

## USE LICENSE

This **USE LICENSE** ("**License**") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2014, by and among Pier 38 Maritime Business Facilities, LLC, having offices at 450 Townsend Street, San Francisco, CA 94107 ("**Licensor**"), \_\_\_\_\_, a \_\_\_\_\_, having offices at \_\_\_\_\_ ("**Licensee**").

### WITNESSETH:

Licensor is the tenant of certain premises consisting of approximately 26,460 rentable square feet of space, situated on the basement, first and second floors at the building located at 450 Townsend Street, San Francisco, California (the "**Building**"), pursuant to the terms of a lease dated November 12, 2012 ("**Lease**") with Townsend Street Associates, LLC, a California limited liability company (the "**Lessor**").

NOW, THEREFORE, Licensor and Licensee hereby covenant and agree as follows:

1. **Premises and Services Licensed.** Pursuant to this License, Licensee is granted a license to use that part of the Licensed Premises known as \_\_\_\_\_ **desks** in the open seating area on the basement floor (the "**Licensed Premises**") solely for general office use and no other use, in compliance with all applicable governmental requirements and this License. Licensee shall also have shared use of the common areas of the Building. Licensee shall have access to the Licensed Premises except when LavaMind LLC dba Founders Space (the "**Founders Space**") or one of its partners are holding events on the Licensed Premises. Licensor shall (i) render or supply, to the extent rendered or supplied to Licensor by the Lessor under the provisions of the Lease, the following services to Licensee, at no additional cost to Licensee: furnishing of electrical energy, utilities, heat, ventilation, water, air cooling, elevator service, janitorial, cleaning, window washing, and rubbish removal services; and (ii) use commercially reasonable efforts to provide Licensee with wireless access to the internet during the Term of this License pursuant to the terms and conditions set forth in this License. In addition, Licensor will provide Licensee with certain services on an as requested basis for an additional charge ("**additional charges**") pursuant to a services fee schedule to be reasonably approved by the parties. Licensee will be obligated to pay for any such additional charges that it assumes or agrees to pay throughout the term of this License (as may be extended) within ten (10) days after its receipt of an invoice for such services from Licensor. Licensee shall be solely responsible for stocking the kitchen in the Licensed Premises.

2. **Term.** The term of this License shall commence on \_\_\_\_\_, 2014 (the "**Commencement Date**"), and shall continue unless terminated by either party on not less than thirty (30) days' notice (the "Term").

3. **Payments.**

3.1 Licensee shall pay to Licensor during the Term of this License, the "**Basic Monthly Fee**" in the amount of \$ \_\_\_\_\_ per month, prorated for any partial period

within the Term. Licensee shall pay the Basic Monthly Fee in advance on the first day of each and every calendar month during the Term, except that Licensee shall pay the first Basic Monthly Fee upon execution of this License. Licensee shall pay the Basic Monthly Fee and any and all additional charges due to Licensor under this License as follows:

\$ \_\_\_\_\_ to Licensor at the office of Licensor set forth in Section 10, or at such other place Licensor may designate, without any setoff or deduction, and regardless whether Licensor has given notice with respect thereto.

\$ \_\_\_\_\_ to **LavaMind LLC at 752 38<sup>th</sup> Ave., San Francisco, CA 94121**, or at such other place as Founders Space may designate, without any setoff or deduction, and regardless whether Licensor has given notice with respect thereto.

Licensee's obligation to make such payments shall survive termination of this License.

3.2 If Licensee shall fail to pay any scheduled Basic Monthly Fee or other non-scheduled fee, or any other additional charges when due, it being agreed that Licensee shall pay any non-scheduled fee or charges on the fifteenth (15th) and thirtieth (30th) day of each month during the Term if an invoice therefore is received within five (5) business days prior to such fifteenth (15th) or thirtieth (30th) day, a late charge of ten percent (10%) of the Basic Monthly Fee will be assessed on the second and each successive late payment within any twelve (12)-month period in the Term.

3.3 Licensee agrees that Founders Space shall be a third party beneficiary and entitled to enforce the payment provisions set forth in this Section 3.

4. **License Agreement.** THIS LICENSE IS NOT A LEASE OR ANY OTHER INTEREST IN REAL PROPERTY. IT IS A CONTRACTUAL ARRANGEMENT THAT CREATES A LICENSE THAT IS REVOCABLE AT WILL BY LICENSOR. Licensor retains legal possession and control of the Building and the Licensed Premises. This License and Licensor's obligation to provide Licensee office space and services are subject and subordinate to the terms of Licensor's Lease with the Lessor. This License terminates automatically upon any termination of Licensor's Lease with the Lessor. Licensee does not have any rights under Licensor's Lease with the Lessor.

5. **Rules, Damages and Insurance.**

Licensee shall abide by the rules that govern the Licensed Premises and Building imposed generally on users of the Building, including without limitation, the rules related to office security, acceptable standard of conduct and guideline for visitors. Licensor reserves the right to change such rules at any time with or without notice.

Licensee is responsible for any damage it or its invitees cause to the Building, parking facilities, common areas and/or the Licensed Premises beyond normal wear and tear. Throughout the Term, Licensee hereby acknowledges that Licensor and Lessor are not providing insurance for Licensee's furnishings, equipment, computers, intellectual property, or any other tangible or intangible property ("**Licensee's Property**"). Licensee is solely responsible for

securing Licensee's property and procuring insurance for Licensee's Property against all risks. Licensee shall have the risk of loss with respect to all of Licensee's Property irrespective of whether it is in Licensor's possession or Licensee's. Licensee waives any right of recovery against Licensor and the Lessor, and their respective officers, directors, employees, shareholders, members, partners, agents and representatives, for any damage or loss to Licensee's Property except to the extent caused by the gross negligence or willful misconduct of Licensor and not covered by the proceeds of insurance carried by Licensee.

6. **Limitation of Liability.** The Licensed Premises and services provided by Licensor under this Agreement are provided 'as is'. Licensor specifically disclaims any express or implied warranties of merchantability, non-infringement or fitness for a particular purpose, and any express or implied warranties that the services will be uninterrupted and/or meet a certain service level. LICENSEE ALSO ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY SET FORTH HEREIN, LICENSOR SHALL NOT BE RESPONSIBLE FOR ANY DAMAGES, DIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL (INCLUDING, WITHOUT LIMITATION, LOST PROFITS AND/OR COST OF COVER), RESULTING FROM ANY ERROR OR OMISSION IN PROVIDING, ANY FAILURE TO PROVIDE OR ANY DELAY IN PROVIDING, THE LICENSED PREMISES AND/OR ANY SERVICES. Notwithstanding anything to the contrary, Licensor's cumulative liability under this Agreement shall not exceed the license fees paid by Licensee to Licensor pursuant to Section 3.1 above.

7. **Condition of Licensed Premises.** Licensor shall deliver possession of the Licensed Premises to Licensee in their "as is" condition. Licensee may use the furnishings, fixtures and equipment currently existing in the Licensed Premises, if any, as described on Exhibit A (the "FF&E"). Licensee shall maintain and keep the FF&E in good condition and repair. Licensee shall make no improvements, alterations, or modifications in the Licensed Premises without the prior written consent of Licensor, which consent may be withheld in Licensor's sole discretion.

Licensee expressly understands and jointly and severally agrees that the Licensed Premises and Buildings present risks to Licensee and their invitees. These risks can include, among others (by way of example and without limitation): dangers of friction with other licensees and people who are at the Building ("Others"), collision with fixed or moving objects; equipment or computer failure; Others' negligent or wrongful conduct; inadequate training; use of equipment or materials provided by the Licensor; risks associated with the consumption of food and drink served on the premises by the Licensor and consumed voluntarily by Licensee; personal safety; rules and regulations; communication; defamation; disability access; risks related to traveling on the road; Licensed Premises and Buildings condition and/or maintenance; disease risks; risks associated with health care; injury to any part of the body, scratches, bruises, strains, sprains, contusions, falls, fractures; physical violence; verbal abuse; sexual abuse by Others; loss of income and/or career and earning opportunities; minor or serious injury and/or death. Licensee are responsible for researching and evaluating the risks they may face as licensees of the Licensed Premises and are responsible for their actions. Any activities that Licensee may take part in at the Building will be considered to have been undertaken with Licensee' approval and understanding of any and all risks involved. This includes, but is not limited to, risks associated with the consumption of alcoholic beverages and/or drugs or other intoxicants (whether legal or

illegal), property loss, injury to person or property, or death arising out of traffic accidents, assault, and theft or other activities.

It is Licensee' intention that this assumption of all risks shall be legally binding and a complete bar to any action by Licensee, Licensee' heirs, personal representatives, relatives and assigns and officers, directors, owners, shareholders, partners, principals, affiliates, subsidiaries, members, economic interest holders, trustees, beneficiaries, heirs, predecessors, successors, assigns, employees, agents, insurers, representatives, attorneys, and all persons acting for, under or in contract with them. This assumption of risk applies to all activities arising out of, associated with or resulting directly or indirectly from Licensee' use of the Licensed Premises and Building, including but not limited to those risks listed above.

8. **Indemnification.** Except as otherwise provided herein, Licensee shall and hereby does indemnify, defend, and hold Licensor and Founders Space, their affiliates and divisions, and any and all of their respective past, present and future officers, directors, owners, shareholders, partners, principals, affiliates, subsidiaries, parent corporations, members, managing members, economic interest holders, trustees, beneficiaries, heirs, predecessors, successors, assigns, employees, agents, insurers, representatives, attorneys, and all persons acting for, under or in contract with them ("**Indemnified Parties**"), jointly and severally, harmless from and against any and all actions, claims, demands, damages, losses, liabilities and expenses (including, without limitation, reasonable attorneys' fees and related costs) asserted against, imposed upon or incurred by Indemnified Parties arising out of or by reason of (a) any violation, breach or default caused, suffered or permitted by Licensee, its agents, contractors, servants, licensees, employees or invitees, of any of the provisions of this License, and (b) any damage or injury to persons or property occurring upon or in connection with the use or occupancy of the Licensed Premises.

9. **Default; Remedies.** Licensee shall be in "Default" under this License if: (i) Licensee does not pay any amount payable by Licensee hereunder within five (5) days after notice from Licensor and/or Founders Space that such payment is due and unpaid; (ii) Licensee violates the terms of this License and fails to cure such violation within ten (10) days after notice from Licensor and/or Founders Space of such violation or materially defaults more than three (3) times under this License; (iii) Licensee causes a non-curable material default by Licensor under the Lease or (iv) Licensee uses the Building for any operations or purposes which are either prohibited by this License or illegal. This License shall automatically terminate upon the occurrence of a Default.

Upon termination of the License, Licensee agrees to remove its personal property and leave the Building: (i) within three (3) business days after a termination prior to the Expiration Date; or (ii) for termination based on a breach by Licensee of this License, upon the termination date. Licensor is not responsible for property left in the Building after termination. If Licensee does not remove any property belonging to it within three (3) business days after termination, Licensee shall be conclusively deemed to have abandoned and conveyed such property to Licensor, or, at Licensor's option, Licensor may remove and store the same and Licensee shall pay to Licensor upon demand all costs of such removal and storage.

In addition, if any event of Default occurs, the Licensor shall in addition be entitled to exercise any and all rights, powers and remedies to which it is entitled under the provisions of this License as well as all rights and remedies available at law or in equity. All rights and remedies granted to the Licensor are cumulative and Licensor shall have the right to exercise any one or more of such rights and remedies alternatively, successively or concurrently as Licensor may, in its sole and absolute discretion, deem advisable.

10. **Notices.** All notices hereunder to Licensor or Licensee shall be in writing and mailed by certified or registered mail, sent by overnight courier, or delivered by hand with an acknowledged receipt to the address set forth below for such party or at such other address that either party may designate in a written notice to the other. To be effective, all notices to Licensor shall be delivered to SOMAcentral, 450 Townsend Street, San Francisco, California 94107. All notices to the Licensee shall, if prior to the Commencement Date, be to Licensee's current address as set forth in the first paragraph of this License, and if on or after the Commencement Date, to Licensee at the Licensed Premises. The parties shall deem any notice sent by overnight courier given on the next business day. The parties shall deem any notice sent by registered or certified mail given when received or three (3) business days following the mailing thereof, whichever occurs sooner. Acknowledged hand deliveries are deemed received upon written acknowledgment.

11. **Commissions.** Licensee represents to Licensor that it has not dealt with any broker, agent, and/or finder for which a commission or fee is payable with respect to the Licensed Premises or this License, and Licensee shall indemnify, defend and hold Licensor harmless from any claims, demands, liabilities, or judgments for commissions or fees arising from Licensee's breach of this Section.

12. **Assignment.** Except as expressly permitted herein, Licensee shall have no right to assign any of its rights or obligations under this License without the prior written consent of Licensor, which consent may be withheld by Licensor in its sole discretion. Subject to the foregoing, this License shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

13. **General Provisions.**

A. **Entire Agreement; Amendments; No Representations by Licensor.** This License constitutes the entire agreement between the parties concerning the matters set forth herein. Neither Licensee nor Licensor shall be bound by any terms, statements, conditions or representations, oral or written, express or implied, not contained in this License. No modification of this License shall be binding or valid unless expressed in a writing executed by Licensor and Licensee. Neither Licensor, Licensor's agents nor Founders Space have made any representations or promises with respect to the Licensed Premises or the Building except as expressly set forth in this License, and all reliance by Licensee with respect to any representations or promises is based solely on those contained in this License.

B. **Joint and Several Liability.** If Licensee or Licensor shall include more than one person, the obligations of all such persons under this License shall be joint and several,

and the provisions of this License shall individually apply to each person comprising Licensee, or Licensor, respectively.

C. **Interpretation.** The Exhibits attached to this License are part of this License. Section and subsection headings are for conveniences only, and not for use in interpreting this License. If a court finds any provision of this License unenforceable, all other provisions shall remain enforceable, and such unenforceable provision shall be deemed severed from this License.

D. **Waiver.** No provision of this License is waived by Licensor or Licensee unless waived by them in writing. Licensor's acceptance of the Basic Monthly Fee is not a waiver of any default of Licensee, regardless of Licensor's knowledge of a default when it accepts the Basic Monthly Fee. No waiver by Licensor or Licensee of any default is a waiver of any other default of the same or any other provision of this License.

E. **Binding Arbitration.** Any dispute arising out of or in connection with this License shall be resolved solely and exclusively by confidential binding arbitration with the San Francisco, California branch of JAMS (“JAMS”) to be governed by JAMS’ Commercial Rules of Arbitration applicable at the time of the commencement of the arbitration (the “JAMS Rules”) and heard before one arbitrator. Licensor and Licensee shall attempt to mutually select the arbitrator. In the event Licensor and Licensee are unable to mutually agree, the arbitrator shall be selected by the procedures prescribed by the JAMS Rules. The prevailing party will be entitled to reasonable attorneys’ fees, in addition to any other relief to which that party may be entitled.

F. **No Option; No Partnership.** The submission of this License to Licensee for examination does not constitute a reservation of or option for the Licensed Premises, and this License shall become effective only when it is executed and delivered by Licensor and Licensee. Nothing contained in this License shall be construed as creating a partnership or joint venture between Licensor and Licensee, or to create any other relationship between the parties other than what is fully expressed herein.

G. **Governing Law; Venue.** This License shall be governed by and construed in accordance with the laws of the jurisdiction in which the Building is located. Licensee and Licensor each hereby waive any objection to the venue of any action filed by the other in any state or federal court in the jurisdiction in which the Building is located, and Licensee and Licensor each further waive any right, claim or power, under the doctrine of *forum non conveniens* or otherwise, to transfer any such action filed by the other to any other court.

H. **Authority.** Licensee represents and warrants to Licensor that Licensee is a duly organized corporation, limited liability company or partnership, is in good standing under the laws of the jurisdiction of its formation, is qualified to do business and is in good standing in the jurisdiction in which the Building is located, has the power and authority to enter into this License, and that all corporate, limited liability company or partnership action, as applicable, requisite to authorize Licensee to enter into this License has been duly taken.

I. **Survival.** (1) The obligations of Licensee to pay rent, additional rent, and all other sums payable by Licensee under this License; and (2) the obligations of Licensee and Licensor to perform all obligations of Licensee and Licensor, respectively, under this License, shall survive the expiration of the Term of this License or earlier termination of this License.

J. **Attorney's Fees.** In the event of a lawsuit or arbitration proceeding, the prevailing party is entitled to recover costs and reasonable attorneys' fees incurred in connection with the lawsuit or arbitration proceeding, as determined by the court or arbitrator. In the event that any case is commenced by or against Licensee or Licensor under the Bankruptcy Code (Title 11, United States Code) or any similar or successor statute, the other party is entitled to recover costs and reasonable attorneys' fees incurred by it related to the preservation, protection, or enforcement of any of its rights in such a case. Licensee represents and warrants that it has been given the opportunity to review this Agreement with legal counsel. In construing the terms of this License, no presumption shall operate in either party's favor as a result of its counsel's role in drafting the terms or provisions hereof.

K. **Counterparts.** To facilitate execution, this License may be executed in as many counterparts as may be required; and it shall not be necessary that the signature of each party, or that the signatures of all persons required to bind any party, appear on each counterpart; but it shall be sufficient that the signature of each party, or that the signatures of the persons required to bind any party, appear on one or more of such counterparts. All counterparts shall collectively constitute a single agreement.

[Signature page follows.]

**IN WITNESS WHEREOF**, the parties hereto have executed this License as of the day and year first above written.

**LICENSOR:**

Pier 38 Maritime Business Facilities, LLC, a  
Nevada limited liability company

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**LICENSEE:**

\_\_\_\_\_  
a \_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_



## EXHIBIT A

### **Furniture Fixtures & Equipment (FF&E)**

1. Licensee will have **exclusive** use of the following items located within the Licensed Premises during the term of this License Agreement and any extensions thereof:
  - a. \_\_\_\_\_ (\_\_\_\_) desks. Each desk will also be provided with a standard task chair.
  - b. **[OTHER FURNITURE TO BE DESCRIBED IN AN INVENTORY LIST]**
2. When using the conference rooms in the main space of the Building (on a reservation basis, subject to availability), Licensee will have **shared** use of the following common areas and services during the term of this License Agreement and any extensions thereof:
  - a. Kitchenette w/refrigerator, microwave and coffee maker. Coffee supplies and water will be included.
  - b. Multifunction copy machine (Scanner/Copier/Printer).
  - c. Wall-mounted or rolling whiteboards.

Licensors is not required to provide any other equipment or furnishings to Licensee other than those listed above.