act is to be done hereunder is computed by excluding the first day and including the last. If the last day is a Saturday, a Sunday, or a holiday as defined in the California Civil Code (each, a "Non-Business Day"), then the date for performance will be extended to the next succeeding day that is not a Non-Business Day.

.21.11. Choice of Law. This Lease will be governed by and construed under the laws of the State of California.

.21.12. Survival. The covenants, Leases, representations and warranties made herein shall survive the Close of Escrow, whereupon such covenants, Leases, representations and warranties shall be of no further force or effect.

.21.13. Further Assurances. Each of the Parties shall execute and deliver any and all additional papers, documents, and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent of this Lease.

.21.14. Headings and Captions. All captions and headings in this Lease are for reference only and may not be used in the interpretation of this Lease or any related document.

.21.15. Time is of the Essence. Time is of the essence of this Lease and all terms, covenants, conditions and provisions set forth in this Lease.

.21.16. Exhibits. All exhibits, schedules and the Basic Lease Information attached to this Lease are hereby incorporated into this Lease as though fully set forth herein.

.21.17. Counterparts. This Lease may be executed in counterparts, each of which shall constitute an original, but all of which together shall constitute one (i) and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by any other party. This Lease shall take effect when signed by all parties hereto. The parties agree that a signed copy of this Lease transmitted by one party to the other party by facsimile transmission shall be binding upon the sending party to the same extent as if it had delivered a signed original of this Lease plus all other charges payable hereunder, and upon all the terms hereof applicable to a month-to-month tenancy.

.21.18. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

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IN WITNESS WHEREOF, the parties have executed this Lease on the dates indicated below.

TENANT:

Matthew Senate/Eddan Katz, dba Sudo Room

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By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name(s) and Capacity

Executed by Tenant: \_\_\_\_\_, 2012.

LANDLORD:

George M. Rosen and Laurie S. Cooperman Rosen

Metropolitan Estates Leasing

By: \_\_\_\_\_

Print Name and Capacity:

\_\_\_\_\_

Executed by Landlord: \_\_\_\_\_, 2012+.

