

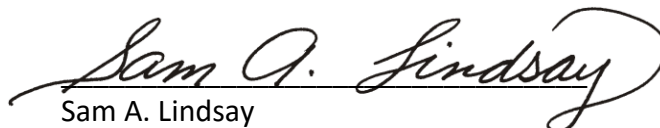
IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE)
COMMISSION,)
)
Plaintiff,)
)
v.) Civil Action No.: **3:17-CV-420-L**
)
PATRICK O. HOWARD;)
HOWARD CAPITAL HOLDINGS,)
LLC; and OPTIMAL ECONOMICS)
CAPITAL PARTNERS, LLC,)
)
Defendants.)

**ORDER APPROVING RECEIVER'S MOTION TO APPROVE LEASE
TERMINATION**

Before the court is the Receiver's Unopposed Motion to Approve Lease Termination, filed March 29, 2017. The court determines that the motion should be, and is hereby, **granted**. Accordingly, the Receiver may enter into the Lease Termination Agreement attached to this order.

It is so ordered this 30th day of March, 2017.


Sam A. Lindsay
United States District Judge

1700 Pacific Avenue, Suite 3680
Dallas, TX 75201

LEASE TERMINATION AGREEMENT

This LEASE TERMINATION AGREEMENT (this *Agreement*), is dated as of March 9, 2017 (the *Effective Date*), by and between OLYMBEC USA LLC, a Delaware limited liability company (*Landlord*), and OPTIMAL ECONOMICS CAPITAL PARTNERS LLC, a Texas limited liability company (*Optimal*), herein represented by W. CRAIG STOKLEY, ESQ., receiver for the estate of Optional (*Receiver*; together with Optimal, collectively, *Tenant*).

WITNESSETH:

WHEREAS, Landlord and Optimal entered into that certain Office Lease, dated as of August 17, 2015 (the *Original Lease*; as amended, modified, assigned, and/or supplemented from time to time, collectively, the *Lease*), with respect to the lease of approximately 3,083 Rentable Square Feet in Suite 3680 (the *Premises*), located in that certain office building located at 1700 Pacific Avenue, Dallas, Texas 75201 (the *Building*), as more particularly described in the Lease, for a term expiring on August 31, 2018 (the *Current Term*);

WHEREAS, on February 14, 2017 the United States District Court for the Northern District of Texas ordered that Receiver be appointed as the receiver for the estate of Optimal;

WHEREAS, Landlord and Tenant mutually desire to terminate the Lease effective as of the close of business on March 31, 2017 (the *Lease Termination Date*), on the terms and conditions hereinafter set forth; and

NOW, THEREFORE, for and in consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant do hereby agree as follows:

1. **Incorporation of Recitals.** The Recitals are true and correct, both in substance and in fact, and said Recitals form an integral part hereof as if they were recited at length.

2. **Definitions.** Initially capitalized terms used in this Agreement and not otherwise expressly defined herein shall have the respective meanings given to such terms in the Lease.

3. **Termination of Lease.**

(a) Notwithstanding anything to the contrary contained in the Lease, Landlord and Tenant hereby agree that, upon Tenant's timely performance of the obligations set forth in Subsections 3(b)(i) and (ii) below, the Current Term shall terminate on the Lease Termination Date, pursuant to the terms and conditions of the Lease and as set forth herein.

(b) As consideration for Landlord to enter into this Agreement,

(i) Tenant shall pay and deliver to Landlord, together with three (3) executed counterparts of this Agreement, a check in an amount equal to FIVE THOUSAND SEVEN HUNDRED THIRTY SEVEN AND 81/100 Dollars (\$5,737.81) (the **Termination Fee**), comprised of :

(1) Four Thousand Nine Hundred Thirty Two and 80/100 Dollars (\$4,932.80), which represents the Minimum Rent for the month of March 2017;

(2) Three Hundred Eighty Two and 81/100 Dollars (\$382.81), which represents Tenant's estimated Proportionate Share of Total Electricity Costs for the Project for the month of March 2017;

(3) Fifty Three and 95/100 Dollars (\$53.95), which represents Tenant's estimated Proportionate Share of Excess Operating Costs for the month of March 2017; and

(4) Three Hundred Sixty Eight and 25/100 Dollars (\$368.25), which represents Tenant's amount due for work orders and overtime HVAC charges for the month of March 2017.

(ii) Tenant shall remove all its personal property and furniture from the Premises on or before the Lease Termination Date;

(iii) the Security Deposit, in the amount of Five Thousand Sixty One and 26/100 Dollars (\$5,021.26), shall be retained by Landlord and Tenant hereby expressly waives any right it may have for the return of the Security Deposit; and

(iv) Tenant hereby represents and warrants that, as of the Effective Date, Landlord is not in default with respect to its duties or obligations under the Lease and TENANT HEREBY FULLY AND FOREVER RELEASES ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS, CAUSES OF ACTION, AND/OR SUITS ACCRUING FROM THE BEGINNING OF TIME THROUGH THE LEASE TERMINATION DATE, AGAINST LANDLORD AND/OR ANY OF ITS AFFILIATES, SUBSIDIARIES, SHAREHOLDERS, OFFICERS, DIRECTORS, PARTNERS, PARTNERSHIPS, MANAGERS, MEMBERS, FIDUCIARIES, TRUSTEES, EMPLOYEES, AGENTS, INSURERS, PREDECESSORS, SUCCESSORS OR ASSIGNS ARISING UNDER THE LEASE OR THIS AGREEMENT.

(c) UPON TENANT'S PERFORMANCE OF ALL OF ITS OBLIGATIONS HEREUNDER, INCLUDING, WITHOUT LIMITATION, TIMELY PAYMENT OF THE AMOUNT SET FORTH IN SUBSECTION 3(b)(i) ABOVE, LANDLORD ACKNOWLEDGES AND WARRANTS THAT TENANT HAS SATISFIED ITS RESPONSIBILITIES AND OBLIGATIONS TO LANDLORD UNDER THE LEASE AND THIS AGREEMENT AND LANDLORD SHALL AUTOMATICALLY FULLY AND FOREVER RELEASE ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS, CAUSES OF ACTION, AND/OR SUITS ACCRUING FROM THE BEGINNING OF TIME

THROUGH THE LEASE TERMINATION DATE, AGAINST TENANT AND/OR ANY OF ITS AFFILIATES, SUBSIDIARIES, SHAREHOLDERS, OFFICERS, DIRECTORS, PARTNERS, PARTNERSHIPS, MANAGERS, MEMBERS, FIDUCIARIES, TRUSTEES, EMPLOYEES, AGENTS, INSURERS, PREDECESSORS, SUCCESSORS OR ASSIGNS ARISING UNDER THE LEASE OR THIS AGREEMENT.

3. **Delivery of Premises.** On or before the Lease Termination Date, Tenant shall surrender, vacate, and deliver vacant possession of the Premises pursuant to the terms of the Lease and as set forth herein. Except upon written agreement of Landlord and Tenant, Tenant shall have no right to possess and occupy the Premises beyond the Lease Termination Date. If Tenant continues to hold over past the Lease Termination Date, Tenant's possession shall be considered a tenancy at will subject to daily rental and all other obligations as set forth in the Lease including but not limited to Section 25 of the Original Lease.

4. **Representations and Warranties.** Tenant represents and warrants that as of the Effective Date of this Agreement: (i) the Lease is in full force and effect; (ii) Landlord is not in default under the Lease and Tenant has no claims against Landlord; and (iii) Tenant has no defenses or offsets to the full and complete performance of its duties and obligations under the Lease and this Agreement.

5. **Authority.** Landlord and Tenant each hereby warrant and represent to the other that, as of the Effective Date, (a) the representing party has full power and authority to enter into this Agreement, (b) this instrument does not require the consent of any party claiming by, through, or under the representing party, and (c) all of the individuals executing this instrument on behalf of the representing party are duly authorized to do so.

6. **Confidentiality.** Landlord and Tenant represent and warrant that each shall keep confidential all financial terms of this Agreement (as opposed to the existence of this Amendment, which may be disclosed); provided, however, that both parties may disclose such confidential information to applicable regulatory authorities and to their respective attorneys and consultants and if and as may be required by applicable law, including without limitation federal and state securities laws.

7. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, and such counterparts together shall constitute one and the same instrument.

8. **Survival.** The representations, warranties, covenants and agreements contained in this Agreement shall survive the termination of the Lease without limitation.

9. **Severability.** If any provision of this Agreement shall be held to be void or unenforceable for any reason, the remaining terms and provisions hereof shall not be affected thereby, to the extent permitted under applicable law.

10. **Binding Effect.** The provisions of this Agreement shall enure to the benefit of and bind the successors and assigns of the parties hereto.

11. **Integrated Agreement.** This Agreement and the Lease constitute the entire agreement between the parties relating to the subject matter hereof, and there are no agreements, understandings, restrictions, warranties or representations between the parties other than those set forth herein, whether oral, written or otherwise.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

LANDLORD:

OLYMBEC USA LLC,
a Delaware limited liability company

By: _____
Dimitri Morcos
Lease Administrator

TENANT:

**OPTIMAL ECONOMICS
CAPITAL PARTNERS,**
a Texas limited liability company

By: _____
W. Craig Stokley, Esq.
Receiver for Optimal