

N A S H V I L L E
P L A N N I N G

January 17, 2024

To: Ronald Colter Metro Department of Finance

Re: **Lease Register of Deeds**
Planning Commission Mandatory Referral 2024M-002AG-001
Council District #19 Jacob Kupin, Council Member

On behalf of the Metropolitan Planning Commission, the following item, referred to the Commission as required by the Metro Charter, has been recommended for *approval* to the Metropolitan Council:

An ordinance approving a lease agreement between the Metropolitan Government of Nashville and Davidson County and Nashville Garage LP for office space at 350 Deaderick Street, Nashville, Tennessee (Parcel No. 09302318400) (Proposal No. 2024M-002AG-001).

The relevant Metro agencies (Metro Parks, Metro Public Works, Metro Water Services, Metro Emergency Communications, the Nashville Electric Service, Metro Finance – Public Property and the Metro Historical Commission) have reviewed the proposal and concur in the recommendation for approval. This request must be approved by the Metro Council to become effective. A sketch showing the location of the request is attached to this letter.

Conditions that apply to this approval: none

This recommendation for approval is given as set forth in the Metropolitan Planning Commission Rules and Procedures. If you have any questions about this matter, please contact Delilah Rhodes at Delilah.Rhodes@nashville.gov or 615-862-7208

Sincerely,



Lisa Milligan
Assistant Director Land Development
Metro Planning Department
cc: *Metro Clerk*

OFFICE LEASE

1. Basic Lease Provisions.

1.1 **Parties:** This Office Lease ("Lease"), dated for reference purposes only, _____, 2024, is between NASHVILLE GARAGE LP, a Delaware limited partnership ("Landlord") and METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY ("Tenant").

1.2 **Premises:** Collectively, approximately 14,837, comprised of: (i) Suite Number 100, consisting of approximately 10,717 rentable square feet, more or less, and (ii) Suite Number B100, consisting of approximately 4,120 rentable square feet, as shown on Exhibit A hereto (the "Premises"); it being acknowledged that such plans are approximations and may not reflect the precise "as-built" condition of the Premises. The mailing address of the Premises is 350 Deaderick Street, Suite 100, Nashville, Tennessee 37201.

Notwithstanding anything to the contrary contained herein, at any time after the date hereof, Landlord may cause the Premises, the Building, and/or the Office Building Project, to be measured using the BOMA 2017 Office Standards. Subject to any expansion or reduction in the size of the Premises, the Building, or the Office Building Project, the square footage of the Premises set forth herein shall be binding unless Landlord causes the Premises to be measured as set forth herein. Following any remeasurement of the Premises, the Building, or the Office Building Project in accordance with this Section, all applicable references to the square footage of the Premises, the Building, and/or the Office Building Project shall be amended and the Base Rent and all other figures in this Lease which are affected by a change in such square footage shall be adjusted in accordance with said remeasurement retroactive to the Commencement Date. Notwithstanding the foregoing, prior to any such remeasurement, the Premises shall be deemed for all purposes to consist of the amount of square feet set forth in this Section 1.2.

1.3 **Building:** The building located at 350 Deaderick Street, Nashville, Tennessee, as defined in Section 2.1.

1.4 **Use:** General office use, subject to Section 6.

1.5 **Term:** Six (6) years commencing on the Commencement Date (hereinafter defined) and ending on the last day of the calendar month in which the sixth (6th) anniversary of the Commencement Date occurs, unless the Commencement Date is the first day of a calendar month, in which event the expiration date shall be the date immediately preceding the sixth (6th) anniversary of the Commencement Date, subject to extension as set forth in Section 1.17 herein.

1.6 **Commencement Date:** The date on which Landlord delivers the Premises to Tenant with Landlord's Work (as hereinafter defined) substantially completed. Upon the request of either party, following the determination of the Commencement Date, Landlord and Tenant shall enter into a mutually acceptable Commencement Date agreement confirming the Commencement Date. For the avoidance of doubt, the Commencement Date shall not be conditioned or contingent upon the performance or completion of any of the Tenant Improvements and shall solely be based upon the date on which Landlord substantially completes Landlord's Work.

1.7 **Base Rent:** Payable on the first (1st) day of each month per Section 4.1 in the following amounts:

MONTHS	ANNUAL BASE RENT	MONTHLY INSTALLMENT	ANNUAL BASE RENT/R.S.F.
Months 1-12	\$593,480.00	\$49,456.67	\$40.00
Months 13-24	\$614,251.80	\$51,187.65	\$41.40
Months 25-36	\$635,750.61	\$52,979.22	\$42.85
Months 37-48	\$658,001.88	\$54,833.49	\$44.35
Months 49-60	\$681,031.95	\$56,752.66	\$45.90
Months 61-72	\$704,868.07	\$58,739.01	\$47.51
1 st Renewal Term			
Months 73-84	\$729,538.45	\$60,794.87	\$49.17

2 nd Renewal Term			
Months 85-96	\$755,072.30	\$62,922.69	\$50.89

1.8 **Operating Expenses Base Allowance:** The annualized Operating Expenses, as defined in Section 4.2(b), for the calendar year 2024.

1.9 **Real Property Taxes Base Allowance:** The Real Property Taxes, as defined in Section 10.3, for the calendar year 2024.

1.10 **Base Rent Paid Upon Execution:** \$0, to be applied for the first (1st) month's Base Rent.

1.11 **Security Deposit:** None.

1.12 **Tenant's Share of Increases in Operating Expenses and Real Property Taxes** as addressed in Sections 4.2 and 4.3.

1.13 **Parking:** For, so long as the Parking Garage (as hereinafter defined) is operated as a parking garage, Tenant shall be entitled to the non-exclusive use of thirty (30) parking spaces in the Parking Garage. As used herein, the "Parking Garage" shall mean the parking garage commonly known as "Public Square Parking Garage" and located at the Office Building Project.

1.14 **Landlord's Broker:** Stoltz Realty of Delaware, Inc.

1.15 **Tenant's Broker:** None.

1.16 **Landlord's Work:** Landlord, at Landlord's cost and expense, shall perform all of that work described on Exhibit C attached hereto (the "Landlord's Work"). Landlord shall select a general contractor for the construction of Landlord's Work in accordance with the plans and specifications approved by both parties. Notwithstanding anything to the contrary contained herein, Tenant shall pay to Landlord a fee equal to five percent (5%) of the cost of Landlord's Work in connection with the performance thereof, which amount may be deducted from the Tenant Improvement Allowance (as hereinafter defined).

1.17 **Renewal Option:** Tenant shall have the option to extend the Term of this Lease for two (2) additional periods of one (1) year each (each, a "Renewal Option"), under and subject to the following terms and conditions:

1.17.1 Each renewal term (each, a "Renewal Term") shall be for a one (1) year period commencing on the day immediately following the expiration date of the then-current Term of this Lease and expiring at midnight on the day immediately preceding the first (1st) anniversary thereof.

1.17.2 Tenant must exercise a Renewal Option, if at all, by written notice to Landlord delivered at least nine (9) months prior to the expiration of the then-current Term of this Lease (but no sooner than fifteen (15) months prior to the expiration of the then-current Term of this Lease), time being of the essence.

1.17.3 As a condition to Tenant's exercise of the Renewal Option, at the time Tenant delivers its notice of election to exercise the Renewal Option to Landlord, this Lease shall be in full force and effect, Tenant shall not have assigned this Lease or sublet the Premises, and Tenant shall not be in default in the performance of any of its obligations hereunder.

1.17.4 Each Renewal Term shall be on the same terms and conditions contained in this Lease, except that (i) the Base Rent shall be as set forth in Section 1.7 of this Lease, and (ii) Tenant shall not be entitled to any allowances or other concessions with respect to the respective Renewal Term.

1.17.5 Except for the specific Renewal Terms set forth above, there shall be no further privilege of renewal.

1.18 **Landlord's Termination Option:** Notwithstanding anything to the contrary contained in this Lease, Landlord shall have the right to terminate this Lease, which termination shall be effective at any time after January 1, 2029, by delivering written notice to Tenant at least twelve (12) months prior to the proposed effective date of such termination. If Landlord delivers such termination notice, this Lease shall terminate as of the date set forth in such notice (the "Termination Date") as if such date was the date on which this Lease was originally scheduled to expire; it being acknowledged, however, that in no event shall the Termination Date occur prior to January 1, 2029.

1.19 **Tenant Improvements:**

1.19.1 In addition to Landlord's Work, Landlord, at Tenant's expense (subject to the Tenant Improvement Allowance (as defined herein)), shall perform all work which Tenant deems reasonably necessary or desirable to prepare the Premises for Tenant's initial occupancy (the "Tenant Improvements"), which Tenant Improvements and plans therefor shall be subject to the prior written approval of Landlord. Prior to performing the Tenant Improvements, Tenant shall submit to Landlord, for Landlord's prior approval, proposed plans and specifications (the "Plans") for Tenant's proposed improvements to the Premises, which plans shall be prepared by a licensed architect reasonably satisfactory to Landlord. The Plans shall include all information and specifications necessary for Landlord to fully review the work described therein and shall conform to all applicable laws and requirements of public authorities and insurance underwriters' requirements. If Landlord disapproves of the Plans, Landlord shall state specifically the reasons for such disapproval, and Tenant shall promptly make, or cause to be made, any changes in the Plans reasonably required by Landlord. The Plans, as finally approved by Landlord and Tenant, are hereinafter referred to as the "Approved Plans".

1.19.2 All subsequent changes in the Approved Plans shall be subject to the approval of Landlord. If Landlord approves any change in the Approved Plans, all such changes shall be at Tenant's sole cost and expense (subject to the Tenant Improvement Allowance).

1.19.3 Notwithstanding anything to the contrary contained herein, Landlord shall not be obligated to spend more than Fifteen Dollars (\$15.00) per square foot of the Premises (the "Tenant Improvement Allowance") in connection with the performance of the Tenant Improvements. No portion of the Tenant Improvement Allowance may be applied toward the cost of Tenant's personal property or equipment, including, but not limited to, furniture, computers and telecommunications equipment. The difference between the actual cost of the Tenant Improvements and the Tenant Improvement Allowance is referred to herein as the "Excess."

1.19.4 Within fifteen (15) days after receipt of an invoice therefor from Landlord, Tenant shall pay directly to the contractor engaged by Landlord to perform the Tenant Improvements, the amounts set forth in such invoice, up to the total amount of the Excess. After Tenant has paid invoices related to the Tenant Improvements that total the amount of the Excess, Landlord shall pay the remaining costs coming due in connection with the Tenant Improvements, up to the maximum amount of the Tenant Improvement Allowance. If the final cost of the Tenant Improvements exceeds the sum of the Tenant Improvement Allowance and the Excess, then Tenant shall be responsible for paying all such excess costs within fifteen (15) days after receipt of an invoice therefor from Landlord, which amounts may be paid directly to the general contractor performing the Tenant Improvement Allowance. For the avoidance of doubt, in the event that the cost of the Tenant Improvements exceeds the amount of the Tenant Improvement Allowance, Tenant shall be solely responsible for such excess costs. If Tenant fails to timely pay any amounts when due hereunder, Landlord shall have the right to make such payments on behalf of Tenant, in which event Tenant shall reimburse Landlord such amounts as additional rent, plus interest at the rate set forth in Section 13.5 hereof commencing from the date on which Landlord makes such payment(s), within ten (10) days after demand therefor from Landlord.

1.19.5 Landlord shall be entitled to receive a construction management fee equal to five percent (5%) of the total cost of the Tenant Improvements, which construction management fee shall be deducted from the Tenant Improvement Allowance.

2. **Premises, Parking and Common Areas.**

2.1 **Premises.** The Premises is a portion of that certain building identified in Section 1.3 of the Basic Lease Provisions (the "Building"). "Building" shall include adjacent parking area used in connection therewith. The Premises, the Building, the Common Areas, as defined in Section 2.3, the land upon which the same are located, along with all other buildings and improvements thereon or thereunder, are herein collectively referred to as the "Office Building Project". Landlord hereby leases the Premises to Tenant and Tenant leases the Premises from Landlord for the Term, at the rental, and upon all of the conditions set forth herein, including rights to the Common Areas as herein specified.

2.1.1 Landlord reserves the right to relocate the Premises during the Term, subject to the following conditions:

- (a) The rentable area of the new location in the Office Building Project shall be at least equal to the Premises (subject to variation of up to ten percent (10%) provided the amount of Rent payable pursuant to Section 4 of this Lease is not increased);
- (b) If the then prevailing Rent for the new location is less than the amount being paid for the Premises, the Rent shall be reduced to equal the Rent for the new location;
- (c) Landlord shall pay the cost of providing building standard improvements in the new location comparable to the improvements in the Premises to the reasonable satisfaction of Tenant;
- (d) Landlord shall pay the following expenses reasonably incurred by Tenant in connection with such substitution of Premises: costs of moving, door lettering, telephone relocation and reasonable quantities of new stationery; and
- (e) Landlord shall deliver to Tenant written notice of Landlord's election to relocate Tenant, specifying the new location and the amount of Rent payable for it at least one hundred and eighty (180) days prior to the date the relocation is to be effective. If the relocation of the Premises is not acceptable to Tenant, Tenant for a period of ninety (90) days after receipt of Landlord's notice to relocate, shall have the right (by delivering written notice to Landlord) to terminate this Lease effective ninety (90) days after delivery of written notice to Landlord; provided, however, in the event Tenant elects to terminate this Lease, then Landlord shall have the right to void such termination by providing written notice to Tenant withdrawing the relocation notice.

2.2 **Intentionally Omitted.**

2.2.1 If Tenant commits, permits or allows any of the prohibited activities described in this Lease or the rules then in effect with respect to vehicle parking, then Landlord shall have the right, after notice to Tenant, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Tenant, which cost shall be immediately payable upon demand by Landlord.

2.3 **Common Areas - Definition.** The term "Common Areas" means all areas and facilities outside the Premises and within the exterior boundary line of the Office Building Project that are provided and designated by Landlord from time to time for the general non-exclusive use of Landlord, Tenant and other tenants of the Office Building Project and their invitees. As used in this Lease, the term "invitees" means the employees, visitors, suppliers, shippers and customers of Landlord, Tenant and other tenants of the Office Building Project. The Common Areas include, but are not limited to, common entrances, lobbies, atriums, corridors, stairways and stairwells, public rest rooms, elevators, escalators, parking areas and parking spaces to the extent not otherwise prohibited by this Lease, loading and unloading areas, trash areas, roadways, sidewalks, parkways, ramps, driveways, landscaped areas, windows, air shafts, walkways, parking spaces and decorative walls.

2.4 **Common Areas - Rules and Regulations.** Tenant agrees to abide by and conform to the rules and regulations attached hereto as Exhibit B with respect to the Office Building Project, and to cause its invitees to so abide and conform. Landlord or such other person(s) as Landlord may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to reasonably modify, amend and enforce said rules and regulations. Landlord shall not be responsible to Tenant for the

noncompliance with said rules and regulations by other tenants of the Office Building Project or their invitees. Notwithstanding the foregoing, Landlord shall enforce the rules and regulations.

2.5 **Common Areas - Changes.** Landlord shall have the right, in Landlord's sole discretion, from time to time:

- (a) To make changes to the Building interior and exterior and the Common Areas, including, without limitation, changes in the location, size, shape, number, and appearance thereof, including but not limited to the lobbies, windows, stairways, air shafts, elevators, atriums, escalators, restrooms, driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, decorative walls, landscaped areas and walkways;
- (b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;
- (c) To close permanently any portion of the Common Areas in connection with any redevelopment or re-design of the Office Building Project, so long as access to the Premises remains available;
- (d) To designate other land and improvements outside the present or future boundaries of the Office Building Project to be a part of the Common Areas, provided that such other land and improvements have a reasonable and functional relationship to the Office Building Project;
- (e) To add additional buildings and improvements to the Common Areas;
- (f) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Office Building Project or any portion thereof, so long as access to the Premises remains available; and
- (g) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and the other portions of the Office Building Project as Landlord may, in the exercise of its sole business judgment, deem to be appropriate, so long as access to the Premises remains available.

3. **Term and Delivery of Premises.**

3.1 **Term; Commencement Date and Delivery Date.** The Term and Commencement Date of this Lease shall be as specified in Sections 1.5 and 1.6 of the Basic Lease Provisions. Landlord shall deliver the Premises to Tenant in the condition set forth in Section 3.3 hereinbelow.

3.2 **Intentionally Deleted.**

3.3 **Condition of Premises.** Except for Landlord's Work, Landlord shall have no obligation to perform any improvements to the Premises or the Office Building Project to prepare the same for Tenant's occupancy, and Tenant acknowledges that Tenant has inspected the Premises and except for Landlord's Work accepts the same in its "AS IS" condition, without any representation or warranty by Landlord, express or implied; and subject to all applicable municipal, county and state laws, ordinances and regulations governing and regulating the use of the Premises, and any easements, covenants or restrictions of record, and accepts this Lease subject thereto and to all matters disclosed thereby. Tenant acknowledges that it has satisfied itself by its own independent investigation that the Premises is suitable for its intended use, and that neither Landlord nor any agent of Landlord has made any representation or warranty as to the present or future suitability of the Premises, the Common Areas, or the Office Building Project for the conduct of Tenant's business.

4. **Rent.**

4.1 **Base Rent.** Tenant shall pay Landlord the Base Rent set forth in Section 1.7 of the Basic Lease Provisions, in advance and without offset or deduction. Tenant shall pay Landlord upon execution of this Lease the advance Base Rent described in Section 1.10 of the Basic Lease Provisions. Rent for any period during the Term which is for less than one month shall be prorated based upon the actual number of days of the calendar month involved. Rent shall be payable on the first day of each month in lawful money of the United States to Landlord at the address stated herein or to such other persons or at such other places as Landlord may designate in writing.

4.2 **Operating Expenses Increase.** Tenant shall pay to Landlord during the Term Tenant's Share, as defined in Section 4.2(a), of all estimated increases in Operating Expenses, as defined in Section 4.2(b), above the Operating Expenses Base Allowance, as defined in Section 1.8 of the Basic Lease Provisions. Payments of Tenant's Share in excess of the Operating Expenses Base Allowance are due and payable monthly on the same date as the Base Rent. Tenant's Share of the increase may be adjusted by Landlord from time to time should the actual Operating Expenses exceed the then current estimates. Within one hundred twenty (120) days after the expiration of each calendar year, Landlord shall provide Tenant with a reasonably detailed statement showing the actual increase/decrease in Operating Expenses over the Operating Expenses Base Allowance for the prior year. If payments made by Tenant pursuant to this Section are less than or exceed the amounts shown in any statement, then Tenant's account will be adjusted to reflect the amounts due. All deficiencies are payable upon receipt of invoice and all credits will be applied by Landlord to the next installment of Operating Expense payments. Concurrently, with the remittance of the prior year statement, or as soon thereafter as is reasonably possible, Landlord shall advise Tenant of the then current year's estimate of Operating Expenses as well as the monthly payment due thereon. Any deficiencies in the monthly billings that may have accrued from either the Commencement Date or the first day of any subsequent calendar year, shall be due and payable upon receipt by Tenant of an invoice from Landlord.

(a) "Tenant's Share" and is calculated by dividing the rentable square footage of the Premises by the total rentable square footage of the Building as defined by Landlord.

(b) "Operating Expenses" is defined to include all costs reasonably incurred by Landlord for:

(i) The operation, repair, maintenance, and replacement, in a neat, clean, safe, good order and condition, of the Office Building Project, including but not limited to, the following:

(aa) The Common Areas, including their surfaces, coverings, decorative items, carpets, drapes and window coverings, and including parking areas, loading and unloading areas, trash areas, roadways, sidewalks, walkways, stairways, parkways, driveways, landscaped areas, striping, bumpers, irrigation systems, lighting facilities, building exteriors and roofs, fences and gates;

(bb) All heating, air conditioning, plumbing, electrical systems, life safety equipment, telecommunications equipment, elevators and escalators, tenant directories, fire detection systems, sprinkler systems and other equipment used in common by, or for the benefit of, occupants of the Office Building Project;

(ii) Trash disposal, janitorial and security services for the Common Areas (Tenant acknowledges and agrees to pay for all costs for such services as it relates to the Premises in accordance with Section 11.1 below);

(iii) Any other service to be provided by Landlord that is elsewhere in this Lease stated to be an "Operating Expense";

(iv) Premiums for the liability, property and other insurance policies (including, but not limited to, earthquake, flood and boiler and machinery insurance, if carried) maintained by Landlord;

(v) Water, sewer, gas, electricity, and other public services supplied to the Office Building Project;

- (vi) Wages, salaries and applicable fringe benefits and materials, supplies and tools, used in maintaining and cleaning the Office Building Project;
- (vii) Maintaining and auditing accounting records and a management fee attributable to the operation of the Office Building Project of up to five percent (5%) of the Office Building Project's gross revenue;
- (viii) Replacing and/or adding improvements mandated by any governmental agency and any repairs or removals necessitated thereby;
- (ix) Replacing equipment or improvements that have a useful life for depreciation purposes of five (5) years or less, as determined in the sole judgment of Landlord's accountant; and
- (x) Replacing and/or adding any equipment, device or capital improvement.

(c) Notwithstanding any provision of this Section to the contrary, if the occupancy of the Building or the Office Building Project during any calendar year (including the calendar year in which the Operating Expenses Base Allowance is calculated) of the Term is less than ninety-five percent (95%), then Operating Expenses for such year shall be "grossed up" to that amount of Operating Expenses that, using reasonable projections, would normally be expected to be incurred during such year if the Building and/or the Office Building Project were ninety-five percent (95%) occupied. Landlord shall provide in the annual statement given to Tenant in respect of increases/decreases in Operating Expenses an explanation as to how the Operating Expenses were grossed up. Only those components of Operating Expenses that are affected by variations in occupancy levels shall be grossed up.

(d) If any Operating Expenses incurred for the Building and/or the Office Building Project consist of shared costs and expenses with one or more other buildings or properties, whether pursuant to a reciprocal easement agreement, cost sharing agreement, common area agreement, or otherwise, the shared costs and expenses shall be equitably allocated by Landlord between the Building and/or the Office Building Project (as applicable) and such other buildings or properties.

(e) If any tenant of any part of the Building or the Office Building Project, in lieu of paying a share of Operating Expenses, shall undertake to maintain any designated part of the Common Areas of the Building and/or the Office Building Project or incurs any expenses that would otherwise be included in Operating Expenses, or provides their own insurance, the cost of which would otherwise be included in Operating Expenses, then the leasable area of such tenant's leased premises shall not be included in the denominator of Tenant's Share for the purposes of any such expenses.

(f) If any tenant of the Building supplies itself with a service at any time during such year that Landlord would ordinarily supply such service without separately charging therefor, then Operating Expenses shall be deemed to include the cost that Landlord would have incurred had Landlord supplied such service to such tenant.

4.3 Real Property Taxes Increase. Tenant shall pay to Landlord during the Term Tenant's Share of all estimated increases in Real Property Taxes, as defined in Section 10.3, above the Real Property Taxes Base Allowance, as defined in Section 1.9 of the Basic Lease Provisions. Payments of Tenant's Share in excess of the Real Property Taxes Base Allowance are due and payable monthly on the same date as the Base Rent. Tenant's Share of the increase may be adjusted by Landlord from time to time should the actual Real Property Taxes exceed the then current estimates. Within one hundred twenty (120) days after the expiration of each calendar year, Landlord shall provide Tenant with a reasonably detailed statement showing the actual increase/decrease in Real Property Taxes over the Real Property Taxes Base Allowance for the prior year. If payments made by Tenant pursuant to this Section are less than or exceed the amounts shown in any statement, then Tenant's account will be adjusted to reflect the amounts due. All deficiencies are payable upon receipt of invoice and all credits will be applied by Landlord to the next installment of Real Property Taxes payment. Concurrently, with the remittance of the prior year statement, or as soon thereafter as is reasonably possible,

Landlord shall advise Tenant of the then current year's estimate of Real Property Taxes as well as the monthly payment due thereon. Any deficiencies in the monthly billings that may have accrued from either the Commencement Date or the first day of any subsequent calendar year, shall be due and payable upon receipt by Tenant of an invoice from Landlord.

4.4 **Definition of Rent.** The capitalized term "Rent", as used in this Lease, shall mean the Base Rent plus Tenant's Share of increases in Operating Expenses and Real Property Taxes, as well as all other payments due from Tenant to Landlord hereunder. All payments of Rent under this Lease shall be made by Tenant without offset or deduction.

5. **Intentionally Deleted.**

6. **Use.**

6.1 **Use.** The Premises shall be used and occupied only for the Use as set forth in Section 1.4 of the Basic Lease Provisions and for no other purpose.

6.2 **Compliance with Legal and Insurance Requirements.** Tenant shall, at Tenant's expense, promptly comply with all applicable statutes, ordinances, rules, regulations, orders, covenants and restrictions of record, and requirements of any insurance underwriters or rating bureaus, now in effect or which may hereafter come into effect, whether or not they reflect a change in policy from that now existing, during the Term or any part of the Term hereof, relating in any manner to the Premises and the occupation and use by Tenant of the Premises. Tenant shall conduct its business in a lawful manner and shall not use or permit the use of the Premises or the Common Areas in any manner that will tend to create waste or a nuisance or shall tend to disturb other occupants of the Office Building Project.

7. **Maintenance, Repairs, Alterations and Additions.**

7.1 **Maintenance and Repair - Landlord's Obligations.** Subject to the payment by Tenant of Tenant's Share of Operating Expenses, Landlord shall maintain the Common Areas of the Office Building Project and the plumbing, heating, ventilating, air conditioning, elevator, electrical and other mechanical systems of the Building in good working order. Landlord shall make repairs to the exterior, roof, and structural portions of the Building, the general Building systems, and Common Areas of the Building as is necessary for normal operations, and shall maintain the plumbing facilities located within the Premises in good order, condition and repair; it being acknowledged, however, that except for those damages caused by fire or other casualty covered by insurance under policies naming Landlord as the insured, Tenant, at Tenant's cost and expense, and not Landlord, shall be responsible for performing any and all repairs and/or maintenance to such exterior, roof, and structural portions of the Building, the general Building systems, and Common Areas of the Building to the extent required as a result of any act or omission of Tenant or its agents, employees, contractors, and/or representatives.

7.2 **Maintenance and Repair - Tenant's Obligations.** During the Term, Tenant shall take good care of the Premises and fixtures therein and maintain them in good order, condition and repair equal to the original work, ordinary and reasonable wear excepted. During the Term, Tenant shall maintain at its own expense any plumbing facilities located within the Premises serving only the Premises, except the rest rooms located in the Common Areas (if any), in good order, condition and repair to the reasonable satisfaction of Landlord. Upon surrender of the Premises to Landlord, Tenant shall deliver the Premises to Landlord, broom clean, in as good order, condition and repair as they were upon delivery of possession to Tenant, ordinary and reasonable wear excepted. Without limiting the foregoing, Landlord may require that any such maintenance and repairs be performed by Landlord at Tenant's expense.

7.3 **Alterations and Additions.**

(a) Tenant shall not, without Landlord's prior written consent, make any alterations, improvements or additions in, on or about the Premises or the Office Building Project. At the expiration of the Term, Landlord may require the removal of any or all of said alterations, improvements or additions and the restoration of the Premises and the Office Building Project to their

prior condition, at Tenant's expense. Should Landlord permit Tenant to make any alterations, improvements or additions, Tenant shall use only contractors expressly approved by Landlord. Such contractors shall carry liability insurance of a type and in such reasonable amounts as Landlord shall reasonably require, naming Landlord as additional insured. Before commencing the work, such contractors shall furnish Landlord with certificates of insurance evidencing such coverage and with evidence of recording of a fully executed waiver of mechanics' liens. Should Tenant make any alterations, improvements or additions without the prior approval of Landlord, or use a contractor not expressly approved by Landlord, Landlord, at any time during the Term, may require that Tenant remove any part or all of such work and restore the Premises to its prior condition.

(b) Tenant shall present any alteration, improvement or addition in or about the Premises or the Office Building Project that Tenant desires to make to Landlord in written form, with proposed detailed plans. If Landlord consents to such alteration, improvement or addition, the consent shall be deemed conditioned upon Tenant acquiring a permit to do so from the applicable government agencies, furnishing a copy thereof to Landlord prior to the commencement of the work, and compliance by Tenant with all conditions of said permit in a prompt and expeditious manner.

(c) Tenant shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Tenant at or for use in the Premises.

(d) Tenant shall give Landlord not less than ten (10) days' notice prior to the commencement of any work in the Premises by Tenant. Landlord shall have the right to post notices of non-responsibility in or on the Premises or the Building.

(e) All alterations, improvements and additions made by Tenant shall be done in a good, workmanlike, manner with good quality materials and, upon installation, shall be the property of Landlord and remain upon and be surrendered with the Premises at the expiration or earlier termination of the Term, unless Landlord requires their removal pursuant to Section 7.3(a). Any trade fixtures installed and paid for by Tenant may, in the event Tenant is not in default of this Lease, be removed by Tenant during the Term and shall upon demand by Landlord be removed upon expiration of the Term. Tenant shall in all events promptly repair any damage caused by removal of trade fixtures.

(f) Tenant shall provide Landlord with as-built plans and specifications for any alterations, improvements or additions to the Premises.

7.4 Utility Additions. Landlord reserves the right to install new or additional utility facilities throughout the Office Building Project for the benefit of Landlord or Tenant, or any other tenant of the Office Building Project, including, but not by way of limitation, such utilities as plumbing, electrical systems, communication systems, and fire protection and detection systems.

7.5 Americans with Disabilities Act. Landlord has made no representation to Tenant that the Premises comply with or will comply with the Americans with Disabilities Act (the "Act"). Tenant agrees to and shall be responsible for all cost and expense incurred in connection with any alterations, improvements and changes necessary to ensure compliance with the Act. It is the intent of this Section that any alterations, improvements or additions required by the Act with regard to the Premises, whether resulting from amendments to the Act or otherwise shall be the sole responsibility of Tenant. In the event that Tenant fails to comply with its obligations under this Section for a period of ten (10) days after written notice from Landlord to Tenant specifying the action required to be taken, Landlord shall have the right, but not the obligation, to enter into the Premises and perform such action on behalf of Tenant. In such event, Landlord shall have no liability to Tenant for any interruption of Tenant's operations conducted in or about the Premises. Any and all reasonable costs and expenses incurred by Landlord in performing such action on behalf of Tenant shall be reimbursed by Tenant to Landlord upon demand and the failure to do so shall, at the option of Landlord, constitute an event of default under this Lease.

8. Insurance; Indemnity; Landlord's Liability.

8.1 **Liability Insurance-Tenant.** Tenant, the Metropolitan Government of Nashville and Davidson County, is a metropolitan form of government as set out under the Governmental Tort Liability Act in TCA 29-20-101, et seq., and as such has its liability limits defined by law. Tenant is self-insured in an adequately funded Self-Insurance Program, up to the limits as set out in the statute. This self-insurance is for the benefit of the Metro Government only and provides no indemnification for any other entity whatsoever.

8.2 **Liability Insurance - Landlord.** Landlord shall obtain and keep in force during the Term a policy of Commercial General Liability Insurance, plus coverage against such other risks as Landlord deems advisable from time to time, in such amounts as Landlord deems advisable from time to time, insuring Landlord, but not Tenant, against liability arising out of the ownership, use, occupancy or maintenance of the Office Building Project.

8.3 **Property Insurance - Tenant.** Tenant acknowledges that Landlord will not carry insurance on improvements that constitute personal property, furniture, furnishings, trade fixtures, equipment installed in or made for or attached to the Premises by, for, or for the benefit of Tenant, and Tenant, not Landlord, will at its option, promptly repair any damage to its personal property.

8.4 **Property Insurance - Landlord.** Landlord shall obtain and keep in force during the Term a policy or policies of insurance covering loss or damage to the Office Building Project improvements, but not Tenant's personal property, fixtures, equipment or tenant improvements, in such amounts as Landlord deems appropriate from time to time providing protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, plate glass, and such other perils as Landlord deems advisable from time to time or may be required by a lender having a lien on the Office Building Project. Such insurance may include earthquake, flood and boiler and machinery insurance. In addition, Landlord may obtain and keep in force, during the Term, rental value insurance, with loss payable to Landlord, which insurance may also cover Operating Expenses and Real Property Taxes. Tenant will not be named in any such policies carried by Landlord and shall have no right to any proceeds therefrom. The policies required by Sections 8.2 and 8.4 shall contain such deductibles as Landlord or the aforesaid lender may determine. In the event that the Premises shall suffer an Insured Loss as defined in Section 9.1(e), the deductible amounts under the applicable insurance policies shall be deemed an Operating Expense. Tenant shall not do or permit to be done anything which shall invalidate the insurance policies carried by Landlord.

8.5 **Insurance Policies.** Tenant shall deliver to Landlord a statement of self-insurance simultaneously with delivery to Landlord of this Lease, as executed by Tenant.

8.6 **Waiver of Subrogation.** Tenant and Landlord each hereby release and relieve the other (and Landlord's asset manager and property manager) and waive their entire right of recovery against the other (and Landlord's asset manager and property manager), for direct or consequential loss or damage arising out of or incident to the perils covered by (or required to be covered hereunder) property insurance carried by such party, whether due to the negligence or willful misconduct of Landlord or Tenant or their agents, employees, contractors or invitees, or otherwise. If necessary, all property insurance policies required under this Lease shall be endorsed to so provide.

8.7 **Intentionally Deleted.**

8.8 **Exemption of Landlord from Liability.** Tenant hereby agrees that Landlord shall not be liable in any manner for any injury or for any loss of or damage to property of Tenant, its employees, agents, contractors, or to others, or for loss or damage occasioned by casualty, theft, or any other cause of whatsoever nature, unless caused solely by the willful misconduct or negligence of Landlord. In no event shall Landlord be liable in any manner to Tenant or any other party as the result of the acts or omissions of Tenant, its agents, employees, contractors or any other tenant of the Building. Notwithstanding the provisions of this Section 8.8, if Landlord, its members, officers, directors, shareholders, employees, contractors, servants and/or agents are found liable to Tenant or any person or entity claiming under it, Landlord's liability, as well as that of its members, officers, directors, shareholders, employees, contractors, servants and/or agents, shall be limited to Landlord's interest in the Building, and Tenant and those claiming under it shall not be entitled to sue Landlord or pursue any other property of Landlord, its members, officers, directors, shareholders, employees, contractors, servants

and/or agents. Notwithstanding anything to the contrary set forth in this Lease, Landlord and any officer, director, shareholder, partner, member or employee of Landlord shall not have any personal liability hereunder. The foregoing provisions are not intended to, and shall not, limit any right that Tenant might otherwise have to obtain injunctive relief against Landlord or any suit or action in connection with enforcement or collection of amounts which may become owing or payable under or on account of insurance maintained by Landlord.

8.9 No Representation of Adequate Coverage. Landlord makes no representation that the limits or forms of coverage of insurance specified in this Section 8 are adequate to cover Tenant's property or obligations under this Lease.

9. Damage or Destruction.

9.1 Definitions.

- (a) "Premises Damage" shall mean damage or destruction of the Premises to any extent.
- (b) "Premises Building Partial Damage" shall mean damage or destruction of the Building to the extent that the cost to repair is less than fifty percent (50%) of the then Replacement Cost of the Building.
- (c) "Premises Building Total Destruction" shall mean damage or destruction of the Building to the extent that the cost to repair is fifty percent (50%) or more of the then Replacement Cost of the Building.
- (d) "Office Building Project Total Destruction" shall mean damage or destruction of the buildings in the Office Building Project to the extent that the cost of repair is fifty percent (50%) or more of the then Replacement Cost of all of the buildings in the Office Building Project.
- (e) "Insured Loss" shall mean damage or destruction caused by an event required to be covered by the insurance described in Section 8. The fact that an Insured Loss has a deductible amount shall not make the loss an uninsured loss.
- (f) "Replacement Cost" shall mean the amount of money necessary to be spent to repair or rebuild the damaged area to the condition that existed immediately prior to the damage occurring, excluding all improvements made by tenants of the Office Building Project.

9.2 Premises Damage; Premises Building Partial Damage.

- (a) Insured Loss: Subject to the provisions of Sections 9.4 and 9.5, if at any time during the Term there is an Insured Loss and that falls into the classification of either Premises Damage or Premises Building Partial Damage and that does not fall into the classification of Premises Building Total Destruction or Office Building Project Total Destruction, then Landlord shall, as soon as reasonably possible and to the extent the required materials and labor are readily available through usual commercial channels, and to the extent Landlord actually receives adequate insurance proceeds for such repairs (and Landlord's lender does not retain such proceeds), repair such damage (but not Tenant's fixtures, equipment or tenant improvements originally paid for by Tenant) to its condition existing at the time of the damage, and this Lease shall continue in full force and effect. In the event the required materials and labor are not readily available through usual commercial channels or Landlord does not receive adequate insurance proceeds for such repairs, Landlord may at Landlord's option either (i) repair such damage as soon as reasonably possible at Landlord's expense, in which event this Lease shall continue in full force and effect, or (ii) give written notice to Tenant of Landlord's intention to cancel and terminate this Lease, in which event this Lease shall terminate effective as of the date of the occurrence of such damage.
- (b) Uninsured Loss: Subject to the provisions of Sections 9.4 and 9.5, if at any time during the Term there is damage that is not an Insured Loss and that falls into the classification of Premises

Damage or Premises Building Partial Damage, and that does not fall into the classification of Premises Building Total Destruction or Office Building Project Total Destruction, unless caused by a negligent or willful act of Tenant (in which event Tenant shall make the repairs at Tenant's expense), which damage prevents Tenant from making substantial use of the Premises, Landlord may at Landlord's option either (i) repair such damage as soon as reasonably possible at Landlord's expense, in which event this Lease shall continue in full force and effect., or (ii) give written notice to Tenant of Landlord's intention to cancel and terminate this Lease, in which event this Lease shall terminate effective as of the date of the occurrence of such damage.

9.3 Premises Building Total Destruction; Office Building Project Total Destruction. Subject to the provisions of Sections 9.4 and 9.5, if at any time during the Term there is damage, whether or not it is an Insured Loss, that falls into the classification of either (i) Premises Building Total Destruction, or (ii) Office Building Project Total Destruction, then Landlord may at Landlord's option either (i) repair such damage or destruction as soon as reasonably possible at Landlord's expense (to the extent the required materials and labor are readily available through usual commercial channels) to its condition existing at the time of the damage, but not Tenant's fixtures, equipment or tenant improvements, and this Lease shall continue in full force and effect, or (ii) give written notice to Tenant of Landlord's intention to cancel and terminate this Lease, in which case this Lease shall terminate effective as of the date of the occurrence of such damage. If Landlord estimates that such damage will require more than one hundred eighty (180) days to restore, then Tenant shall have the right to terminate this Lease by delivering written notice of such election to Landlord within sixty (60) days after the date of such casualty.

9.4 Damage Near End of Term. If at any time during the last twelve (12) months of the Term there is Premises Damage, Landlord may at Landlord's option cancel and terminate this Lease effective as of the date of occurrence of such damage by giving written notice to Tenant of Landlord's election to do so.

9.5 Abatement of Rent; Tenant's Remedies.

(a) In the event Landlord repairs or restores the Building or Premises pursuant to the provisions of this Section 9, and any part of the Premises are not usable (including loss of use due to loss of access or essential services), the Rent payable hereunder (including Tenant's Share of Operating Expenses and Real Property Taxes) for the period during which such damage, repair or restoration continues shall be abated, provided (1) the damage was not the result of the negligence or willful misconduct of Tenant, and (2) such abatement shall only be to the extent the operation of Tenant's business as operated from the Premises is adversely affected. Except for said abatement of Rent, if any, Tenant shall have no claim against Landlord for any damage suffered by reason of any such damage, repair or restoration, except for claims or damages arising solely from Landlord's negligence or willful misconduct.

(b) If Landlord shall be obligated to repair or restore the Premises or the Building under the provisions of this Section 9 and shall not commence such repair or restoration within ninety (90) days after Landlord receives the applicable insurance proceeds for such repair or restoration, or if Landlord shall not complete the restoration and repair within twelve (12) months after such date, Tenant may at Tenant's option cancel and terminate this Lease by giving Landlord sixty (60) days prior written notice of Tenant's election to do so at any time prior to the commencement or completion, respectively, of such repair or restoration; provided, however, in the event Landlord commences or completes (as applicable) such repairs or restoration within such sixty (60) day period, then the termination notice shall be null and void and this Lease shall continue in full force and effect.

(c) Tenant agrees to cooperate with Landlord in connection with any such restoration and repair, including but not limited to the approval or execution of plans and specifications if required.

9.6 Termination - Advance payments. Upon termination of this Lease pursuant to this Section 9, an equitable adjustment shall be made concerning advance Rent and any advance payments made by Tenant to Landlord.

10. **Real Property Taxes.**

10.1 **Payment of Taxes.** Landlord shall pay the Real Property Taxes applicable to the Office Building Project, subject to payment by Tenant for Tenant's Share of such taxes in accordance with the provisions of Section 4.3, except as otherwise provided in Section 10.2.

10.2 INTENTIONALLY DELETED.

10.3 **Definition of "Real Property Taxes."** As used herein, the term "Real Property Taxes" shall include any form of real estate tax or assessment, general, special, ordinary or extraordinary, and any license fee, commercial rental tax, improvement bond or bonds, levy or tax (other than inheritance, personal income or estate taxes) imposed on the Office Building Project or any portion thereof by any authority having the direct or indirect power to tax, including any municipality, city, county, state or federal government, or any school, agricultural, sanitary, fire, street, drainage or other improvement district thereof, as against any legal or equitable interest of Landlord in the Office Building Project or in any portion thereof, as against Landlord's right to rent or other income therefrom, and as against Landlord's business of leasing the Office Building Project. Real Property Taxes shall also include any tax, fee, levy, assessment or charge (i) in substitution of, partially or totally, or as a supplement to any tax, fee, levy, assessment or charge included within the definition of Real Property Taxes or (ii) that is imposed as a result of a change of ownership, as defined by applicable local statutes for property tax purposes, of the Office Building Project, or (iii) that is imposed by reason of this transaction, any modifications or changes hereto, or any transfers hereof.

10.4 **Joint Assessment.** If the improvements or property, the taxes for which are to be paid separately by Tenant under Section 10.2 or 10.5 are not separately assessed, Tenant's portion of that tax shall be equitably determined by Landlord from the respective valuations assigned in the assessor's work sheets or such other information (which may include the cost of construction) as may be reasonably available. If the Building is not separately assessed from the Office Building Project, then an assessment for the Building shall be reasonably determined by Landlord.

11. **Utilities; Janitorial Service.**

11.1 **Services Provided by Landlord.** Subject to the payment by Tenant of Tenant's Share of Operating Expenses, Landlord shall provide heating, ventilation, and air conditioning service as reasonably required, reasonable amounts of electricity for normal lighting and office machines, water for reasonable and normal drinking and lavatory use. Landlord shall provide janitorial service for the Common Areas in accordance with Landlord's then current general cleaning specifications; provided, however, that Tenant shall be responsible for the following costs which shall be paid along with the Tenant's Share of Operating Expenses. Tenant shall be solely responsible for all janitorial services for the Premises.

11.2 **Payment for Services to Tenant.** Tenant shall pay for all water, gas, heat, light, electricity, power, telephone and other utilities and services specially or exclusively supplied or metered exclusively to the Premises or to Tenant, together with any taxes thereon. If any such services are not separately metered to the Premises, Tenant shall pay a reasonable proportion determined by Landlord of all charges jointly metered with other areas in the Office Building Project. Tenant shall pay all utility bills within ten (10) days after receipt by Tenant, either from Landlord or the billing authority.

Notwithstanding the foregoing, heat, ventilation and air-conditioning will be provided to the Premises for ordinary office purposes between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday and between the hours of 8:00 a.m. and 1:00 p.m. on Saturday (legal holidays excepted). If Tenant requires heat, ventilation and air-conditioning service beyond the hours set forth above, Tenant shall provide Landlord with at least twenty-four (24) hours prior written notice, and shall reimburse Landlord for such overtime service at the rate of Seventy-Five and 00/100 Dollars (\$75.00) per hour (which charge shall be payable within thirty (30) days after Tenant's receipt of Landlord's invoice therefore).

11.3 **Hours of Service.** Said services and utilities shall be provided during generally accepted business days and hours. Utilities and services required at other times shall be subject to advance request and reimbursement by Tenant to Landlord of the cost thereof.

11.4 **Excess Usage by Tenant.** Tenant shall not make connection to the utilities except by or through existing outlets and shall not install or use machinery or equipment in or about the Premises that uses excess water or electricity, or suffer or permit any act that causes extra burden upon the utilities or services, including but not limited to security services, over standard office usage for the Office Building Project. In no event shall Tenant permit electrical consumption within the Premises to exceed five (5) watts per square foot per hour. Tenant shall reimburse Landlord for any excess expenses or costs that may arise out of a breach of this Section. In connection therewith, Landlord may, in its sole discretion, install supplemental equipment and/or separate metering applicable to Tenant's excess usage or loading.

11.5 **Intentionally Deleted.**

11.6 **Alternative Electric Service Provider.** Landlord shall designate from time to time throughout the Term, the utility companies, municipalities and other governmental bodies or authorities (sometimes collectively referred to as the "Utility Service Provider") serving the Premises. Notwithstanding the foregoing, if permitted by law, Landlord shall have the right at any time and from time to time during the Term to either contract for service from a different company or companies providing utility service (each such company shall hereafter be referred to as "Alternate Service Provider") or continue to contract for service from the Utility Service Provider. Tenant shall cooperate with Landlord, the Utility Service Provider, and any Alternate Service Provider at all times and, as reasonably necessary, shall allow Landlord, Utility Service Provider, and any Alternate Service Provider reasonable access to the Building's electric feeder lines, risers wiring and any other machinery within the Premises. Should Landlord elect to supply the utility used or consumed in the Premises, Tenant agrees to purchase and pay for the same as Rent at the applicable rates filed by Landlord with the proper regulatory authority.

12. **Assignment and Subletting.**

12.1 **Landlord's Consent Required.** Tenant shall not sell, assign, mortgage, pledge, hypothecate, encumber or otherwise transfer this Lease or any interest therein (each of which actions is hereafter referred to as a "transfer"), and shall not sublet the Premises or any part thereof, without the prior written consent of Landlord in each instance, and any attempt to do so without such consent shall be voidable at Landlord's election.

12.2 **Tenant's Application.** If Tenant desires at any time to transfer this Lease (which transfer shall in no event be for less than its entire interest in this Lease) or to sublet the Premises or any portion thereof, Tenant shall submit to Landlord at least sixty (60) days prior to the proposed effective date of the transfer or sublease (the "Proposed Effective Date"), in writing:

- (a) A notice of intent to transfer or sublease, setting forth the Proposed Effective Date, which shall be no less than sixty (60) days nor more than ninety (90) days after the sending of such notice;
- (b) The name of the proposed transferee or subtenant;
- (c) The nature of the proposed transferee's or subtenant's business to be carried on in the Premises;
- (d) The terms and provisions of the proposed transfer or sublease;
- (e) Such information as Landlord may request concerning the proposed transferee or subtenant, including recent financial statements and bank references; and
- (f) Evidence satisfactory to Landlord that the proposed transferee (if the transfer involves a transfer of possession) or subtenant will immediately occupy and thereafter use the affected portion of the Premises for the entire term of the transfer or sublease agreement.

12.3 **Landlord's Options.** Landlord shall have the right, to be exercised by giving notice to Tenant within thirty (30) days after receipt of Tenant's above-described notice and such further financial information as may be requested by Landlord, together with the fees required under Section 12.7, to (i) terminate this Lease and recapture the portion of the Premises described in Tenant's notice, (ii) approve the transfer or sublease application, or (iii) reject the application for transfer or sublease. If notice of termination is given by Landlord, it shall serve to cancel and terminate this Lease with respect to such portion of the Premises. The effective date of such cancellation shall be as specified in Landlord's notice of termination. If this Lease is canceled pursuant to the foregoing with respect to only a portion of the Premises, the Rent required under this Lease shall be adjusted proportionately based on the square footage retained by Tenant and the square footage leased by Tenant hereunder immediately prior to such recapture and cancellation, and Landlord and Tenant shall thereupon execute an amendment to this Lease in accordance therewith. If Landlord so recaptures a portion of the Premises, it shall construct and erect at its sole cost such partitions as may be required to sever the space retained by Tenant from the space recaptured by Landlord. Landlord may, without limitation, lease the recaptured portion of the Premises to the proposed subtenant or transferee without liability to Tenant. If Landlord elects to terminate this Lease and recapture the portion of the Premises described in Tenant's notice (the "Terminated Premises"), Landlord shall also be granted by Tenant, without charge, such rights of access as was proposed to be given to the proposed subtenant and as is reasonable and necessary to permit occupancy of the Terminated Premises.

12.4 **Approval Procedure.** If Landlord approves a transfer or sublease, Tenant shall, prior to the Proposed Effective Date, submit to Landlord an executed original of the transfer or sublease agreement for execution by Landlord on the signature page after the words "the foregoing is hereby consented to." No purported transfer or sublease shall be deemed effective as against Landlord and no proposed transferee or subtenant shall take occupancy unless such document is on a form approved by Landlord and is so executed by Landlord.

12.5 **Required Provisions.** Any and all transfer or sublease agreements shall:

- (a) Contain such terms as are described in Tenant's notice under Section 12.2 or as otherwise agreed by Landlord;
- (b) Prohibit further transfers or subleases without Landlord's consent under this Section 12;
- (c) Impose the same obligations and conditions on the transferee or subtenant as are imposed on Tenant by this Lease (except as to Rent and term or as otherwise agreed by Landlord);
- (d) Be expressly subject and subordinate to each and every provision of this Lease;
- (e) Have a term that expires on or before the expiration of the Term;
- (f) Provide that Tenant and/or transferee or subtenant shall pay Landlord the amount of any additional costs or expenses incurred by Landlord for repairs, maintenance or otherwise as a result of any change in the nature of occupancy caused by the transfer or sublease; and
- (g) Contain Tenant's acknowledgment that Tenant remains liable under this Lease notwithstanding the transfer or sublease.

12.6 **Transfer of Sublease Profit.** Any sums or other economic consideration received by Tenant directly or indirectly in connection with any transfer or sublease (except to the extent of commissions paid by Tenant to a licensed real estate broker at prevailing rates and leasehold improvement costs incurred by Tenant) which exceed in the aggregate the sums which Tenant is obligated to pay Landlord hereunder (prorated to reflect obligations allocable to the portion of the Premises transferred or sublet) shall be payable to Landlord as additional Rent under this Lease. Within fifteen (15) days after written request by Landlord, Tenant shall at any time, and from time to time, certify to Landlord the amount of all such sums or other economic consideration received.

12.7 **Fees for Review.** Tenant shall pay to Landlord or Landlord's designee, together with the notice described in Section 12.2, a non-refundable fee as reimbursement for expenses incurred by Landlord in connection with reviewing each such transaction, in the amount of One Thousand Dollars (\$1,000.00).

12.8 **No Release of Tenant.** No consent by Landlord to any transfer or subletting by Tenant shall relieve Tenant of any obligation to be performed by Tenant under this Lease, whether occurring before or after such consent, transfer or subletting. Landlord's consent to any transfer or subletting shall not relieve Tenant from the obligation to obtain Landlord's prior written consent to any other transfer or subletting. The acceptance by Landlord of payment from any other person shall not be deemed to be a waiver by Landlord of any provision of this Lease or to be a consent to any subsequent transfer or sublease, or be a release of Tenant from any obligation under this Lease.

12.9 **Assumption of Obligations.** Each transferee of this Lease shall assume all obligations of Tenant under this Lease and shall be and remain liable jointly and severally with Tenant for the payment of the Rent and the performance of all the terms, covenants, conditions and agreements herein contained on Tenant's part to be performed for the Term. No transfer shall be binding on Landlord unless the transferee or Tenant delivers to Landlord a counterpart of the instrument of transfer which contains a covenant of assumption by the transferee satisfactory in substance and form to Landlord, consistent with the above requirements. The failure or refusal of the transferee to execute such instrument of assumption shall not release or discharge the transferee from its liability to Landlord hereunder. Landlord shall have no obligation whatsoever to perform any duty to or respond to any request from any subtenant, it being the obligation of Tenant to administer the terms of its sublease.

12.10 **Deemed Transfers.** If Tenant is a nonpublicly traded corporation, or is an unincorporated association, limited liability company or partnership, the transfer, sale, exchange, assignment or hypothecation of any stock or interest in such corporation, association, limited liability company or partnership in the aggregate in excess of fifty percent (50%) shall be deemed to be a transfer of this Lease and shall be subject to the provisions of this Section 12.

12.11 **Assignment by Operation of Law.** No interest of Tenant in this Lease shall be assignable by operation of law.

12.12 **Assignment of Sublease Rents.** Tenant immediately and irrevocably assigns to Landlord, as security for Tenant's obligations under this Lease, Tenant's share of all rent from any subletting of all or any part of the Premises, and Landlord, as assignee and as attorney-in-fact for Tenant for purposes hereof, or a receiver for Tenant appointed on Landlord's application, may collect such rents and apply same toward Tenant's obligations under this Lease, except that, until the occurrence of an act of default by Tenant, Tenant shall have the right and license to collect such rents.

13. **Default; Remedies.**

13.1 **Default.** The occurrence of any one or more of the following events shall constitute a material default of this Lease by Tenant:

- (a) The breach by Tenant of any of the provisions of Sections 7.3 (Alterations and Additions), 12 (Assignment and Subletting), 16 (Estoppel Certificates), 25 (Vacation), 30.2 (Subordination), 33 (Auctions and Other Sales), or 39 (Easements), all of which are hereby deemed to be non-curable defaults without the necessity of any notice by Landlord to Tenant thereof.
- (b) The failure by Tenant to pay Rent or make any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of ten (10) days.
- (c) The failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant other than those referenced in Sections 13.1 (a) and (b) where such failure shall continue for a period of thirty (30) days after written notice thereof from Landlord to Tenant, provided, however, that if the nature of Tenant's noncompliance is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in

default if Tenant commences such cure within said thirty (30) days and thereafter diligently pursues such cure to completion; provided, however, in no event shall such cure period extend beyond sixty (60) days.

(d) (i) The making by Tenant of any arrangement or assignment for the benefit of creditors; (ii) Tenant becoming a "debtor" as defined in the Bankruptcy Code or any successor statute (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or (iv) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days; all of which are hereby deemed to be non-curable defaults without the necessity of any notice by Landlord to Tenant thereof.

(e) The existence of materially false information in any financial statement given to Landlord by Tenant, or its successor in interest or by any guarantor of any of Tenant's obligations hereunder, all of which are hereby deemed to be non-curable defaults without the necessity of any notice by Landlord to Tenant thereof.

(f) The default by Tenant or any guarantor of Tenant under this Lease.

13.2 Remedies. In the event of any material default of this Lease by Tenant, Landlord shall have any and all rights and remedies at law and in equity. Not in limitation of the foregoing, Landlord may at any time thereafter, with notice or demand and without limiting Landlord in the exercise of any right or remedy which Landlord may have by reason of such default:

(a) Terminate this Lease and Tenant's right to possession of the Premises by any lawful means, in which case Tenant shall immediately surrender possession of the Premises to Landlord. In such event, Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default including, but not limited to, the cost of recovering possession of the Premises; expenses of reletting, including necessary renovation and alteration of the Premises, and any real estate commission actually paid; the unpaid Rent for the balance of the Term; and that portion of the leasing commission paid by Landlord pursuant to Section 15, applicable to the unexpired Term. No payment by Tenant after termination of this Lease following default by Tenant shall reinstate this Lease; and the receipt and retention of any such payment by Landlord shall not reinstate this Lease.

(b) Without terminating this Lease, re-enter and take possession of the Premises or any part thereof and expel Tenant and those claiming through or under Tenant, and remove the effects of both or either, and relet the Premises, or any part thereof, in Landlord's or Tenant's name, but for the account of Tenant. In such event, Tenant shall in no manner be relieved from liability for payment of Rent covering the balance of the Term, and Landlord's retaking shall not be considered an acceptance of the Premises nor a manifestation of an intent to terminate this Lease.

(c) Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have vacated or abandoned the Premises. In such event, Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the Rent as it becomes due hereunder.

(d) Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the state wherein the Premises is located.

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

13.4 **Late Charges.** Tenant hereby acknowledges that late payment by Tenant to Landlord of Rent or other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed on Landlord by the terms of any mortgage or trust deed covering the Office Building Project. Accordingly, if any installment of Rent or any other sum due from Tenant shall not be received by Landlord within ten (10) days after such amount shall be due, then, without any requirement for notice to Tenant, Tenant shall pay to Landlord a late charge equal to six percent (6%) of such overdue amount, but not to exceed the maximum late charge permitted by law in the jurisdiction where the Office Building Project is located. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.

13.5 **Interest on Past-Due Obligations.** To the extent permitted by Tennessee law, any amount not paid by Tenant to Landlord when due shall bear interest from the date due at fifteen percent (15%) per annum (or, if lower, the highest rate allowed by applicable law). Payment of interest shall not excuse or cure any default by Tenant.

13.6 **Application of Past-Due Payments.** It is understood and agreed by Tenant that Landlord's acceptance of any Rent payments from Tenant that represent less than all Rent arrearages due and owing from Tenant to Landlord shall be credited to Tenant's account in the order and manner deemed appropriate, and such acceptance shall not excuse or cure any default by Tenant.

14. **Condemnation.** If the Premises or any portion thereof or the Office Building Project are taken under the power of eminent domain, or sold under the threat of the exercise of said power (all of which are herein called "Condemnation"), this Lease shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever first occurs; provided that if so much of the Premises or the Office Building Project is taken by such Condemnation as would substantially and adversely affect the operation and profitability of Tenant's business conducted from the Premises, Tenant shall have the option, to be exercised only in writing within sixty (60) days after Tenant receives notice of such Condemnation, to terminate this Lease effective as of the date the condemning authority takes such possession. If Tenant does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that Base Rent and Tenant's Share of Operating Expenses and Real Property Taxes shall be reduced in the proportion that the floor area of the Premises taken bears to the total floor area of the Premises. Common Areas taken shall be excluded from the Common Areas usable by Tenant and no reduction of Rent shall occur with respect thereto or by reason thereof. Landlord shall have the option in its sole discretion to terminate this Lease effective as of the taking of possession by the condemning authority, by giving at least 180 days' written notice to Tenant of such election (or such shorter notice as may be given by such condemning authority). Any award for the taking of all or any part of the Premises or the Office Building Project under a Condemnation shall be the property of Landlord, whether such award shall be made as compensation for diminution in value of the leasehold or for the taking of the fee, or as severance damages; provided, however, that Tenant shall be entitled to any separate award for loss of or damage to Tenant's trade fixtures, removable personal property and unamortized tenant improvements that have been paid for by Tenant, so long as such award does not reduce the award otherwise granted to Landlord. For that purpose, the cost of such improvements shall be amortized over the original Term excluding any renewal options. In the event that this Lease is not terminated by reason of such Condemnation, Landlord shall, to the extent of severance damages received by Landlord in connection with such Condemnation, repair any damage to the Premises caused by such Condemnation except to the extent that Tenant has been reimbursed therefor by the condemning authority. Tenant may separately pursue a claim against the condemner for (i) the value of Tenant's personal property that Tenant is entitled to remove under the Lease, (ii) moving costs, and (iii) loss of business.

15. **Broker's Fee.**

(a) Subject to the execution of this Lease by both parties, Landlord shall pay to the Landlord's Broker a fee as set forth in a separate agreement between Landlord and such broker.

(b) Tenant and Landlord each represent and warrant to the other that neither has had any dealing with any person, firm, broker or finder (other than the person(s), if any, whose names are set forth in Sections 1.14 and 1.15) in connection with the negotiation of this Lease or the consummation of the transaction contemplated hereby, and no other broker or other person, firm or entity is entitled to any commission or finder's fee in connection with said transaction.

16. **Estoppel Certificates.**

(a) Each party (as "responding party") shall at any time upon not less than ten (10) days prior written notice from the other party ("requesting party") execute, acknowledge and deliver to the requesting party a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the rent and other charges are paid in advance, if any, and (ii) acknowledging that there are not, to the responding party's knowledge, any uncured defaults on the part of the requesting party, or specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Office Building Project. At Landlord's request, the estoppel certificate shall be addressed to any lender or assignee of Landlord and shall contain the provisions as may be requested by Landlord or Landlord's lender or assignee.

(b) At Landlord's option, Tenant's failure to deliver such statement within such time shall be a material default of this Lease, without any further notice to Tenant, or it shall be conclusive upon Tenant that (i) this Lease is in full force and effect, without modification except as may be represented by Landlord, (ii) there are no uncured defaults in Landlord's performance, and (iii) not more than one month's rent has been paid in advance.

(c) Tenant hereby agrees to deliver to Landlord and/or any lender or purchaser designated by Landlord such financial statements of Tenant as may be reasonably required by Landlord. Such statements shall include the past three (3) years' financial statements of Tenant, and shall be certified by Tenant to be true and correct.

17. **Landlord's Liability.** The term "Landlord" as used herein shall mean only the owner or owners, at the time in question, of the fee title or the leasehold interest under a ground lease of the Building. In the event of any transfer of such title or interest, Landlord herein named (and in case of any subsequent transfers, then the grantor) shall be relieved from and after the date of such transfer of all liability as respects Landlord's obligations thereafter to be performed. The obligations contained in this Lease to be performed by Landlord shall be binding on Landlord's successors and assigns, only during their respective periods of ownership.

18. **Severability.** The invalidity of any provision of this Lease as determined by a court of competent jurisdiction shall in no way affect the validity of any other provision hereof.

19. **Force Majeure.** Any obligation of the parties which is delayed or not performed due to an act of God, strike, riot, shortage of labor or materials, war (whether declared or undeclared), laws, governmental regulations or restrictions or any other governmental action or inaction, weather or any other cause of any kind whatsoever which is beyond a party's reasonable control, shall not constitute a default hereunder and shall be performed within a reasonable time after the end of the cause for delay or non-performance. In no event shall the foregoing apply to extend or delay the due date for the payment of rent or any other sums due hereunder.

20. **Time is of Essence.** Time is of the essence with respect to the obligations to be performed under this Lease.

21. **Additional Rent.** All monetary obligations of Tenant to Landlord under the terms of this Lease, including but not limited to any expenses payable by Tenant hereunder, shall be deemed to be Rent.

22. **Incorporation of Prior Agreement; Amendments.** This Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior or contemporaneous agreement or understanding

pertaining to any such matter shall be effective. This Lease may be modified in writing only, signed by the parties in interest at the time of the modification. Except as otherwise stated in this Lease, Tenant hereby acknowledges that neither Landlord's Broker nor Landlord or any employee or agent of any of said persons has made any oral or written warranties or representations to Tenant relative to the condition or use by Tenant of the Premises or the Office Building Project and Tenant acknowledges that Tenant assumes all responsibility regarding the legal use and adaptability of the Premises and the compliance thereof with all applicable laws and regulations in effect during the Term.

23. **Notices.** Any notice required or permitted to be given hereunder shall be in writing and may be given by personal delivery, by certified or registered mail, or by overnight mail, addressed to a party at the address beneath such party's signature on this Lease or such other address for notice purposes as may be later specified by notice to the other party. Notices shall be deemed given upon receipt or the refusal to accept receipt. A copy of all notices required or permitted to be given to Landlord hereunder shall be concurrently transmitted to such other party or parties at such addresses as Landlord may from time to time hereafter designate by notice to Tenant.

24. **Waivers.** No waiver by Landlord of any provision hereof shall be deemed a waiver of any other provision or of any subsequent breach by Tenant of the same or any other provision. Landlord's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Landlord's consent to or approval of any subsequent act by Tenant. The acceptance of Rent by Landlord shall not be a waiver of any preceding breach of this Lease by Tenant, other than Tenant's failure to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent.

25. **Vacation or Abandonment of Premises.** Tenant shall not vacate or abandon the Premises. Abandonment of the Premises shall include the failure to occupy the Premises for a continuous period of thirty (30) days or more, whether or not the Rent is paid.

26. **Holding Over.** If Tenant or any party claiming under Tenant remains in possession of the Premises or any part thereof after the expiration or earlier termination of the Term, no tenancy or interest in the Premises shall result therefrom but such holding over shall be an unlawful detainer and all such parties shall be subject to immediate ouster and removal, and Tenant shall pay upon demand to Landlord during any period which Tenant shall hold the Premises after the Term has expired or terminated, as liquidated damages, a sum equal to all Rent provided for in this Lease plus an amount computed at the rate of double the Base Rent for such period plus all damages incurred by Landlord arising by reason of any holdover. In addition and not in lieu of the foregoing, Landlord shall have any and all self-help rights allowed under applicable law.

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

28. **Covenants and Conditions.** Each provision of this Lease to be performed by Tenant shall be deemed both a covenant and a condition.

29. **Binding Effect; Choice of Law.** Subject to Sections 12 and 17 hereinabove, this Lease shall bind the parties, their personal representatives, successors and assigns. This Lease shall be governed by the laws of the State where the Office Building Project is located and any litigation concerning this Lease between the parties hereto shall be initiated in the county in which the Office Building Project is located.

30. **Subordination.**

30.1 This Lease shall, at Landlord's option, be subordinate to any ground lease, mortgage, trust deed, or any other security interest now or hereafter affecting the Office Building Project and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof. If any ground lessor or the holder of any mortgage, trust deed or other security interest shall elect to have this Lease prior to its ground lease, mortgage, trust deed or other security interest, and shall give written notice thereof to Tenant, this Lease shall be deemed prior to such ground lease, mortgage, trust deed or other security interest, whether this Lease is dated prior or subsequent to the date of said ground lease, mortgage, trust deed or other security interest or the date of recording thereof. Upon termination of any ground lease or foreclosure

of any mortgage, deed of trust or other security interest, Tenant shall attorn to the ground lessor or any purchaser upon foreclosure.

30.2 Tenant agrees to execute any documents required to effectuate a subordination or attornment, or to make this Lease prior to any ground lease, mortgage, trust deed or other security interest, if requested by the ground lessor or holder of the mortgage, trust deed or other security interest. Tenant's failure to execute such documents within ten (10) days after written demand shall constitute a material default by Tenant hereunder without further notice to Tenant .

31. **Intentionally Deleted.**

32. **Access.**

32.1 Landlord and Landlord's agents shall have the right to enter the Premises at all times for the purpose of inspecting the same, performing any services required of Landlord, showing the same to prospective purchasers, lenders, or tenants, taking such measures, erecting such scaffolding or other necessary structures, making such alterations, repairs, improvements or additions to the Premises or to the Office Building Project as Landlord may deem necessary or desirable, and erecting, using and maintaining utilities, services, pipes and conduits through the Premises and/or other premises of the Building. Landlord may at any time place on or about the Premises, the Building or the Office Building Project "For Sale" signs and Landlord may at any time during the last 365 days of the Term place on or about the Premises "For Lease" signs.

32.2 All activities of Landlord pursuant to this Section shall be without abatement of Rent and Landlord shall not have any liability to Tenant for the same.

32.3 Landlord shall have the right to retain keys to the Premises and to unlock all doors in or upon the Premises other than files, vaults and safes, and in the case of emergency to enter the Premises by any reasonably appropriate means, and any such entry shall not be deemed a forcible or unlawful entry or detainer of the Premises or an eviction.

33. **Auctions and Other Sales.** Tenant shall not conduct, nor permit to be conducted, either voluntarily or involuntarily, any auction or other sales of any kind upon the Premises or the Common Areas without Landlord's prior written consent. Notwithstanding anything to the contrary in this Lease, Landlord shall not be obligated to exercise any standard of reasonableness in determining whether to grant such consent.

34. **Signs.**

34.1 Tenant, at Tenant's sole cost and expense, shall have the right to install its name sign on the exterior of the first floor of the Premises (the "Exterior Sign"); provided, however: (i) the size, design, location, and method of attachment of such sign shall be subject to the prior, written approval of Landlord; (ii) Tenant shall be responsible, at its sole cost and expense, for fabricating such Exterior Sign and for obtaining any and all permits and approvals necessary to display such Exterior Sign; (iii) Tenant shall maintain such Exterior Sign in good condition and repair, at Tenant's cost and expense; (iv) such Exterior Sign shall comply with all applicable laws, rules, codes, regulations, and/or ordinances; and (v) upon the expiration or earlier termination of this Lease, at Tenant's sole cost and expense, Tenant shall remove such Exterior Sign and repair any and all damage caused thereby, which obligation shall survive the expiration or earlier termination of this Lease.

34.2 Except for the Exterior Sign, Tenant shall not place any sign upon the Premises or the Office Building Project without Landlord's prior written consent, and under no circumstances shall Tenant place a sign on any roof or exterior of the Office Building Project.

35. **Merger.** The voluntary or other surrender or mutual cancellation or termination by Landlord of this Lease shall not work a merger, but shall, at the option of Landlord, terminate all or any subtenancies or may, at the option of Landlord, operate as an assignment to Landlord of any or all subtenancies.

36. **Consents.** Except as specifically set forth elsewhere in this Lease, wherever in this Lease the consent of Landlord is required, such consent shall require the Landlord to act in a reasonable manner.

37. **Quiet Possession.** Upon Tenant paying the Rent and observing and performing all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Premises for the entire Term subject to all of the provisions of this Lease.

38. **Security Measures; Landlord's Reservations.**

38.1 Notwithstanding anything to the contrary set forth in this Lease, Tenant hereby acknowledges that Landlord shall have no obligation whatsoever to provide guard service or other security measures for the benefit of the Premises or the Office Building Project. Tenant assumes all responsibility for the protection of Tenant and its agents and invitees and the property of Tenant and its agents and invitees from acts of third parties. Nothing herein contained shall prevent Landlord, at Landlord's sole option, from providing security protection for the Office Building Project or any part thereof, in which event the cost thereof shall be included within the definition of Operating Expenses.

38.2 Landlord shall have the following rights:

- (a) To change the name, address or title of the Office Building Project or the Building upon not less than thirty (30) days prior written notice;
- (b) To, at Tenant's expense, provide and install Building standard graphics on the door of the Premises and such portions of the Common Areas as Landlord shall reasonably deem appropriate;
- (c) To grant to any tenant of the Office Building Project the exclusive right to conduct any business as long as such exclusive right does not conflict with any rights expressly given herein;
- (d) To place such signs, notices or displays as Landlord desires upon the roof and exterior of the Office Building Project or on pylon or monument signs in the Common Areas; and/or
- (e) To, from time to time, eliminate land from, or add to or substitute for land of, the Office Building Project or any part thereof, or eliminate, add or substitute any buildings or improvements, or change or consent to a change in the shape, layout, size, location, number, height or extent of the improvements to the Office Building Project or any part thereof.

38.3 Tenant shall not:

- (a) Use a representation (photographic or otherwise) of the Building or the Office Building Project in connection with Tenant's business; and/or
- (b) Suffer or permit anyone, except in emergency, to go upon the roof of the Building.

39. **Easements.**

39.1 Landlord reserves the right, from time to time, to grant easements and rights, make dedications, agree to restrictions and record maps affecting the Office Building Project as Landlord may deem necessary or desirable, so long as such easements, rights, dedications, restrictions and maps do not unreasonably interfere with the use of the Premises by Tenant as set forth herein. Tenant shall sign any of the aforementioned documents upon request of Landlord and failure to do so shall constitute a material default of this Lease by Tenant.

39.2 The obstruction of Tenant's view, air, or light by any structure erected in the vicinity of the Building, whether by Landlord or third parties, shall in no way affect this Lease or impose any liability upon Landlord.

40. **Performance.** If at any time a dispute shall arise as to any amount or sum of money to be paid by one party to the other under the provisions hereof, the party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment, and there shall survive the right on the part of said party to institute suit for recovery of

such sum. If it shall be adjudged that there was no legal obligation on the part of said party to pay such sum or any part thereof, said party shall be entitled to recover such sum or so much thereof as it was not legally required to pay under the provisions of this Lease.

41. **Authority.** If Tenant is a corporation, trust, limited liability company or general or limited partnership, Tenant, and each individual executing this Lease on behalf of such entity represent and warrant that such individual is duly authorized to execute and deliver this Lease on behalf of said entity and shall, at or prior to the execution of this Lease, deliver to Landlord evidence of such authority satisfactory to Landlord. If Tenant is a corporation, trust, limited liability company or general or limited partnership, Tenant represents and warrants that Tenant is qualified to do business in the State of Tennessee.

42. **Lender Modification.** Tenant agrees to consider in good faith a request to make reasonable modifications to this Lease as may be reasonably required by Landlord's lender in connection with the obtaining of normal financing or refinancing of the Office Building Project.

43. **Multiple Parties.** If more than one person or entity is named as either Landlord or Tenant herein, except as otherwise expressly provided herein, the obligations of Landlord or Tenant herein shall be the joint and several responsibility of all persons or entities named herein as such Landlord or Tenant, respectively.

44. **Hazardous Material.** Tenant shall not cause or permit any Hazardous Material (hereinafter defined) to be brought upon, kept or used in or about the Premises by Tenant, its agents, employees, contractors or invitees, without the prior written consent of Landlord, which consent may be granted or withheld in Landlord's sole discretion. For the purpose of this Lease, "Hazardous Material" shall include oil, flammable explosives, asbestos, urea formaldehyde, radioactive materials or waste, or other hazardous, toxic, contaminated or polluting materials, substances or wastes, including, without limitation, any hazardous substances, hazardous wastes, hazardous materials or toxic substances as such terms are defined in the Resource Conservation and Recovery Act and the Comprehensive Environmental Response, Compensation and Liability Act, and in any other law, ordinance, rule, regulation or order promulgated by the federal or state government, or any other governmental entity having jurisdiction over the Office Building Project or the parties to this Lease. If Tenant breaches the obligations set forth in this Section, or if the presence of Hazardous Material in the Premises or at the Office Building Project caused or permitted by Tenant or its agents, employees, contractors or invitees (whether or not Landlord has given its consent to the presence of such Hazardous Material in the Premises) results in contamination of the Premises or any other part of the Office Building Project, or if contamination of the Premises or any other part of the Office Building Project by Hazardous Material otherwise occurs for which Tenant is legally liable, then Tenant shall be liable as provided by law.

45. **Intentionally Deleted.**

46. **Litigation; Consent to Jurisdiction; Waiver of Jury Trial.** As an independent covenant, Landlord and Tenant hereby waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises and/or any claim or injury or damage and any emergency statutory remedy or any other statutory remedy.

47. **Financial Statements.** Tenant shall, within ten (10) days after receipt of Landlord's written request therefor, deliver certified financial statements and other financial information related to the financial condition of Tenant and any guarantor for the then most recent fiscal year of Tenant and such guarantor.

48. **Mold and Mildew Addendum.** The terms and conditions of the Mold and Mildew Addendum attached hereto as Exhibit D are incorporated herein by reference.

49. **Counterparts.** This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. The transmission of a signed counterpart of this Lease by facsimile or by portable document file ("PDF") shall have the same force and effect as the delivery of an original signed counterpart of this Lease, and shall constitute valid and effective delivery for all purposes.

50. **Conflict of Interest.** Landlord declares that neither the Mayor nor any member of the Metropolitan Council, nor the director of any department of the Metropolitan Government, nor any other Metropolitan Governmental official or employee is directly or indirectly interested in this Lease and, furthermore, Landlord pledges that it will notify Tenant in writing should any of the above-referenced persons become either directly or indirectly interested in this Lease. In addition, Landlord declares that as of the effective date of this Lease, neither it nor any of the principals therein have given or donated, or promised to give or donate, either directly or indirectly, to any official or employee of the Metropolitan Government or to anyone else for its benefit, any sum of money or other thing of value or aid or assist in obtaining this Lease. Furthermore, Landlord pledges that neither it nor any officer or employee of the Metropolitan Government, or to anyone else for his benefit, has given any sum of money or other thing of value for aid or assistance in obtaining any amendment or modification to this Lease.

51. **Personnel Policy.** Landlord affirms that it does not subscribe to any personnel policy which permits or allows for the promotion, demotion, dismissal, or laying off of any individual due to the individual's race, creed, color, national origin, gender or disability.

52. **Compliance With Laws.** Tenant and Landlord agree to comply with any applicable federal, state and local laws and regulations, including fire, building and other codes applicable to the Premises and the Building, respectively; it being acknowledged that Tenant, and not Landlord, shall be responsible for any work necessary to ensure that any portion of the Building or the Office Building Project complies with such laws to the extent resulting from any construction within or alterations to the Premises by Tenant or Tenant's specific use of the Premises (as opposed to office use generally).

53. **Termination—Funding.** Should funding for this Lease be discontinued, Tenant shall have the right to terminate the Lease upon twelve (12) months' written notice to Landlord and with Tenant paying back to Landlord, simultaneously with the delivery to Landlord of such written notice, the unamortized portions of: (i) the Tenant Improvement Allowance; and (ii) the cost of Landlord's Work, all of which amounts shall be amortized over the seventy-two (72) month initial Term of this Lease, at an interest rate of ten percent (10%) per annum.

54. **Notices.** Any notice or request which may or shall be given under the terms of this Lease shall be in writing and shall be delivered to the parties at the addresses provided herein. Such addresses may be changed from time to time by either party giving notice as provided above.

Notices to Tenant shall be sent to:
Attention – Director of Public Property
700 President Ronald Reagan Way
PO Box 196300
Nashville, TN 37219

Notices to Landlord shall be sent to the address beneath Landlord's signature.

55. **Exhibits.** Attached hereto are the following Exhibits which constitute a part of this Lease.

EXHIBIT A: Floor Plan.

EXHIBIT B: Rules and Regulations.


EXHIBIT C: Landlord's Work.

EXHIBIT D: Mold and Mildew Addendum

- SIGNATURE PAGE TO FOLLOW -


LANDLORD AND TENANT HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH PROVISION IN IT AND BY EXECUTING IT, SHOW THEIR INFORMED AND VOLUNTARY CONSENT. THE PARTIES AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, ITS TERMS ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LANDLORD AND TENANT WITH RESPECT TO THE PREMISES.

IN WITNESS WHEREOF, the parties have executed this Lease, intending to be legally bound hereby, effective as of the date first set forth above.

Witness: 

LANDLORD:

NASHVILLE GARAGE LP, a Delaware limited partnership

By: 
Name: Kory Stoltz
Title: Authorized Person

Address for Landlord Notices:

Stoltz Management of Delaware, Inc.
725 Conshohocken State Road
P.O. Box 2087
Bala Cynwyd, PA 19004
Attention: Legal Department

TENANT:

METROPOLITAN GOVERNMENT OF NASHVILLE
AND DAVIDSON COUNTY

Date: _____

By: Karen Johnson
Name: Karen Johnson
Title: Register of Deeds

Date:

By: Abraham Wescott
Name: Abraham Wescott
Title: Director of Public Property

APPROVED AS TO AVAILABILITY OF FUNDS:

Date: _____

By: Kevin Crumbo
Name: Kevin Crumbo
Title: Department of Finance

APPROVED AS TO FORM AND LEGALITY:

Date: _____

By: Macy Amos

Name: _____

Title: Assistant Metropolitan Attorney

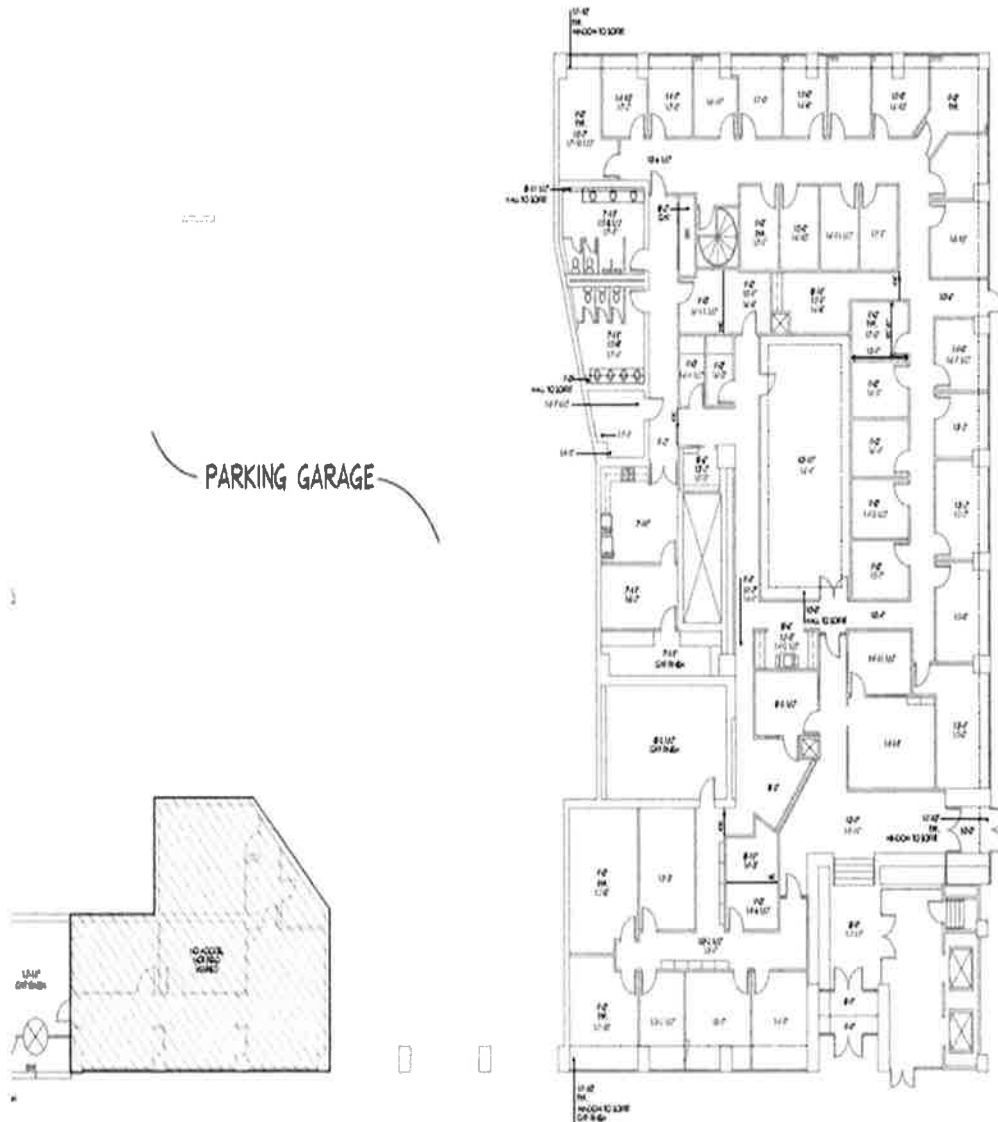
Filed in the Office of the Metropolitan Clerk:

Address for Tenant Notices:

Attention: _____

Employer ID Number:

EXHIBIT A FLOOR PLAN



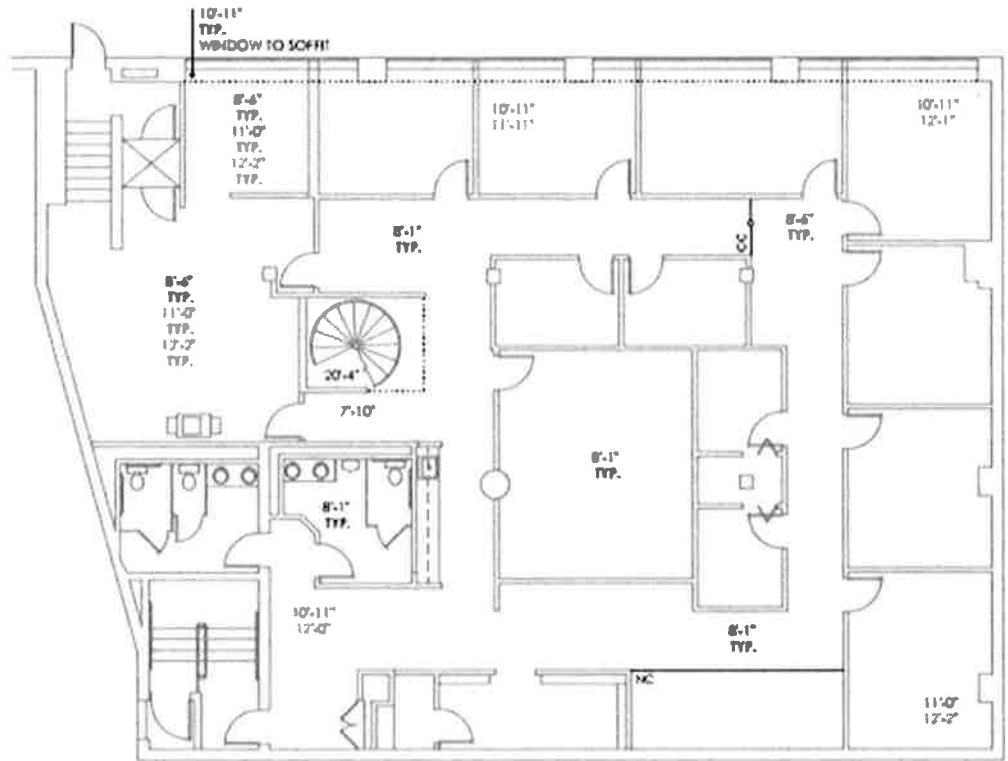


EXHIBIT B

RULES AND REGULATIONS FOR OFFICE LEASE

GENERAL RULES

1. Tenant shall not suffer or permit the obstruction of any Common Areas, including driveways, walkways and stairways.
2. Landlord reserves the right to refuse access to any persons Landlord in good faith judges to be a threat to the safety, reputation, or property of the Office Building Project and its occupants.
3. Tenant shall not make or permit any noise or odors that annoy or interfere with other tenants or persons having business within the Office Building Project.
4. Tenant shall not keep animals or birds within the Office Building Project, and shall not bring bicycles, motorcycles or other vehicles into areas not designated as authorized for same.
5. Tenant shall not make, suffer or permit litter except in appropriate receptacles for that purpose.
6. Tenant shall not alter any lock or install new or additional locks or bolts.
7. Tenant shall be responsible for the inappropriate use of any toilet rooms, plumbing or other utilities. No foreign substances of any kind are to be inserted therein.
8. Tenant shall not deface the walls, partitions or other surfaces of the Premises or Office Building Project.
9. Tenant shall not suffer or permit any thing in or around the Premises or Building that causes excessive vibration or floor loading in any part of the Office Building Project.
10. Furniture, significant freight and equipment shall be moved into or out of the Building only with Landlord's knowledge and consent, and subject to such reasonable limitations, techniques and timing, as may be designated by Landlord. Tenant shall be responsible for any damage to the Office Building Project arising from any such activity.
11. Tenant shall not employ any service or contractor for services or work to be performed in the Building, except as approved by Landlord.
12. Landlord reserves the right to close and lock the Building on Saturdays, Sundays and legal holidays, and on other days between the hours of 6:00 P.M. and 6:00 A.M. of the following day. If Tenant uses the Premises during such periods, Tenant shall be responsible for securely locking any doors it may have opened for entry.
13. Tenant shall return all keys at the termination of its tenancy and shall be responsible for the cost of replacing any keys that are lost.
14. No window coverings, shades or awnings shall be installed or used by Tenant.
15. Neither Tenant nor any employee or invitee of Tenant shall go upon the roof of the Building.
16. Tenant shall not suffer or permit smoking or carrying of lighted cigar or cigarettes in areas reasonably designated by Landlord or by applicable governmental agencies as non-smoking areas.

17. Tenant shall not use any method of heating or air conditioning other than as provided by Landlord or as otherwise set forth in the Lease.
18. Tenant shall not install, maintain or operate any vending machines upon the Premises without Landlord's written consent.
19. The Premises shall not be used for lodging or manufacturing, cooking or food preparation.
20. Tenant shall comply with all safety, fire protection and evacuation regulations established by Landlord or any applicable governmental agency.
21. Landlord reserves the right to waive any one of these rules or regulations, and/or as to any particular tenant, and any such waiver shall not constitute a waiver of any other rule or regulation or any subsequent application thereof to such tenant.
22. Tenant assumes all risks from theft or vandalism and agrees to keep its Premises locked as may be required, subject to the terms and conditions of the Lease.
23. Landlord reserves the right to make such other reasonable rules and regulations as it may from time to time deem necessary for the appropriate operation and safety of the Office Building Project and its occupants. Tenant agrees to abide by such rules and regulations as well as these rules and regulations.

EXHIBIT C

LANDLORD'S WORK

Landlord's Work shall mean only: (i) installation of a new HVAC unit to serve the Premises; and (ii) installation a new elevator between Suite 100 and Suite B100 in the Premises.

EXHIBIT D

MOLD AND MILDEW ADDENDUM

THIS MOLD AND MILDEW ADDENDUM (the "Addendum") is hereby incorporated into the attached Lease (the "Lease"). Any and all capitalized terms not defined herein shall have the definitions set forth in the Lease.

1. **PURPOSE.** It is the goal of this Addendum to provide information and instructions to enable the parties to protect the quality of the environment of the Premises from the effect of mold and mildew in its various forms. It is also the goal of this Addendum to clearly set forth the responsibilities of Tenant with respect to the prevention of mold.

2. **INFORMATION ON MOLD.** Mold is found everywhere in the environment, both indoors and outdoors. In fact, mold is a significant portion of the earth's bio-mass. Without mold, dead organic material would rapidly accumulate in the environment. If that were to occur, it would be impossible to sustain life. Therefore, mold is both natural and an essential part of the earth's biology. Mold is especially effective in digesting cellulose materials such as wood, leaves, grass, drywall, paper and dust. Part of what mold does is to break these complex materials down into simpler substances that can be easily recycled back into the eco-system. Once mold has completed the process of eating, by breaking down the complex materials into digestible substances, its next purpose is to reproduce. As part of the reproductive cycle, mold produces tiny airborne reproductives that are called "spores". Mold spores are literally everywhere in our environment. They are found in the air throughout the year. The number of spores in the environment swell in the warm humid months of summer. It is physically impossible to remove mold spores from the air without special filtration equipment. Experts are not in agreement as to the cause, but it appears that more people may develop sensitivities to airborne pollens, mold spores, dust and animal dander than has historically been seen. Some people may become affected by mold spores in relatively benign ways such as watery eyes or a runny nose. Other people may become affected from exposure to mold, its spores and/or toxins. Mold is unlike other environmentally dangerous substances such as lead that can be objectively measured to determine dangerous levels. Mold's impact varies tremendously from person to person. The higher the number of mold spores, the greater the number of people that may be affected. Why is mold such a complex health issue when it is a naturally occurring life form which is found almost everywhere? Mold produces not only spores but it also produces a by-product which are generically described as "toxins". Each form of mold competes for food and survival with other life forms such as bacteria and other molds. In an effort to defend itself from its enemies, mold produces toxins that kill bacteria and other forms of mold. Penicillin, a mold toxin, has the ability to kill bacteria. Unfortunately, mold toxins may cause medical problems. Mold must eat to survive. Various forms of mold can digest drywall, paper, hair, dust and soap scum. Just about anything organic in the Premises can be digested by mold. Two critical factors must be present for mold to grow. The most important factor other than food to the growth of mold is water. Without water, either in the form of liquid or humidity in the air, mold cannot live and grow. Mold growth rate when food and water are abundant increases when the ambient temperature rises. Hot and humid weather is ideal for mold growth.

3. **EFFECTIVELY PREVENTING MOLD.** The most effective way to prevent mold is to focus on what it needs to survive and thrive. Water is the most important factor for mold growth inside buildings. If Tenant can effectively remove sources of water then mold growth will most likely be prevented. Tenant must be especially alert and on guard whenever there is a water leak. Plumbing leaks, roof leaks, foundation leaks or any other source of water that penetrates into the Premises must be immediately reported, in writing, by Tenant to Landlord. Tenant is obligated to report, in writing, as soon as practical, any defective condition in the Premises that comes to the attention of Tenant, its agents or employees, that Tenant believes is the duty of Landlord to repair. Failure to make such a report in writing is a breach of the Lease and this Addendum. Humidity is another source of water. Mold will live off the

humidity in the air when it condenses on any cold surface. When the humidity level in the air reaches 60% and temperatures are above 80 degrees Fahrenheit, mold activity may increase. At relative humidity of 90% and temperature about 90 degrees Fahrenheit, mold growth and resulting reproduction may increase. Tenant must use the air conditioner servicing the Premises whenever relative humidity is 60% or higher and temperatures are 80 degrees Fahrenheit or higher. Tenant is required by the terms of this Addendum and the Lease to use the air conditioner servicing the Premises to remove excess humidity and thereby thwart mold growth, whenever the outside temperature is 90 degrees Fahrenheit and the outside relative humidity is 80% or higher. Tenant must keep humidity levels within the Premises at less than 60%. Tenant must keep the Premises clean to deny mold potential food sources. Tenant must remove standing water from anywhere in the Premises resulting from Tenant's conduct, including, but not limited to, the windowsills, frames or walls. Tenant must remove the water and completely dry the areas of the Premises. If Tenant becomes aware of any mold growth, especially on walls and ceilings, Tenant must immediately notify Landlord in writing so that Landlord can examine the growth and determine the cause of the growth. Again, Tenant is required by this Addendum and the Lease to give Landlord this notice as soon as is practical.

4. **ACKNOWLEDGMENT.** Tenant acknowledges by signing the Lease that Tenant has read and understands this Addendum. Tenant acknowledges that it is necessary to make use of appropriate climate controls to keep humidity below 60%. Tenant further acknowledges that Tenant has a duty to keep the Premises clean and take measures to retard and prevent mold from accumulating in the Premises. Tenant shall remove visible moisture accumulations on windows, walls and other surfaces resulting from Tenant's conduct. Tenant shall not block or cover any heating, ventilation or air conditioning ducts in the Premises and shall take measures to retard and prevent mold from accumulating in and on the surfaces of the Premises. Tenant shall immediately report to Landlord (i) any evidence of a water leak or excessive moisture in the Premises; (ii) any evidence of mold or mildew-like growth that cannot be removed by simply applying a common household cleaner and wiping the area; (iii) any failure or malfunction in the heating, ventilating or air conditioning system in the Premises; and (iv) any inoperable doors or windows. Tenant shall be responsible as provided by law for damage to the Premises as well as injury to employees and occupants resulting from Tenant's failure to comply with the terms of this Addendum. A default under the terms of this Addendum shall be deemed a material default under the terms of the Lease, and Landlord shall be entitled to exercise all rights and remedies in the Lease or at law or in equity. In the event of any conflict between the terms of this Addendum and the terms of the Lease, the terms of this Addendum shall control.