



**HORIZON CITY**

**Incorporated 1988**

**AGENDA  
PUBLIC MEETING  
ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS MEETING  
THE TOWN OF HORIZON CITY, TEXAS  
Tuesday, November 17, 2020, 6:30 PM**

Notice is hereby given that a ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS MEETING of the Town of Horizon City, Texas will be held on **Tuesday, November 17, 2020 at 6:30 PM** at Virtual Meeting, 15001 Darrington Road, Horizon City, TX 79928, at which time the following will be discussed and considered:

To watch by videoconferencing:

Topic: Horizon City EDC Board Meeting  
Time: Nov 17, 2020 06:00 PM Mountain Time (US and Canada)

Join Zoom Meeting  
<https://us02web.zoom.us/j/83883572782?pwd=VW5KT3hEdW5Mc2dKczltVGJlenRsdz09>

**Meeting ID: 838 8357 2782**  
**Passcode: 715187**

One tap mobile  
+13462487799,,83883572782#,,,,,0#,,715187# US (Houston)  
+16699006833,,83883572782#,,,,,0#,,715187# US (San Jose)

Dial by your location  
+1 346 248 7799 US (Houston)  
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+1 253 215 8782 US (Tacoma)  
+1 408 638 0968 US (San Jose)  
+1 646 876 9923 US (New York)  
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+1 312 626 6799 US (Chicago)

Find your local number: <https://us02web.zoom.us/j/83883572782>

1. **Call to order; Establishment of Quorum**
2. **Approval of Minutes from:** October 20, 2020 Regular Board Meeting.
3. **Discussion:**  
Presenter: EDC Executive Director  
On recent activities by the Horizon City Economic Development Corporation.
4. **Discussion:**  
Presenter: EDC Executive Director

On an update of activities at the Horizon Tech Accelerator Program including a presentation by PM Technologies, an HTAP participant.

**5. Discussion and Action:**

Presenter: EDC Executive Director/Horizon City CIP Manager

On Horizon City CIP Presentation toward creating a Tax Increment Reinvestment Zone to support commercial activity in Horizon City.

**6. Discussion and Action:**

5

Presenter: EDC Executive Director

On a Lease Agreement with Darrington Park, LLC for the Horizon City EDC/Horizon Tech Accelerator Program offices.

**7. Discussion and Action:**

Presenter: EDC Executive Director

On a resolution setting legislative priorities for Horizon Economic Development Corporation.

**8. Executive Session**

The Economic Development Corporation Board of Directors of the Town of Horizon City may recess into EXECUTIVE SESSION pursuant to the Texas Government Code, Chapter 551, Subchapter D, under Article 551.071 – Consultation with Attorney; 551.072 – Deliberation Regarding Real Property; 551.073 – Deliberation Regarding Gifts and Donations; 551.074 – Personnel Matters; 551.076 – Deliberation Regarding Security Devices and 551.087 – Deliberation Regarding Economic Development Negotiations.

**9. Adjournment:**

Adjournment:

Motion to Adjournment: \_\_\_\_\_ 2nd \_\_\_\_\_

Dated this Friday, November 13, 2020

By: \_\_\_\_\_  
Elvia Schuller, City Clerk

I, the undersigned authority, hereby certify that the above notice of the ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS MEETING of the Town of Horizon City, Texas is a correct copy of this notice, and that I posted this notice at least seventy-two (72) hours preceding the scheduled meeting at the City Hall Bulletin Boards of the Town of Horizon City, Texas on this Friday, November 13, 2020 by 5:00 p.m.

Agenda Removed: \_\_\_\_\_ Time \_\_\_\_\_ By \_\_\_\_\_

In compliance with the Americans with Disabilities Act, the Town of Horizon City will provide for reasonable accommodations for persons attending meetings. Requests for auxiliary aids and services must be made 48 hours prior to this meeting by calling the City Clerk at (915) 852-1046.

**MINUTES  
AGENDA  
PUBLIC MEETING  
ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS MEETING  
THE TOWN OF HORIZON CITY, TEXAS  
Tuesday, October 20, 2020, 6:30 PM**

Notice is hereby given that a ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS MEETING of the Town of Horizon City, Texas was held on **Tuesday, October 20, 2020 at 6:30 PM**, at City Council Chambers Room, 15001 Darrington Road, Horizon City, TX 79928, at which time the following was discussed and considered:

**To watch by videoconference:**

Horizon City Economic Development Corporation Regular Meeting  
<https://horizoncityeconomicdevelopmentcorporation.my.webex.com/horizoncityeconomicdevelopmentcorporation.my/j.php?MTID=mfd03671faad36487d623a58903ed6f75>  
Tuesday, Oct 20, 2020 6:30 pm | 2 hours | (UTC-06:00) Mountain Time (US & Canada)

**Meeting number: 126 632 9592**

**Password: SvCZ9Drat33 (78299372 from phones and video systems)**

Join by video system

Dial 1266329592@webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Join by phone

+1-408-418-9388 United States Toll

Access code: 126 632 9592

**1. Call to order; Establishment of Quorum**

Board Members Present: Walter Miller, Jerry Garcia, Karina Hagelsiev, Justin Chapman, Dean Hulsey.  
Absent Board Members: Kevin Richardson and Allie Lozano. Quorum Established

Staff Members Present: EDC Executive Director Michael Hernandez, Board Secretary Veronica Rojas, CIP Manager Terry Quezada; Asst. City Atty. Bertha Ontiveros; Board Treasurer Pat Randleel; Horizon City Planning Director Michelle Padilla; City Clerk Elvia Schuller; IT Specialist Josue Mendoza, HTAP Participant, Hunter Taylor

**2. Approval of Minutes from:** September 22, 2020 Regular Board Meeting

The above-stated minutes were approved on a motion by Board Member Jerry Garcia and seconded by Board Member Justin Chapman. Motion Carried Unanimously (5-0).

**3. Discussion:**

On recent activities by the Horizon City Economic Development Corporation.

Presenter: EDC Executive Director

EDC Executive Director Michael Hernandez spoke regarding this item.

**4. Discussion:**

On an update of activities at the Horizon Tech Accelerator Program and a presentation by Tailored Alloys, an HTAP participant.

Presenter: EDC Executive Director

HTAP Participant Hunter Taylor gave a presentation to the Board Members.

**5. Discussion and Action:**

On an update of the progress toward creating a Tax Increment Reinvestment Zone to support commercial activity in Horizon City.

Presenter: EDC Executive Director/Horizon City CIP Manager

CIP Manager, Terry Quezada gave update on the TIRZ project. No action required on this item.

**6. Executive Session**

The Economic Development Corporation Board of Directors of the Town of Horizon City may recess into EXECUTIVE SESSION pursuant to the Texas Government Code, Chapter 551, Subchapter D, under Article 551.071 – Consultation with Attorney; 551.072 – Deliberation Regarding Real Property; 551.073 – Deliberation Regarding Gifts and Donations; 551.074 – Personnel Matters; 551.076 – Deliberation Regarding Security Devices and 551.087 – Deliberation Regarding Economic Development Negotiations.

**A. Discussion and Action:**

Real Estate: On the negotiations for real property in Horizon City’s Transit Oriented Development/Town Center project. (551.071 and 551.072)

Presenter: Special Counsel

A motion to authorize EDC Executive Director to negotiate with property owners and the EDC Board President to approve acquisition of land related to the Transit Oriented Development/Town Center project (551.071 and 551.072) was made by Board Member Justin Chapman and seconded by Board Member Jerry Garcia. Motion carried unanimously (5,0)

**7. Adjournment:**

A motion was made by Jerry Garcia and seconded by Karina Hagelsieb to adjourn at 7:49 PM.

Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Attest:**

\_\_\_\_\_  
Board Secretary

\_\_\_\_\_  
Board President

## LEASE

This Lease is made and entered into by and between **DARRINGTON PARK, LLC** (Lessor) and **HORIZON CITY ECONOMIC DEVELOPMENT CORPORATION** (Lessee) on the 28 day of February, 2019.

1. **Lease of Premises.** Lessor hereby leases to Lessee, and Lessee hereby rents from Lessor, Space 101, Darrington Park, located at 287 South Darrington Road, Horizon City, El Paso County, Texas, containing 2,400 square feet, more or less (the Premises).
2. **Term**
  - A. **Initial Term.** The Initial Term of this lease shall be for twenty-five (25) months, commencing on March 1, 2019 and concluding on March 31, 2021.
  - B. **Renewal.** If Lessee is not in default hereunder, Lessor and Lessee may agree to renew or extend this Lease agreement for one (1) renewal period of twenty-four (24) months. The annual base rent during such renewal term shall be \$15.00 per square foot, which monthly rent shall be the amount set forth in Section 6. All other terms and conditions of this Lease shall remain in effect for such renewal term, unless otherwise agreed upon in writing. Lessee shall notify Lessor, in writing by certified mail, at least nine (9) months prior to the expiration of the lease, of his intention either to enter into a renewal and extension of the lease or to vacate the premises at the end of the lease term. If no agreement to extend the lease term is entered into, then Lessee shall vacate the premises on or before the expiration of the Initial Term.
3. **Condition of Premises.** Lessee has inspected the premises and accepts the Premises in an "as is" condition. Lessor makes no representations concerning condition of the Premises. Lessee hereby waives any and all warranties, express or implied, relating to the condition of the Premises, fitness or suitability of the Premises for its intended purposes or other similar warranties.
4. **Quiet Enjoyment.** Lessor covenants and agrees that upon Lessee's timely payment of all rent and performing all of the covenants and conditions set forth in this Lease and not being in default hereunder, Lessee shall have and may peaceably and quietly have the Premises for the term provided in this Lease.
5. **Security deposit.** Concurrently with Lessee's execution of this Lease, Lessee shall deposit with Lessor the sum of \$3,500.00, receipt of which is hereby acknowledged, which shall be held by Lessor, without obligation for interest or segregation, as security for the performance of Lessee's covenants and obligations under this Lease; it being expressly understood and agreed that such deposit is not an advance rental deposit or a measure of Lessor's damages in case of Lessee's default. Upon the occurrence of any default by Lessee, Lessor may without prejudice to any other remedy available, use such fund to make good

any rent arrearage or any other damage, expense or liability caused by such event of default, provided however that the Lessor has provided required notice of default and Lessee has failed to cure, and that Lessor provides an itemized list of the use, vendors and amounts which the security deposit has been used to pay.

If Lessor uses the Security Deposit as provided herein, Lessee will within five (5) days after demand, to restore the Security Deposit to its original amount. Failure to do so is a breach of this Lease. If Lessee has performed all of its obligations under this Lease, Lessor will return any unapplied portion of the Security Deposit to Lessee along with an itemized list of the use, vendors and amounts of the security deposit which Lessor has withheld within thirty (30) days after whichever of the following occurs last: (a) the date Lessee surrenders possession of the Premises to Lessor in accordance with this Lease, or (b) the expiration date of this Lease. If Lessor transfers its interest in the Premises, Lessor will assign the Security Deposit to the transferee and, after the assignment, Lessor will have no further liability for the return of the Security Deposit

6. **Rent.** Lessee shall pay to Lessor, without demand, a Base Rent monthly for the term of this lease, on the first day of each month, as follows:

**Initial Term:**

**March 1, 2019 through March 31, 2019, free rent**  
**April 1, 2019 through March 31, 2021, \$2,800.00 per month**

**Option Term**

**April 1, 2021 through March 31, 2023, \$3,000.00 per month**

In addition to Base Rent, Lessee shall pay to Lessor its prorated monthly share of the property taxes, property insurance and all common area maintenance fees (collectively "Additional Rent") as required in Sections 9, 11 and 17 of this Lease. Additional Rent for the first year of this lease shall be \$700.00 per month, to be paid together with and at the same time as the monthly Base Rent. Lessor shall recalculate Lessee's prorated share annually and shall deliver an Annual Accounting Statement to Lessee of the adjusted amount for the following year no later than December 5<sup>th</sup> of each year during the term of this Lease. Lessor shall keep proper and sufficient records and accounts of all Additional Rent. Lessee or its duly accredited agent may, at any reasonable time and upon fifteen days prior written notice to Lessor, inspect such records and the accounts where same are kept by Lessor for the purpose of verifying any statement of Additional Rent furnished by Lessor; provided that any inspection must be completed and any dispute thereof must be submitted to Lessor no later than six months after the delivery to Lessee of the Annual Accounting Statement. If Lessee fails to object to the Annual Accounting Statement, the statement shall be deemed accurate. Lessor may not bill Lessee for any Additional Rent incurred more than one (1) year prior to any such billing.

7. **Late Charge.** Lessee agrees to pay a late charge of fifty dollars (\$50.00) if the monthly

DCM

rental remains unpaid after the fifth day of any month. Any rental payment or other payment required hereunder returned to Lessor marked "Insufficient Funds" will entitle Lessor to collect an additional \$30.00 from Lessee for each such payment.

**8. Conduct of Business.**

**A. Use of Premises.** The premises shall be occupied and used by Lessee for the purpose of *executive office for the HCEDC and an aerospace & engineering-focused business accelerator* and for no other purpose without prior consent of Lessor. Lessor acknowledges that Lessee will allow the University of Texas at El Paso and certain occupants to use/share space within the Premises in conjunction with the business accelerator purpose ("Permitted Occupants"). Lessee will not use or permit the use of the Premises for any purpose that is illegal; creates obnoxious odors (including tobacco smoke), noises, or vibrations; is dangerous to persons or property; could increase Lessor's insurance costs (or, at Lessor's option, will pay any such increase); or that, in Lessor's reasonable opinion, unreasonably disturbs any other tenants near the Premises or interferes with the operation of Darrington Park.

**B. Operation by Lessee.** Lessee covenants and agrees that it: will not commit or permit waste or a nuisance upon the Premises; will comply with all applicable laws, ordinances, rules and regulations. . Lessee, within ten (10) days after receipt, will provide Lessor with copies of any notices Lessee receives about a violation or alleged or potential violation of any Laws. "Law(s)" means all applicable statutes, codes, ordinances, orders, rules, and regulations of any municipal or governmental entity, now or later adopted, including the Americans with Disabilities Act, 42 U.S.C. §12101 et seq., and any other law pertaining to disabilities and architectural barriers (collectively, "ADA"), and all laws pertaining to the environment, including but not limited to any federal, state, or local law, ordinance, order, decree, rule, regulation, or common law in effect on the date of this Lease or later enacted or imposed, pertaining to health, safety, land use, or environmental protection. Lessee agrees that in its occupancy and use of the premises it will create no nuisance or disturbance to directly or indirectly effect other persons or Lessees within the building and shopping center where the Premises are located and its use of the premises shall be limited to those purposes specified herein. Lessee shall not engage in any business or activity or cause to be brought upon the Premises or use, store, dispose of or release any material or substance which is regulated, prohibited or controlled by any health, safety or environmental law including, without limitation, all federal and state laws and regulations.

**C. Trash.** All trash, waste, garbage, and other refuse shall be stored in and remain inside the leased Premises until such time as Lessee is prepared to place such trash, etc. in an approved dumpster or other container for its disposal. No trash, waste, garbage or other refuse shall be placed or stored outside of the leased Premises, on the walkway in front of the Premises or in the alley way behind the Premises or any other location, except in the approved container for its disposal. The cost of basic garbage collection is included in the monthly rent paid by Lessee.

**9. Taxes.** Lessor has the sole right to render the Premises to any appropriate taxing authorities

and contest any valuation assessments. Lessee shall pay to Lessor, together with and in addition to the monthly rent as Additional Rent, Lessee's prorated share of all taxes, assessments, or governmental charges lawfully levied or assessed against the Premises and any commissions due to any third party for contesting such assessment and resulting reductions in taxes and assessments. If Lessee shall occupy the Premises during a portion of the calendar year, the taxes owed by Lessee shall be prorated based upon Lessee's occupancy of the Premises. Lessee shall also pay, prior to delinquency, all taxes assessed against and levied upon fixtures, furnishings, equipment and all other personal property of Lessee contained in the Premises.

10. **Utilities and Services.** Lessee shall pay for all gas, electricity, telephone, security, pest control and other service(s) furnished to the Premises or to Lessee during the term of this Lease. If Lessee shall require a separate dumpster or other container for waste/trash/garbage removal, as determined solely by Lessor, such container shall be placed in the area designated by Lessor for such containers and Lessee shall pay the expense of such container. Lessor shall pay for water service and basic garbage collection.

11. **Insurance.**

A. **Property Insurance.** Lessee shall, during the term of this Lease, pay to Lessor, together with and in addition to the monthly rent as Additional Rent, an amount equal to Lessee's prorated share of the property insurance described hereafter. Lessor shall keep the Premises insured against loss or damage by fire, against loss or damage by other risks embraced by "extended coverage" and against loss or damage caused by civil commotions, riots, vandalism and malicious mischief in the full insurable value of the Premises. In addition, Lessee shall maintain, during the term of this Lease, policies of fire and extended coverage on all furniture, fixtures, equipment, contents, inventory and other property situated or installed by Lessee in the Premises for the full insurable value thereof. If the premium for this insurance coverage shall increase because of the type of business operation conducted by Lessee or such increase is solely attributable to Lessee or Lessee's business operation, then Lessee shall pay such additional premium cost in addition to his prorated share.

B. **Plate Glass.** Lessee is responsible for replacing plate glass on the Premises. Lessee may either be self-insured or carry with standard company full coverage insurance on all plate glass in the Premises.

C. **Commercial General Liability Insurance.** Lessee shall procure and maintain a policy or policies of insurance, insuring both Lessor and Lessee, against all claims, damages and actions arising out of or in connection with Lessee's use or occupancy of the Premises, or by the condition of the Premises. The limits of such policy or policies shall be in an amount not less than \$2,000,000.00 combined single limit.

D. **Insurance Policy Requirements.** All policies of insurance required to be kept or maintained in full force and effect by Lessee shall name Lessor as an additional insured and be written by insurance companies authorized to conduct business in the State of Texas and approved by Lessor. Certificates of Insurance shall be delivered to Lessor on or before the commencement date of this Lease. Each Certificate shall contain a statement of

the coverage provided by the policy, a statement of the period during which the policy is in effect, a statement that the annual premium for the policy has been paid in advance and an agreement by the company issuing the policy that such policy shall not be canceled or reduced in any amount for any reason whatsoever without at least thirty (30) days prior written notice to Lessor.

**E. Mutual Waiver of Subrogation Rights.** Lessor (and all parties claiming under it) and Lessee, up to the amount of the policy limits of insurance provided and in the amount paid by the insurance company on each claim, mutually release and discharge each other from all claims and liabilities arising from or caused by any casualty or hazard covered or required hereunder to be covered in whole or in part by insurance on the Premises or in connection with the property or activities conducted on the Premises, and waive any right of subrogation which might otherwise exist in or accrue to any person on account thereof, provided that such release shall not operate in any case where the effect is to invalidate or increase the cost of such insurance coverage (provided that in the case of increased cost, the other party shall have the right, within thirty (30) days following written notice, to pay such increased cost, thereby keeping such release and waiver in full force and effect). Despite anything to the contrary in this Lease, the liability of Lessor (and of any successor Lessor) to Lessee (or any person or entity claiming by, through, or under Lessee) will be limited to the interest of Lessor in the property commonly known as 287 South Darrington Rd, Horizon City, El Paso County, Texas (the Property). Lessee will look solely to Lessor's interest in the Property for the recovery of any judgment or award against Lessor. No agent, member, director, manager, employee, or other party associated with Lessor (collectively Lessor Parties) will be personally liable for any judgment or deficiency. Before filing suit for an alleged default by Lessor, Lessee will give Lessor, notice and reasonable time to cure the alleged default as provided in this Lease. Lessee waives all claims against all Lessor Parties for consequential, special, or punitive damages allegedly suffered by any Lessee, including lost profits and business interruption.

**12. Maintenance and Repair of Premises.** Lessor shall maintain the structural elements of the Premises only. Lessor shall be responsible for repair or replacement of the roof, if necessary, provided that Lessee shall repair any damage to the roof caused by Lessee or his agents. Lessee shall be responsible for all other maintenance and repair of the Premises including the exterior walls, plumbing, electrical, heating and air conditioning systems, all interior nonstructural systems (floor covering and raised flooring, interior partitions, doors, the interior side of demising walls), glass breakage, as well as all repairs which are caused by or result from Lessee's negligence or breach of this Lease, but not those repairs necessitated by damage to the Premises by fire or other casualty which Lessor is obligated to repair pursuant to Paragraph 13. Lessee shall not make any changes or alterations to the plumbing, electrical or HVAC systems on the Premises, or cause the roof to be penetrated in any manner, without the prior written consent of Lessor. Lessee is responsible for turning on/off the heating and air conditioning systems as the seasons may require.

**A. Lessor's Right to Repair.** In the event that lessee shall fail to properly maintain or repair the Premises, Lessor shall have the right to contract for and/or make

necessary repairs and maintenance at Lessee's cost. Lessee shall reimburse Lessor the reasonable cost of all repairs or maintenance plus a twenty percent (20%) Administrative fee and, upon failure to do so, such amount shall be added to the rental due hereunder.

- B. Surrender of Premises.** At the expiration of the tenancy hereby created, Lessee shall surrender the Premises in the same condition as they were on the Commencement Date, reasonable wear and tear and damages by the elements excepted, and deliver the keys for the Premises to Lessor at Lessor's Notice address.
- C. Fire Extinguishers.** Lessee agrees to supply and maintain at its own expense any fire extinguishers, or other fire prevention equipment, required by applicable law, rules, orders, ordinances, and regulations or as may be required by the insurance company providing coverage for the Premises.
- D. Cleaning.** Lessee shall keep the Premises neat and clean and maintain it in good order. Lessee further agrees to keep the walkway and parking spaces associated with the Premises free of obstructions and to keep the glass windows and doors of the Premises clean inside and out.
- 13. Damage and Destruction.** If the Premises are hereafter damaged or destroyed or rendered partially untenantable for their accustomed use by fire or other casualty insured under the insurance policy on the Premises, Lessor shall promptly repair the same to substantially the condition they were in immediately prior to the happening of such casualty (excluding stock in trade, fixtures, furniture, furnishings, carpeting, floor coverings, wall coverings, drapes and equipment) and from the date of such casualty until the Premises are so repaired and restored, the monthly rent payments hereunder shall abate in such proportion as the part of the Premises thus destroyed or rendered untenantable bears to the total Premises; provided, that Lessor shall not be obligated to expend for such repair or restoration an amount in excess of the insurance proceeds recovered as a result of such damage, and provided, further, that if the Premises are damaged, destroyed or rendered untenantable for their accustomed uses by fire or other casualty to the extent of more than 30% of the cost to replace the Premises, or if the time estimated to restore the Premises indicates that the Premises cannot be made tenantable within one hundred eighty (180) days after the date of damage, then Lessor shall have the right to terminate this Lease effective as of the date of such casualty by giving to Lessee, within sixty (60) days after the happening of such casualty, written notice of such termination. If such notice be given, this Lease shall terminate and Lessor shall promptly pay to Lessee any rent theretofore paid in advance which was not earned at the date of such casualty. If said notice is not given and Lessor is required to repair or restore the Premises as herein provided, then Lessee shall promptly repair or replace its stock in trade, fixtures, furnishings, carpeting, wall covering, floor covering, drapes and equipment to the same condition as they were in immediately prior to the casualty, and if Lessee has closed its business, Lessee shall promptly reopen for business upon the completion of such repairs.

Lessee will (1) lock the doors to the Premises and take other reasonable steps to secure the Premises and the personal property of Lessee, from unlawful intrusion, theft, fire, and other hazards, (2) keep and maintain in good working order all security devices installed on the Premises by or for the benefit of Lessee (such as locks, smoke detectors, and burglar alarms), and (3) cooperate with Lessor and other tenants in the Building on security matters. Lessee acknowledges that any security measures employed by Lessor are for Lessor's own protection; that Lessor is not a guarantor of the security or safety of the Lessee or its property; and that such security matters are the responsibility of Lessee and the local law enforcement authorities.

**14. Subordination.** The Lease shall be subject to and subordinate to the lien or any mortgage which Lessor may place or has previously placed upon the Premises and to all terms, conditions and provisions thereof, and to any renewals, extensions, modifications or replacements thereof.

**15. Alterations and Modifications.**

**A. Alterations.** Lessee shall not make any alterations to the Premises without the prior written consent of Lessor. If Lessor grants consent, the alterations shall be performed in a good and workmanlike manner in accordance with all applicable laws, ordinances, building codes and regulations.

**B. Removal and Restoration by Lessee.** All alterations, changes and additions and all improvements, including leasehold improvements made by Lessee, or made by Lessor on Lessee's behalf (all such items referred to collectively as Lessee's additions"), whether or not paid wholly or in part by Lessor, shall remain Lessee's property for the lease term. All of such Lessee's additions (but not including items used primarily in the conduct of Lessee's business and commonly considered "trade fixtures") shall immediately upon the termination of this Lease become Lessor's property, be considered a part of the Premises, and not be removed at or prior to the end of the Lease term without Lessor's written consent. Landlord may retain, destroy, or dispose of any property left on the Premises at the end of the Term or upon Lessee's abandonment of the Premises.

**C. Lessee shall Discharge All Liens.** Lessee shall promptly pay all contractors and material men, and shall not permit or suffer any mechanic's, materialmen's or laborer's liens to attach to or encumber the Leased Premises or any part thereof during the term hereof, and shall indemnify and hold harmless Lessor against the same. Lessor shall have the right to require Lessee to furnish a bond or other indemnity satisfactory to Lessor prior to the commencement of any such work by Lessee on the Premises, or if any lien attaches or is claimed, to require such bond or indemnity in addition to all other remedies.

**D. Waiver.** Lessor, its agents and employees, shall not be liable for, and Lessee waives all claims for, damage, loss, cost or expense (except claims caused by or resulting from gross negligence or willful misconduct of Lessor, its agents,

servants or employees) including claims for consequential damages, damage to person, property or otherwise, sustained by Lessee or any person claiming through Lessee resulting from any accident or occurrence in or upon any part of the Premises, including but not limited to, claims for damage resulting from: (a) any equipment or appurtenances becoming out of repair; (b) Lessor's failure to keep any part of the Premises in repair; (c) injury done or caused by wind, water or natural elements; (d) any defect in or failure of plumbing, heating or air conditioning equipment, electrical wiring or installation thereof, gas, water or sewer pipes; (e) broken glass; (f) the backing up of any sewer pipe or downspout; (g) the bursting, leaking or running of any tank, washstand, water, snow, or ice upon the premises; (h) the falling of any fixture, plaster or stucco; (i) damage to or loss by theft or otherwise of property of Lessee or others; (j) acts or omissions of any person in the Premises, occupants of nearby properties, or any other persons; and (k) any act or omission of owners of adjacent or contiguous property. All property of Lessee kept in the Premises shall be so kept at Lessee's risk only and Lessee shall save Lessor harmless from claims arising out of damage to the same, including subrogation claims by Lessor's insurance carrier.

**E. Right of Entry.** Lessor, its agents, employees, contractors and representatives shall have the right to enter the Premises from time to time with at least 48 hour written email or letter notice delivered to Lessee, except in the event of an emergency or if parties otherwise agree in writing, to examine, show to prospective purchasers and other persons, and make repairs, alterations, improvements or additions as Lessor may be authorized under this Lease. Rent shall not abate while any such repairs, alterations, improvements or additions are being made and entry by Lessor for any such purposes will not constitute a constructive eviction. During the last six (6) months of the Lease term, Lessor may exhibit the Premises to prospective tenants and maintain upon the Premises signs or notices deemed advisable by Lessor. In addition, during any apparent emergency, Lessor or its agents may enter the Premises forcibly without liability therefore and without in any manner affecting Lessee's obligations under this Lease. Nothing contained herein, however, shall be deemed to impose upon Lessor any obligation, responsibility or liability whatsoever, for any care, maintenance or repair except as otherwise expressly provided herein.

**16. Signs.** Lessee shall place an appropriate sign on the premises advertising the name of Lessee's business within 30 days of the signing of this Lease, at the sole expense of Lessee. The design of such sign must be approved by Lessor and shall consist primarily of channel letters.

**17. Common Area.** The parking area, sidewalks and mall area around the Premises is for the use and benefit of Lessee, its employees, agents, customers and invitees as well as those of surrounding tenants at Darrington Park. Lessee acknowledges that Lessor may institute charges to Lessee for the reasonable cost and expense incurred by Lessor in operating and maintaining the Common Areas, including, without limitation, the following: (i) premiums for insurance for the Common Area; (ii) all taxes and assessments

and governmental charges whether federal, state, county, or municipal and any other taxes and assessments attributable to the Common Area or its operation, including real property taxes assessed against the Common Area; (iii) landscaping, watering and gardening expense incurred in connection with the operation of the Common Area; (iv) the expense of maintenance, repair, painting, of patching, repairing, repaving or re-stripping the parking area and replacement of any part of or facility of the Common Area; (v) the expense of cleaning and lighting of the Common Areas; (vi) the expense of water and sewer charges and ordinary trash removal, except for trash removal required to be paid by Lessee; (vii) maintenance, repair and replacement of machinery and equipment used in the maintenance and cleaning of the Common Areas; (viii) the cost of police, fire protection, guard and security services; (ix) the wages and salaries of all employees or persons engaged in the operation and maintenance of the Common Area including payments for worker's compensation and disability insurance, payroll taxes, employer's Social Security taxes and any other taxes which may be levied on such wages and salaries; (x) such other necessary expenses that are reasonably incurred by Lessor in operating and maintaining the Common Areas in good condition. Lessee agrees to pay Lessor, as Additional Rent, Lessee's proportionate share of these Operating Expenses by making a monthly payment to equal one-twelfth (1/12) of Lessee's proportionate share of the Operating Expenses for the preceding year, when the rental payment is due.

From time to time, Lessor may promulgate reasonable rules and regulations relating to the use and enjoyment of the common areas of the Premises by Lessee, its employees and customers, and the public in general. Lessor shall provide Lessee written notice of any Common Area Rules in accordance with the provisions of this Lease. The lessee shall faithfully observe and perform such Rules and Regulations, as modified or supplemented from time to time by the Lessor, and the Lessee shall further be responsible for the compliance with such Rules and Regulations by the Lessee's employees, servants, agents and visitors. The Lessee shall conform to and observe all the laws, ordinances, government regulations and orders applicable to the conduct in or use of the premises covered by this instrument which may be in force during the term of this lease. The breach or violation of any Common Area Rule by Lessee may be considered by Lessor as an act of default by Lessee under the terms of this Lease, and Lessor shall be entitled to pursue any and all rights and remedies provided for in this Lease or allowed by law.

18. **Indemnification.** LESSOR AND LESSEE SHALL INDEMNIFY, DEFEND AND HOLD EACH OTHER, AND THEIR RESPECTIVE MEMBERS, PRINCIPALS, BENEFICIARIES, PARTNERS, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS, AND THE PERMITTED OCCUPANTS, HARMLESS FROM ANY INJURY (AND ANY RESULTING CLAIM, ACTION, LOSS, LIABILITY, OR REASONABLE EXPENSE, INCLUDING ATTORNEY'S FEES AND OTHER FEES AND COURT AND OTHER COSTS) OCCURRING IN ANY PORTION OF THE PREMISES. THE INDEMNITY CONTAINED IN THIS PARAGRAPH (a) IS INDEPENDENT OF INSURANCE, (b) WILL NOT BE LIMITED BY COMPARATIVE NEGLIGENCE STATUTES OR DAMAGES PAID UNDER THE WORKERS' COMPENSATION ACT OR SIMILAR EMPLOYEE BENEFIT ACTS, (c) WILL

**SURVIVE THE END OF THE TERM, AND (d) WILL APPLY EVEN IF AN INJURY IS CAUSED IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF LESSOR OR LESSEE BUT WILL NOT APPLY TO THE EXTENT AN INJURY IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LESSOR OR LESSEE AND THEIR RESPECTIVE AGENTS.**

19. **Environmental Covenants and Indemnification.** Lessee shall, at Lessee's sole cost and expense, comply with all environmental and hazardous waste laws, rules, regulations and ordinances as well as all applicable health and safety codes promulgated by all federal, state, county and municipal agencies having jurisdiction. Without limiting the foregoing, the term hazardous waste laws shall include any law or regulation now in effect or hereinafter enacted or imposed pertaining to health, safety or environmental protection. Lessee agrees to indemnify Lessor against and defend and hold Lessor harmless from any claim, obligation, liability, loss, damage or expense (including attorney's fees and court costs) of any kind or nature, contingent or otherwise, known or unknown, accruing after the execution of this Lease that is incurred or based upon (a) any violation of any applicable health and safety codes that arises out of any act or omission of Lessee, its employees, agents or representatives, (b) any violation of any hazardous waste law that arises out of any actor omission of Lessee, its employees, agents or representatives that causes the release of any substance into the environment, that arises out of the use, control or operation by Lessee of any area within the Premises from which any substance is released into the environment; and (c) that arises from breach by Lessee of any representation, warrant or covenant made by Lessee in this Lease relating to the use, storage or disposal of hazardous materials or relating to the compliance with all applicable health and safety codes and all environmental laws. Lessee's indemnification shall apply to all conduct arising during the Lease term and shall survive the termination of this Lease.
20. **Assignment and Subletting.** Lessee shall not assign this lease or any part thereof and the leased premises shall not be let or sublet, or used or permitted to be used by any person other than Lessee and Lessee's employees or for any purpose other than first above mentioned, without the prior written consent of the said Lessor first endorsed hereon. Such consent of assignment or sublet shall be in Lessor's sole and absolute discretion. In case of an assignment or sub-letting without the written consent prescribed above, an acceptance of rent by the Lessor from the assignee or sub-lessee or Lessee shall not be construed as consent to the assignment or sub-letting nor a release of the Lessee from the observation and compliance by the Lessee of this covenant. Lessee must obtain Lessor's consent for any assignment or sublet, including but not limited to: (1) transfer or assignment to any corporation, limited liability company (LLC), partnership, limited partnership or other entity; (2) any change in the ownership or membership in any corporation, limited liability company (LLC), partnership, limited partnership, or other entity permitted to occupy the premises. Notwithstanding any such consent the undersigned Lessee will remain jointly and severally liable (along with each approved assignee or sub lessee who shall automatically become liable for all obligations of Lessee hereunder) and Lessor shall be permitted to enforce the provisions of this instrument

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directly against the undersigned Lessee and/or any assignee or sublessee without proceeding in any way against any other person.

Notwithstanding anything in the Lease stated to the contrary, Lessor acknowledges that Lessee will be sharing space within the Premises in conjunction with the business accelerator Purpose as further described in Section 8; that sharing space with the University of Texas at El Paso and other businesses participating in the accelerator program shall not require Lessor's consent, shall not be considered an assignment of the Lease or a sublet of the Premises, shall not cause Lessor to charge Lessee or its participating entities any fees; nor shall such sharing be deemed a breach of the Lease; provided that Lessee shall remain solely and fully responsible for its performance under the Lease.

**21. Eminent Domain.**

- A. Eminent Domain.** If 20% or more of the Premises shall be acquired or condemned by right or eminent domain for any public or quasi-public use or purpose, then Lessor or Lessee, at its election may terminate this Lease by giving notice to the other party, and in such event, rentals shall be apportioned and adjusted as of the date of termination. If the Lease shall not be terminated, then it shall continue in full force and effect, and Lessor shall in a reasonable time after possession is physically taken (subject to delays due to shortage of labor, materials or equipment, labor difficulties, breakdown of equipment, governmental restrictions, fires, other casualties or other causes beyond the reasonable control of Lessor) repair or rebuild what remains of the Premises for Lessee's occupancy; and a just proportion of the rent shall be abated, according to the nature and extent of the injury to the Premises, until such repairs and rebuilding are completed, and thereafter for the balance of the Lease term.
- B. Damages.** If the remaining lease term is less than one year, Lessor reserves and Lessee assigns to Lessor, all rights to damages on account of any taking or condemnation or any act of any public or quasi-public authority for which damages are payable. Lessor does not reserve any damages payable for trade fixtures installed by Lessee at its own expense which are not part of the realty.

**22. Default by Lessee.**

- A. Events of Default.** The following shall be considered for all purposes to be defaults or breaches of this Lease: (a) any failure of Lessee to pay any rent or other amount due hereunder within fifteen (15) days after the due date, (b) any failure by Lessee to perform or observe or commence cure of any of the other terms, provisions, conditions of this Lease for more than thirty (30) days after written notice of such failure; (c) Lessee shall become bankrupt or insolvent or file or have filed against it a petition in bankruptcy or for reorganization or arrangement or for the appointment of a receiver or trustee of all or a portion of Lessee's property, or Lessee makes an assignment for the benefit of creditors; (d) if Lessee abandons or vacates or does not do business in the Premises for thirty (30) days; (e) the Lease or Lessee's interest

herein or in the Premises or any improvements thereon or any property of Lessee are executed upon or attached; or (f) the Premises come into the possession of any person other than expressly permitted under this Lease. In such event, following written notice of default and Lessee's failure to cure, except as set out here above, Lessor, in addition to all other rights or remedies it may have, shall have the right thereupon or at any time thereafter to: (a) Terminate this lease, in which event Lessee shall immediately surrender the premises to Lessor, but if Lessee shall fail to do so, Lessor may commence judicial proceedings to enter upon the premises and expel or remove Lessee and his effects; and as reasonable liquidated damages, Lessee agrees to indemnify Lessor for all loss and damage which Lessor may suffer by reason of such termination, whether through inability to relet the premises, or through decrease in rent, or otherwise for a period not to exceed six (6) months. The acceptance of such payment by Lessor shall not constitute a waiver of any failure of Lessee thereafter occurring to comply with any term, provision or covenant of this lease. Thereafter, Lessor shall rebate any rents received or a portion thereof after all expenses have been paid if a deficiency exists by its re-leasing of the premises during remainder of term; (c) terminate Lessee's right to possession of the Premises and change the locks with judicial process, and, in compliance with applicable Law, expel and remove Lessee, Lessee's Property, and any parties occupying all or any part of the Premises. If Lessor terminates Lessee's possession of the Premises under this Section, Lessor will have no obligation to tender to Lessee a key for new locks installed on the Premises. Lessor may (but will not be obligated to) re-lease all or any part of the Premises, without notice to Lessee, for a term that may be greater or less than the balance of the Term and on such conditions (which may include concessions, free rent, and alterations of the Premises) and for such uses as Lessor in its discretion may determine. Lessor may collect and receive all rents and other income from the re-leasing. Lessee will pay Lessor on demand all past-due Rent, all costs of re-leasing, and any deficiency arising from the re-leasing or failure to re-lease the Premises to the extent provided above as liquidated damages. Lessee will not be responsible or liable for the failure to re-lease all or any part of the Premises or for the failure to collect any Rent, except as set forth herein.

The existence or the pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law.

- B. Lessor's Remedies.** No act or thing done by the Lessor or its agents during the term hereby granted shall be deemed an acceptance of a surrender of said premises, and no agreement to accept a surrender of said premises shall be valid unless the same be made in writing and subscribed by the Lessor. The mention in this lease of any particular remedy shall not preclude the Lessor from any other remedy the Lessor might have, either in law or in equity, nor shall the waiver of or redress for any violation of any covenant or condition, in this lease contained or any of the rules and regulations set forth herein, or hereafter adopted by the Lessor, prevent a subsequent

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act, which would have originally constituted a violation, from having all the force and effect of an original violation.

- C. **Landlord's Lien.** Lessor waives any express contract or statutory lien on and security interest in all property, chattels, or merchandise which may be placed in the leased premises and also upon all proceeds of any insurance which may be placed on or in the leased premises and also upon all proceeds of any insurance which may accrue to Lessee by reason of damage to or destruction of any such property.

**23. Default by Lessor/Remedies.** Lessor shall in no event be charged with default in any of its obligations hereunder unless and until Lessor shall have failed to perform such obligations within thirty (30) days (or such additional time as is reasonably required to diligently pursue and correct any such default) after written notice to Lessor by Lessee, specifically describing such failure. Lessee shall have the right to pursue any legal or equitable remedy, or at Lessee's election, have the right to remedy the default upon Lessor's failure to cure and recover the cost thereof from Lessor.

**24. Sale of Premises by Lessor.** In the event of any sale of the Premises by Lessor, Lessor shall be and is entirely freed and relieved of all liability under any and all of its covenants and obligations contained in or derived from this Lease arising out of any act, occurrence or omission occurring after the consummation of such sale; and the purchaser, at such sale or subsequent sale of the Premises, shall be deemed to have assumed and agreed to carry out any and all of the covenants and obligations of the Lessor under this Lease without the necessity of executing any further documents to that effect. This Lease shall not be affected by any sale or conveyance of the Premises, or the property of which the Premises is a part, and Lessee agrees to attorn to the purchaser thereof.

**25. Waiver.** The waiver by Lessor of any breach of any term, covenant, or condition contained in this lease shall not be deemed to be a waiver of such term, covenant, or condition, or of any subsequent breach of such term, covenant, or condition, or any subsequent breach of such term, covenant, or condition, or of any other term, covenant, or condition in this lease contract. The acceptance of rent under this lease by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant, or condition of this lease other than Lessee's breach in failing to pay the particular rent so accepted regardless of Lessor's knowledge of such additional preceding breach at the time of the acceptance of such rent. The failure of the Lessor to enforce any of the Rules and Regulations set forth herein, or hereafter adopted against the Lessee and/or any other Lessee in the building shall not be deemed a waiver of any such Rules and Regulations. No provision of this lease shall be deemed to have been waived by the Lessor unless such waiver is in writing signed by the Lessor.

**26. Holding Over and Successors.**

- A. **Holding Over.** If Lessee holds over or occupies the Premises beyond the Lease term (it being agreed that there shall be no holding over or occupancy without Lessor's written consent), Lessee shall pay Lessor over a sum equal to 125% of the monthly rental applicable hereunder at the expiration of the Lease term (Holdover Rent). If Lessee holds over with or without Lessor's written consent, Lessee shall occupy the Premises on a tenancy from month to month and pay the Holdover Rent in advance on the first day of each month during the period of holdover. Lessee will otherwise continue to be subject to all of Lessee's obligations under this Lease. No holdover by Lessee or payment by Lessee after the expiration or termination of this Lease will be construed to extend the Term or prevent Lessor from immediate recovery of possession of the Premises by summary proceedings or otherwise. In addition to the payment of the amounts provided above, if Lessor is unable to deliver possession of the Premises to a new tenant, or to perform improvements for a new tenant, as a result of Lessee's holdover and Lessee fails to vacate the Premises within fifteen (15) days after Lessor notifies Lessee of Lessor's inability to deliver possession or perform improvements, such failure will constitute a Default under this Lease, and Lessee will be liable to Lessor for, and will protect Lessor from and indemnify and defend Lessor against, all losses and damages, including any claims made by any succeeding tenant resulting from the failure to vacate and any consequential damages that Lessor suffers from the holdover.
- B. **Successors.** All rights and liabilities herein given to or imposed upon the Lessor shall bind and inure to the several heirs, successors, administrators, executors, legal representatives and assigns of the Lessor and all rights and liabilities herein given to or imposed upon the Lessee shall be binding upon and inure to the benefit of Lessee. No rights, however, shall inure to the benefit of any assignee of Lessee unless the assignment was approved by Lessor in writing.

27. **Miscellaneous.**

- A. **Legal Construction.** In case any one or more of the provisions contained in this agreement shall be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- B. **Amendment.** No amendment, modification or alteration of the terms hereto or consent required hereunder shall be binding unless the same shall be in writing, dated subsequent to the date hereof and duly executed by the parties hereto.
- C. **Attorney's Fees.** In the event that the Lessor shall incur any attorney's fees in the collection of any amounts due under this agreement or for the enforcement of any of

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the terms of this agreement, Lessee shall pay all such reasonable attorneys' fees incurred. It is agreed that if either party shall be required to retain counsel and to file court action or arbitration for the enforcement of its rights and the performance of covenants imposed upon the other as contained herein, then the party prevailing, either by judgment or settlement shall be entitled to the payment from the non-prevailing party, of all reasonable attorneys' fees and court costs incurred.

- D. **Entire Agreement.** There are no representations, covenants, warranties, promises, agreements, conditions or undertaking, written or oral, between Lessor and Lessee other than set forth in this agreement. Except as otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon Lessor or Lessee unless in writing and signed by each party.
- E. **Time.** Time is of the essence for Lessee's performance of its obligations and the exercise of any expansion, renewal, or extension rights or other options granted to Lessee.
- F. **Limitations of Liability.** Notwithstanding anything to the contrary contained herein, therein shall be absolutely no personal liability by Lessor to the terms, covenants, conditions and provisions of this Lease, and Lessee shall look solely to the interest of Lessor, his successors and assigns, in the Premises for satisfaction of each and every remedy of tenant in the event of default by Lessor hereunder; such exculpation of personal liability is absolute and without any exception whatsoever.
- G. **Notices and Addresses.** All notices provided to be given under this agreement shall be given by certified or registered mail, or by courier service, addressed to the proper party, at the following address:

Lessor

Lessee

Darrington Park, LLC  
1600 Hartsdale #D  
Horizon City, Texas 79928  
darringtonpark@gmail.com

- H. **Application of Law.** This agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in El Paso County, Texas, and enforceable in the courts of El Paso County, Texas. Any action for the collection of unpaid rent or other charges due under this lease shall be enforceable in the Justice Court, Precinct 6 of El Paso County, Texas (provided that the amount is within the jurisdictional limits of that court) and Lessee shall not be entitled to object to venue in that court.

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- I. **Consent by Lessor.** Whenever under this Lease, provision is made for Lessee's securing the consent or approval of Lessor, such consent or approval shall be in writing.
- J. **Counterpart Execution.** This Lease is being executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.
- K. **Recording.** Lessee will not record this Lease or any memorandum in any public records without Lessor's written consent.
- L. **Force Majeure.** Whenever a time period is prescribed for the taking of an action by Lessor or Lessee, the time period will be extended by the number of days that the performance is actually delayed due to acts of God, strikes, shortages of labor or materials, war, civil disturbances, and other causes beyond the reasonable control of the performing party ("Force Majeure"). However, events of Force Majeure will not extend any time period for the payment of Rent or other amounts payable by either party or any time period for the written exercise of an option or right by either party.
- M. **Transferability; Release of Lessor.** Lessor will have the right to transfer and assign, in whole or in part, all of its rights and obligations under this Lease and in the Property. On such transfer, Lessor will be released from any further obligations under this Lease, and Lessee agrees to look solely to the successor-in-interest of Lessor for the performance of such obligations.
- N. **Tax Waiver.** Lessee waives all rights under all Laws to protest appraised values or receive notice of reappraisal regarding the Property (including Lessor's personal property), regardless of whether Lessor contests the appraisal.
- O. **Waiver of Consumer Rights.** Lessee waives all of its rights under the Texas Deceptive Trade Practices – Consumer Protection Act, Texas Business and Commerce Code section 17.14 et seq., a law that gives consumers special rights and protections. After consultation with an attorney of Lessee's own selection, Lessee voluntarily adopts this waiver.

## SIGNATURES

**LESSOR:**

**LESSEE:**


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Lease (Unit #101)(HCEDC)(11Feb2019)

**DARRINGTON PARK, LLC**

Signature:   
Printed Name: Lee Mullen

**HORIZON CITY ECONOMIC  
DEVELOPMENT CORPORATION**

Signature:   
Printed Name:  
Title: Lee Mullen