

## GUARANTY OF LEASE

A. The following lease (the "Lease") is being executed simultaneously herewith:

Lessor: DYER 18, LLC

Lessee: ILLUMINATION FOUNDATION

Address of Premises: 3535 W. COMMONWEALTH AVENUE, FULLERTON, CALIFORNIA

B. Lessor requires as a condition to its execution of the Lease that the undersigned ("Guarantor") guarantee the performance of the obligations of Lessee under the Lease limited to and as set forth in this Guaranty of Lease.

C. The undersigned is desirous that Lessor enter into the Lease with Lessee.

D. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Lease.

NOW, THEREFORE, in consideration of the execution of the Lease by Lessor, and as a material inducement to Lessor to execute the Lease, Guarantor hereby guarantees and agrees as follows:

1. Guaranty. Guarantor unconditionally and irrevocably guarantees the payment by Guarantor of all Base Rent and all other monies and sums payable by Lessee under the Lease during the term of the Lease under the following conditions:

- a) Lessee has ceased payment of rent and property taxes due under the Lease and has vacated the building; or
- b) a subsequent Lessee assumes the remaining term of the lease to provide services as a rehabilitation center and navigation center and thereafter ceases payment of rent and property taxes due under the Lease and has vacated the building; and
- c) the total annual payment under this Guaranty is limited as set forth in section 2 below.

2. Limitation of Guaranty Amount. This Guaranty is limited solely to payment of rent, taxes, monies and sums payable to Lessor by Lessee, and excludes all other obligations of Lessee under the Lease, including but not limited to the maintenance of the building and site. The maximum amount of rent, taxes, monies and sums payable to Lessor by Guarantor shall not exceed Four Hundred Fifty Thousand and 00/100 Dollars (\$450,000.00) in any single fiscal year of Guarantor.

3. Termination by Guarantor. ((( Termination by Guarantor language still under discussion )))

4. No Waiver. This Guaranty shall not be released, modified, or affected by failure or delay on the part of Lessor to enforce any of the rights or remedies of Lessor under the Lease, whether pursuant to the terms thereof, at law or in equity.

5. Remedies. If Guarantor shall fail to perform or otherwise breach any of its obligations hereunder, in addition to all other rights and remedies Lessor may have at law or in equity, Lessor may, from time to time and without first requiring performance on the part of Lessee, and without being required to exhaust or proceed against any or all security held by Lessor, look to and require performance by Guarantor of any obligation on the part of Guarantor to be performed pursuant to the terms of this Guaranty by action at law or

in equity or both. Lessor may also collect from Guarantor in any such action compensation for, and Guarantor hereby indemnifies and holds Lessor harmless from, all loss, cost, damage, injury, and expense sustained or incurred by Lessor proximately caused by or resulting from Guarantor's breach of or failure to perform any of its obligations under this Guaranty.

6. Waivers. Guarantor hereby waives: (a) notice of acceptance of this Guaranty; (b) demand of payment, notice of nonperformance, notice of dishonor, presentation, protest, and indulgences and notices of any kind whatsoever; (c) all right to assert or plead any statute of limitations as to or relating to this Guaranty and the Lease (and Guarantor agrees that any act which shall toll any statute of limitations applicable to the Lease shall similarly operate to toll the statute of limitations applicable to Guarantor's liability hereunder); (d) any and all right to participate in any security now or hereafter held by Lessor; and (i) any defense that may arise by the reason of (1) the incapacity, lack of authority, death, disability or other defense of Lessee or Guarantor, (2) the revocation or repudiation of this Guaranty by Guarantor, (3) failure of Lessor to file or enforce a claim against the estate (either in administration, bankruptcy or any other proceeding) of Lessee or any other or others, (4) any borrowing or granting of a security interest under Section 364 of the federal Bankruptcy Code, (5) Lessor's election of any remedy against Guarantor or Lessee or both, (6) Lessor's taking, modification, or release of any collateral or guaranties, or any failure to perfect any security interest in, or the taking of or failure to take any other action with respect to any collateral securing performance of Lessee's obligations under the Lease.

7. Attorneys' Fees and Costs. In the event that any action or arbitration is brought by either party hereto as against the other party hereto for the enforcement or declaration of any right or remedies in or under this Guaranty or for the breach of any covenant or condition of this Guaranty, then and in that event the prevailing party shall be entitled to recover, and the other party agrees to pay, all fees and costs to be fixed by the court or arbitrator therein including, but not limited to, attorneys' fees. As used herein, "attorneys' fees" includes all reasonable attorneys' fees actually incurred, reasonable costs for pursuit of discovery, including deposition transcripts, preparation of exhibits, and the like, and all other costs normally recoverable in civil actions.

8. Notices. Except as otherwise required by law, any notice, information, demand, request, reply, or other communication, (the "Notice" for purposes this section only), required or permitted to be given under the provisions of this Guaranty shall be given or served as set out herein. Such Notice shall be deemed sufficiently given if in writing and if: (a) deposited in the United States mail, certified, return receipt requested, postage prepaid; or (b) sent by Express Mail or other similar overnight service, provided proof of delivery is available as an ordinary business record of such overnight service. All Notices to Guarantor shall be addressed to Guarantor at the address stated below unless changed by Notice to Lessor. All Notices to Lessor shall be addressed to Lessor at the address stated below unless changed by Notice to Guarantor. Any Notice sent by mail shall be deemed given as of the earlier of (i) actual receipt or (ii) at two (2) business days following the date of deposit in the mail. Any Notice sent by Express Mail, or as otherwise provided in clause (b), shall be deemed given upon the date set forth on the proof of delivery.

9. Miscellaneous.

- (a) The term "Lessor" whenever used in this Guaranty refers to and means Lessor in the Lease and also any assignee of Lessor whether by outright assignment or by assignment for security and also any successor to the interest of Lessor or of any assignee of Lessor in the Lease or any part thereof, whether by assignment or otherwise.
- (b) The term "Lessee" whenever used in this Guaranty refers to and means the Lessee in the Lease any assignee or sublessee of the Lease or any part thereof, and any successors to the

interest of Lessee, whether by assignment, sublease, or otherwise.

- (c) The section headings in this Guaranty are for convenience only and are not to be considered part of the substance of the provisions hereof. The use of the singular herein shall include the plural. The obligation of two (2) or more parties shall be joint and several.
- (d) This Guaranty may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all such counterparts shall constitute one and the same Guaranty. Any signature page of this Guaranty may be detached from any counterpart without impairing the legal effect of any signatures thereon, and may be attached to another counterpart, identical in form thereto, but having attached to it one or more additional signature pages. In order to expedite the transaction contemplated herein, facsimile or electronic signatures may be used in place of original signatures on this Guaranty. The parties hereto intend to be bound by the signatures on the facsimile or electronic document, and hereby waive any defenses to the enforcement of the terms of this Guaranty based on the use of a facsimile or electronic signature; provided, however, that the parties hereby agree to execute and provide to each other original signatures, upon the request made by either party to the other.

IN WITNESS WHEREOF, the undersigned has caused this Guaranty to be executed as of the date of execution of the Lease.

GUARANTOR - THE CITY OF FULLERTON

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

Address: 303 W. Commonwealth Ave.

Fullerton, CA 92832

Kenneth Domer, City Manager

Approved as to Form:

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

Richard D. Jones, City Attorney

LESSOR - DYER 18, LLC

By:

Address:

Its: