

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

RESOLUTION NO. 2020-098

Approving a Lease of Premises Located at 3003–3099 NE 170th Pl., Portland, Oregon, and the Associated FAC-1 Project Plan for Tenant Improvements.

The Multnomah County Board of Commissioners Finds:

- a. A lease of premises within the property located at 3003–3099 NE 170th Pl., Portland, Oregon ("Premises") will provide for Multnomah County Sheriff's Office ("MCSO") consolidated space ("Project").
- b. MCSO will be the first Tenant to occupy the Premises and both Landlord and Tenant improvements will be delivered prior to occupancy.
- c. Approval of a lease of the Premises on terms substantially in conformance with the lease attached hereto as Exhibit 1, and approval of the *MCSO Consolidation at Portland Portal Site, FAC-1 Preliminary Planning, Design Phase Proposal, and Project Plan (November 19, 2020)* for tenant improvements to the Premises ("FAC-1 Project Plan"), is in the best interests of Multnomah County.

The Multnomah County Board of Commissioners Resolves:

1. The County Chair is authorized to execute a lease substantially in conformance with the lease attached hereto as Exhibit 1.
2. The County Chair is authorized to execute renewals of the lease and execute amendments to the lease without further Board action.
3. The FAC-1 Project Plan, and construction of the Project, is approved.

ADOPTED this 19th day of November, 2020.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Deborah Kafoury, Chair

REVIEWED:
JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By

Jed Tomkins, Sr. Asst. County Attorney

SUBMITTED BY: Tracey Massey, Interim Director, Department of County Assets; Katie Burgard, Chief of Staff, MCSO

Exhibit 1

INDUSTRIAL PARK LEASE AGREEMENT 3003 – 3099 NE 170th Place, Portland, Oregon

by and between

Lot-306 LLC, an Oregon limited liability company, Portal 53, LLC, an Oregon limited liability company and Portal 4th LLC, an Oregon limited liability company, collectively as
Landlord

and

Multnomah County, an Oregon political subdivision, as Tenant

Dated as of November 20, 2020

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INDUSTRIAL PARK LEASE AGREEMENT
3003 – 3099 NE 170th Place, Portland, Oregon

ARTICLE I

BASIC PROVISIONS AND CERTAIN DEFINITIONS

1.1 **Definitions.** The following list sets out certain defined terms and certain financial and other information pertaining to this Lease Agreement (this "Lease"):

(a) Landlord: Lot-306 LLC, an Oregon limited liability company, Portal 53, LLC, an Oregon limited liability company, and Portal 4th LLC, an Oregon limited liability company.

(b) Tenant: Multnomah County, an Oregon political subdivision.

(c) Guarantor: None.

(d) Landlord's notice address:

c/o Downtown Development Group LLC
Attn: General Counsel
920 SW Sixth Ave., Suite 223
Portland, OR 97204

c/o Downtown Development Group LLC
Attn: Property Manager
920 SW Sixth Ave., Suite 223
Portland, OR 97204

Landlord's address for payment of rent:

c/o Downtown Development Group LLC
Attn: Chief Financial Officer
920 SW Sixth Ave., Suite 223
Portland, OR 97204

(e) Tenant's notice address:

Multnomah County
Facilities & Property Management Division
ATTN: Scott Churchill
501 N. Dixon
Portland, OR 97227

Office of the Multnomah County Attorney
ATTN: Jed Tomkins
501 SE Hawthorne Blvd., Suite 500
Portland, Oregon 97214

(f) Guarantor's notice address: N/A.

(g) Premises: That portion of the Building containing approximately 22,578 square feet of leasable area, as described or shown on Exhibit A attached to this Lease. Any statement of square footage set forth in this Lease or that may have been used in calculating Base Rent, Tenant's Proportionate Share and/or Operating Costs is an approximation which Landlord and Tenant agree is reasonable, and the Base Rent and Tenant's Proportionate Share based thereon are not subject to revision whether or not the actual square footage is more or less.

(h) Building and Project: The "Building" is located in City of Gresham, County of Multnomah, State of Oregon, having a street address of 3069-3099 NE 170th Place, Portland, Oregon, containing approximately 202,867 square feet of leasable area and is identified as "Building C" in Exhibit B. The "Project" is Landlord's property located in City of Gresham, County of Multnomah, State of Oregon, having a street address of 3003 - 3099 NE 170th Place, Portland, Oregon, consisting of approximately 359,856 square feet of leasable area, which property is depicted on Exhibit B attached to this Lease. The parties agree that Exhibit B is attached solely for the purpose of locating the Building and the Premises within the Project and that no representation, warranty, or covenant is to be implied by any other information shown on Exhibit B.

(i) Lease Term: Commencing on the date ("Commencement Date") of the Substantial Completion of Landlord's Work described on the attached Exhibit H ("Landlord's Work"), and continuing to the date that is one hundred twenty-four (124) months after the Rent Commencement Date (the "Expiration Date"). The terms "substantial completion," "Substantial Completion," "Substantially Complete," "Substantially complete" and words of similar import (whether or not spelled with initial capitals) as used in this Lease shall mean the date of substantial completion of Landlord's Work such that Tenant may commence the installation of any of Tenant's equipment and occupy the Premises for the conduct of its business (subject to the completion of any additional construction to be performed by Tenant). Landlord's Work shall be deemed substantially complete notwithstanding the fact that minor details of construction, mechanical adjustments or decorations which do not materially interfere with Tenant's use and enjoyment of the Premises remain to be performed (items normally referred to as "punch list" items). Certification by Landlord's architect as to the substantial completion of Landlord's Work shall be conclusive and binding upon Landlord and Tenant. By taking occupancy of the Premises and commencing Tenant's Work therein, Tenant shall be deemed to have accepted the Premises as substantially complete, except that Tenant shall, within ten (10) days after entering into possession of the Premises, provide Landlord with a list of incomplete and/or corrective items present in Landlord's Work. Landlord shall diligently complete, as soon as reasonably possible, any items of work and adjustment on such list as are not completed upon substantial completion of Landlord's Work.

(j) Rent Commencement Date: Except as provided in Exhibit H with respect to delays for which Landlord is responsible, the "Rent Commencement Date" shall be the earlier to occur of (i) ninety-eight days following the Commencement Date, or (ii) the date upon which Tenant begins operating in the Premises. Tenant shall commence to pay Base Rent on the Rent Commencement Date. If the Rent Commencement Date occurs on a date other than the first day of a calendar month, then Rent for the partial month shall be prorated by day, with the first full monthly installment of Rent being due on the first day of the following month and the Lease Term shall be extended by such partial month (i.e., 124 months plus such partial month). At the request of Landlord, Tenant shall execute and deliver to Landlord on or after the Commencement Date and Rent Commencement Date a completed certificate in substantially the form attached hereto as Exhibit F (the "Commencement Date Certificate"). Notwithstanding the foregoing, Tenant shall pay for all utilities used in the Premises while performing Tenant's Work (as defined in Exhibit H).

(k) Option Periods: Landlord hereby grants to Tenant two (2) options to extend the Lease Term for five (5) years each, each commencing when the prior term expires, as more particularly set forth below.

(l) Base Rent: Base Rent shall be the sum of the amounts set forth below and shall be paid as follows during the respective months of the Lease Term:

<u>Months</u>	<u>Base Rent/Month</u>
*1 – 4	\$13,095.24
5 – 16	\$13,095.24
17 – 28	\$13,488.10
29 – 40	\$13,892.74
41 – 52	\$14,309.52
53 – 64	\$14,738.81
65 – 76	\$15,180.97
77 – 88	\$15,636.40
89 – 100	\$16,105.49
101 – 112	\$16,588.66
113 – 124	\$17,086.32

* Base Rent for the first four (4) months following the Rent Commencement Date is abated. Any partial month following the Free Rent Period is charged a prorated portion of this amount.

As reflected above, Tenant shall have no obligation to pay monthly Base Rent for the first four (4) months commencing with the Rent Commencement Date (the "Free Rent Period"), resulting in an abatement of monthly Base Rent in the amount of \$13,095.24 per month. If this Lease is terminated during such Free Rent Period, Tenant shall not be entitled to any such rent abatement after the date of termination nor shall Tenant be entitled to assert any right to rent abatement after such termination against any sums due Landlord. The rent abatement granted under this Section is solely for the benefit of the entity executing this Lease as tenant and is not transferable to any assignee or subtenant. In the event of a default by Tenant under the terms of this Lease which results in early termination pursuant to the provisions hereof, then as a part of the recovery to which Landlord shall be entitled shall be included a portion of such rent which was abated under the provisions of this Section, which portion shall be determined by multiplying the total amount of rent which was abated under this Section by a fraction, the numerator of which is the number of months remaining in the Term of this Lease at the time of such default and the denominator of which is the number of months during the Term of this Lease that Tenant is obligated to pay monthly Base Rent. Notwithstanding the foregoing, during the Free Rent Period, Tenant shall pay Tenant's Proportionate Share of Operating Costs, Real Estate Charges and Insurance Expenses, in monthly payments payable on the first day of each month commencing on the Rent Commencement Date.

(m) Prepaid Rent: N/A.

(n) Security Deposit: N/A.

(o) Permitted Use: Office and administrative uses, evidentiary vehicle storage and warehousing, storage of Controlled Substances seized in connection with the duties of the Multnomah County Sheriff's Office ("MCSO") and held for evidentiary purposes to the extent in compliance with Section 3.5, public gun licensing office and administrative uses, auction functions of MCSO, the Firing Range Use (as defined in Section 3.2) to the extent in compliance with Section 3.2, and training facility (both internal and public trainings and including classroom training, recreation-room-style scenario training, and firing range training), all in compliance

with this Lease and all legal requirements, but excluding any holding or intake of any detained or arrested individuals.

(p) Tenant's Proportionate Share: Tenant's Proportionate Share of the Project shall be a fraction, the numerator of which is the total floor area (all of which is deemed "leasable") in the Premises and the denominator of which is the total leasable floor area of all buildings in the Project at the time when the respective charge was incurred. Tenant's Proportionate Share of the Building shall be a fraction with the same said numerator, but the denominator of which shall be the total leasable floor area of the Building at the time when the respective charge was incurred. As of the date of this Lease, Tenant's Proportionate Share of the Project shall be 6.27%, subject to adjustment as provided below, and Tenant's Proportionate Share of the Building shall be 11.13%, subject to adjustment as provided below. At such time, if ever, any space is added to or subtracted from the Premises and/or the Building or any of the buildings in the Project, or if buildings are added to or removed from the Project, the Tenant's Proportionate Share shall be adjusted accordingly. Landlord's system for measurement of total leasable floor area shall be in accordance with standards and practices accepted and used in the calculation of the square footage of leaseable areas with respect to similar warehouse properties within the same geographical area as the Project.

(q) Parking: Tenant shall have the exclusive right to use the twenty-two (22) parking stalls depicted on Exhibit B as "MCSO Assigned Parking Stalls" (the "MCSO Assigned Parking Stalls"), together with the right to use, on a non-exclusive, first-come, first-served basis, the twelve (12) Common Area parking stalls depicted on Exhibit B as "Unassigned Parking Stalls" (the "Unassigned Parking Stalls"). Landlord shall, at Landlord's election, install signs or mark on the pavement, the location of the MCSO Assigned Parking Stalls so as to inform the public that such stalls are reserved for Tenant's exclusive use.

(r) Landlord's Broker ("Agent"): Stu Peterson of Macadam Forbes and Scott Murphy of Kidder Mathews.

(s) Tenant's Broker ("Cooperating Agent"): Kristin Hammond of CBRE.

ARTICLE II

DELIVERY OF PREMISES

2.1 Acceptance of Premises. Landlord leases the Premises to Tenant and Tenant accepts the Premises from Landlord for the Lease Term, upon and subject to the terms and conditions set forth in this Lease. Except to the extent modified by Landlord's express assumption of construction obligations, if any, in Exhibit H attached to this Lease and Landlord's obligation to deliver possession of the Premises with plumbing, electrical and gas infrastructure stubbed to the Premises, telecommunications infrastructure to the interior of the common area electrical room for use by Tenant in the Premises and the warehouse heating systems serving the Premises in good working order, the Premises are leased "AS IS," with Tenant accepting all defects, if any; and Landlord makes no warranty of any kind, express or implied, with respect to the Premises except as expressly provided in Section 2.2.

2.2 Landlord's Representations. Landlord represents, covenants and warrants to Tenant as follows: (a) as of the date of this Lease, Landlord has not received written notice alleging any violations of law, municipal or county ordinances,

or other legal requirements with respect to the Building; (b) to the knowledge of Landlord, there are no requirements of any jurisdictional or environmental agency or department which prohibit the Permitted Use in the Premises as of the date of this Lease (provided that Landlord makes no representation, covenant or warranty as to whether the Permitted Use complies with applicable federal, state, county and municipal laws, ordinances or governmental regulations, it being understood that Tenant is responsible for all such due diligence); (c) as of the date of this Lease, there is no action, suit, proceeding, inquiry or investigation pending or, to the knowledge of Landlord, threatened by or before any court or governmental authority against or affecting the Building; (d) as of the date of this Lease, to the knowledge of Landlord, there are no "recognized environmental conditions" (as defined in ASTM Practice E1527-13) affecting the land upon which the Building is located, except the detection of certain soil-borne pesticides/herbicides associated with the historical orchard use of the land; and (e) this Lease has been duly executed and delivered by Landlord and constitutes a valid, binding and enforceable obligation of Landlord, subject to bankruptcy laws and general principles applicable to courts of equity. As used herein, "knowledge of Landlord", "Landlord's knowledge", and words of similar import mean to the actual knowledge of Landlord, without duty of independent investigation or inquiry. Notwithstanding anything to the contrary in this Section 2.2, Landlord makes no representation, covenant or warranty relating to any requirements of any jurisdictional or environmental agency or department which might prohibit or restrict the Firing Range Use, it being understood that Tenant shall be responsible, at its sole cost and expense, for all due diligence to confirm that the Firing Range Use complies with all applicable federal, state, county and municipal laws, ordinances, governmental regulations and all easements, covenants and restrictions recorded prior to the date of Tenant's execution of this Lease (collectively, "Legal Requirements").

2.3 **Delivery Timing.** Assuming this Lease is mutually executed on or before November 20, 2020, Landlord anticipates delivery possession of the Premises to Tenant with Landlord's Work substantially complete on January 4, 2021 (the "Outside Delivery Date"). Subject to this Lease being mutually executed on or before November 20, 2020, if Landlord does not deliver possession of the Premises to Tenant with Landlord's Work substantially complete by the Outside Delivery Date, Base Rent shall be abated one and one-half days for each day after the Outside Delivery Date that Landlord delivers possession of the Premises to Tenant with possession of the Premises to Tenant with Landlord's Work substantially complete. The Outside Delivery Date shall be extended by one day for each day that Landlord is delayed in substantially completing Landlord's Work and the reason for such delay is due to a Tenant Delay or a Force Majeure Delay. As used herein, a "Tenant Delay" shall mean a delay related to: (i) changes made or requested by Tenant to Landlord's Work; (ii) the failure of Tenant to timely furnish all or any information requested by Landlord for the performance of Landlord's Work; (iii) the performance of work in or about the Premises by any person, firm or corporation employed by or on behalf of Tenant, including, without limitation, any failure to complete or any delay in the completion of such work; (iv) any and all delays caused by or arising from acts or omissions of Tenant in any manner whatsoever; or (v) any and all delays caused by Tenant's early entry for purposes of installing the Telecommunications Infrastructure Improvements

pursuant to Exhibit H. As used herein, a "Force Majeure Delay" shall mean delays due to: (a) acts or events beyond Landlord's control including, but not limited to, acts of God, earthquakes, strikes, lockouts, boycotts, casualties, pandemics, epidemics, discontinuance of any utility or other service required for performance of Landlord's Work, moratoriums, governmental agencies and weather; (b) the lack of availability or shortage of specialized materials used in the construction of Landlord's Work; (c) any matters beyond the control of Landlord, its general contractor or any subcontractors; or (d) any delays in the issuance of governmental permits or changes required by the fire department, building and/or planning department, building inspectors or any other agency having jurisdiction over the Project.

ARTICLE III

PERMITTED USE

3.1 **Permitted Use of Premises.** The Premises shall be used only for the Permitted Use and for no other purpose. Except as expressly provided in Section 2.2, Landlord has not made any representation or warranty as to whether or not such specified use complies with applicable laws and/or requires special governmental permits. Tenant shall commence business operations in the Premises on or immediately after substantial completion of the Tenant Improvements (defined in Exhibit H) and shall operate its business continuously in the Premises throughout the Lease Term. Tenant shall not permit any unreasonably objectionable noises (including gunfire of any decibel level), odors, vibrations, dust, gas, exhaust or smoke to emanate from the Premises (or from any facility or equipment servicing the Premises); nor, except as otherwise allowed under Section 10.1, place or permit any radio or television antenna, satellite dish, loudspeaker or amplifier on the roof or exterior walls or outside the Premises or where the same can be seen or heard from outside the Premises; nor, except as otherwise allowed under Section 10.1, place any antenna, equipment, awning or other projection on the exterior of the Premises or Building; nor take any other action which would constitute a nuisance or would unreasonably interfere with, disturb or endanger Landlord or other tenants of the Project or occupants or owners of adjacent or nearby properties, or unreasonably interfere with their use of their respective premises; nor permit any unlawful practice to be carried on or committed on the Premises; nor do or permit anything which would void Tenant's or Landlord's insurance, increase the cost of insurance or cause the disallowance of sprinkler credits. If Tenant causes any increase in the cost of insurance on the Premises or the Project, then Tenant shall pay to Landlord the amount of such increase as Additional Rent. In no event shall any portion of the Premises be open to members of the public beyond the scope of the Permitted Use.

3.2 **Firing Range Use.** The parties agree that the "Permitted Use" includes use of the Premises or a portion thereof for the purpose of a firing range, together with ancillary uses thereto, including but not limited to armory and munitions and ammunitions storage, by Tenant (including both internal and public use) (the "Firing Range Use"), provided that the following conditions and requirements are satisfied: (i) [*intentionally omitted*]; (ii) any alterations or improvements to be constructed in connection with the Firing Range Use (the "Firing

Range”) shall be completed at Tenant’s sole cost and expense and in compliance with this Lease, including, without limitation, Article X, except that Landlord is hereby deemed to have consented under Article X to Alteration of the Premises for the Firing Range Use, provided that Landlord shall have all rights of consent and approval set out in Section 10.1(a); (iii) Tenant, at its sole cost and expense, shall construct and install such soundproofing material as is necessary to ensure that sounds from inside the Firing Range cannot be heard outside of the Premises; (iv) Tenant shall ensure that its Self-Insurance Program provides commercially reasonable coverage of any additional risks arising from the Firing Range Use; (v) Tenant shall pay to Landlord, as Additional Rent, any increase in the cost of Landlord’s insurance attributable to the Firing Range Use; and (vi) Tenant, at its sole cost and expense, shall ensure that the construction, operation, maintenance and use of the Firing Range is compliant with all Legal Requirements, including (without limitation) Legal Requirements related to soundproofing, security and safety, and shall have procured any permits, licenses, authorizations and any other approvals to ensure such compliance. Landlord makes no representation or warranty, express or implied, as to whether or not the Firing Range Use complies with any Legal Requirements and/or requires special governmental permits.

3.3 **Care of Premises.** Tenant shall take good care of the Premises and shall operate in the Premises in a safe, careful and proper manner; shall not commit or suffer waste in or about the Premises; shall not cause damage or permit any trucks or vehicles visiting the Premises to cause any damage to the Premises or any other portion of the Building (and, if any such damage should occur, shall immediately repair the same or, if Landlord so elects, reimburse Landlord for Landlord's cost in repairing same); and shall keep the Premises free of insects, rodents, vermin and other pests. Tenant shall keep the Premises secure, Tenant hereby acknowledging that security is Tenant's responsibility and that Tenant is not relying on any representation or warranty by Landlord in this regard. Tenant shall not overload the floors in the Premises, nor deface or injure the Premises. Tenant shall keep the Premises and all sidewalks, landscape areas, service-ways and loading areas directly adjacent to the Premises neat, clean and free from dirt, rubbish, ice or snow at all times; provided that Landlord, not Tenant, shall be responsible for ice and snow removal from the asphalt and parking areas within the Common Areas, subject to Tenant’s obligation to pay Operating Costs with respect thereto. Tenant, at its election but subject to Landlord’s consent which shall not be unreasonably withheld, shall store all trash and garbage within the Premises or outside the Premises in a trash dumpster or similar container; provided, however, that it shall not be deemed unreasonable for Landlord to withhold its consent if the dumpster or container is located along the Premises entry. Tenant shall arrange for the regular pick-up of such trash and garbage at Tenant's expense. Receiving and delivery of goods and merchandise and removal of garbage and trash shall be made only in the manner and areas prescribed by Landlord. Outside storage, including, without limitation, storage of containers, trailers, trucks and other vehicles, is prohibited without Landlord's prior written consent, which shall not be unreasonably withheld. Notwithstanding anything to the contrary contained in this Lease, Tenant, at its sole cost and expense, shall be responsible for any vandalism or other damage to any

part of the Project resulting from protests, demonstrations or other civil disorder, unrest or disturbance attributable to Tenant's presence in the Project.

3.4 **Compliance with Law.** Tenant shall procure at its sole expense any permits and licenses required for the transaction of business in the Premises and shall otherwise comply with all applicable federal, state, county and municipal laws, ordinances, governmental regulations and all recorded easements, covenants and restrictions. In addition, if the nature of Tenant's business makes it advisable for Tenant to take any extra precautions (for example, in the case of equipment requiring special safety training for employees, Tenant's compliance with all required educational programs and procedures), Tenant shall take all such extra precautions. Without limiting the generality of the foregoing Tenant further agrees as follows:

(a) Tenant shall not commence business operations in the Premises without having first obtained any and all permits or approvals necessary for the lawful operation of Tenant's business in the Premises from the appropriate governmental authority;

(b) Tenant shall be responsible, at its sole expense, for compliance with the federal Americans with Disabilities Act of 1990 ("ADA"), as the same may have been or may be amended from time to time, and all federal, state, county and municipal laws, ordinances, codes and regulations which relate in any way to the matters regulated by the ADA (collectively, the "ADA-based Laws"); the Premises shall not be used as a place of public accommodation under the ADA or ADA-based Laws; moreover, if and to the extent that because of Tenant's construction and/or activities within or upon the Premises, one or more of the ADA-based Laws require Landlord to alter and/or improve the Common Area or any portion of the Building or the Project, then Tenant shall reimburse Landlord upon demand for the cost of such alterations and improvements;

(c) Tenant shall be responsible for compliance with all federal, state, county and municipal laws and regulations relating to health and safety, including without limitation the federal Occupational Safety and Health Act of 1970 ("OSHA"), as the same may have been or may be amended from time to time, and any and all other federal, state, county and municipal laws, ordinances, codes and regulations which relate in any way to the matters regulated by OSHA; and

(d) At Landlord's request, Tenant shall deliver to Landlord copies of all necessary permits and licenses and proof of Tenant's compliance with all such laws, ordinances, governmental regulations. Any use or occupancy of the Premises by or on behalf of Tenant prior to the Commencement Date shall be subject to each and every obligation of Tenant under this Lease.

3.5 **Controlled Substances.**

(a) As used in this Lease, (i) "Controlled Substances Laws" means the Federal Controlled Substances Act (21 U.S.C. §801 et seq.) or any other similar or related federal, state or local law, ordinance, code, rule, regulation or order; (ii) "Controlled Substances" means marijuana, cannabis, hemp or other controlled

substances as and to the extent defined as such in the Federal Controlled Substances Act or that otherwise are illegal under any Controlled Substances Laws; and (iii) "Controlled Substances Use" means any cultivation, growth, creation, production, manufacture, sale, distribution, storage, handling, possession or other use of a Controlled Substance.

(b) Tenant shall not engage in and shall prohibit any Controlled Substances Use or Drug-Related Activities on the Project.

(c) Tenant shall not make any payments to Landlord from funds derived from Drug-Related Activities.

(d) Tenant shall provide to Landlord, from time to time, within three (3) business days after Landlord's request therefor, any information that Landlord reasonably requests or is requested by Landlord's lender, relating to compliance with this Section 3.5.

(e) Tenant shall not consent to or permit any sublease, license or other agreement relating to, or otherwise permit the use or occupancy of, the Premises for a Controlled Substances Use or in any manner that violates or could violate any Controlled Substances Laws, including, without limitation, any business, communications, financial transactions or other activities related to Controlled Substances or a Controlled Substances Use that violate or could violate any Controlled Substances Laws (collectively, "Drug-Related Activities").

(f) Tenant acknowledges and agrees that this Section 3.5 shall apply notwithstanding any state or local law permitting any Controlled Substances Use or Drug-Related Activities.

(g) Subject to Section 17.1, Landlord's lender (or its designee) shall be permitted to make physical inspections of the Premises to assure compliance with the provisions of this Section 3.5 from time to time.

(h) No direct or indirect disclosure by Tenant to the Landlord or any person affiliated with Landlord (or acting on behalf of Landlord), and no knowledge of the Landlord or any person affiliated with the Landlord, of the existence of any Drug Related Activities or Controlled Substances Use on, in or about the Premises shall estop the Landlord or waive any right of the Landlord to invoke any remedy under this Lease for violation of any provision hereof on, in or about the Premises. The foregoing shall apply notwithstanding the receipt or execution of an estoppel certificate or a subordination, non-disturbance or attornment agreement or other document from or with Tenant.

(i) Tenant acknowledges that, pursuant to the federal Hemp Farming Act of 2018, part of the Agricultural Improvement Act of 2018, certain hemp-derived products may, based on composition of the product and levels of Tetrahydrocannabinol ("THC") below 0.3%, presently be excluded from the Controlled Substances Act as a Controlled Substance (subject to certain regulatory approvals at the federal and state levels), and that such products may be sold, stored,

or otherwise present at the Premises without violating Controlled Substances Laws. Notwithstanding such exclusion from the Controlled Substances Laws, to the extent the presence, sale, production or other use or manner of use of such excluded substances on or about the Premises (i) is nevertheless later deemed to be unlawful under any applicable law, including Controlled Substances Laws, or (ii) results in any liability, loss, or prejudice to the Landlord's rights and interests under the Lease, the rights and remedies of Landlord under this Lease shall apply and be fully enforceable.

(j) Notwithstanding Section 3.5(a) through Section 3.5(i), Tenant shall be permitted to store at the Premises Controlled Substances seized in connection with the performance of the duties of MCSO and held for evidentiary purposes, provided that any such storage of Controlled Substances shall comply with applicable laws and regulations. The rights set forth in this Section 3.5(j) are personal to MCSO and shall not run with the land or inure to the benefit of any other party, including, without limitation, any assignee or sublessee under an assignment or sublease permitted under Section 16.1.

ARTICLE IV

OPTIONS TO EXTEND

4.1 **Option to Extend.** Pursuant to Section 1.1(k), Landlord hereby grants Tenant the right to extend (also referred to in this Lease as the option or options to extend) the Term of the Lease for two (2) additional periods of five (5) years (each such extended period is hereinafter referred to as an "Extended Term") on the same terms and conditions contained in the Lease, except that (i) Base Rent for the Extended Term shall be as set forth hereinbelow, (ii) [*intentionally omitted*], and (iii) Landlord shall have no obligation to make any improvements to the Premises or contribute any amounts therefor. If Tenant exercises one or both of its options to extend, references in the Lease to the Term shall include the Extended Term. Written notice of Tenant's exercise of its option to extend ("Option(s) to Extend") the Term of this Lease for an Extended Term must be given to Landlord no more than twelve (12) months and no less than nine (9) months prior to the date the Term of the Lease would otherwise expire. Tenant shall have no Option to Extend the Term of this Lease if (z) Tenant is not then in the same or better financial condition as of the date of this Lease as indicated by Tenant's financial statements; or (y) Tenant is in default under this Lease and such default is not cured within the cure period set forth in this Lease for such default, if any; provided, that the period of time within which said Option to Extend may be exercised shall not be extended or enlarged by reason of Tenant's inability to exercise said Option to Extend because of a default. In the event Tenant validly exercises one or both of its Options to extend the Term of this Lease as herein provided, Base Rent shall be adjusted as of the commencement date of an Extended Term as follows (but in no event shall it be less than the Base Rent for the month immediately prior to the commencement of such Extended Term):

(a) Not later than six (6) months prior to the commencement of an Extended Term, Landlord shall provide Tenant with Landlord's determination of the fair market Base Rent for such Extended Term, including periodic increases as

dictated by the current market ("Landlord's Determination of Base Rent for Extended Term"). Tenant shall provide notice to Landlord within ten (10) days after receipt of such notice from Landlord as to whether Tenant accepts Landlord's Determination of Base Rent for Extended Term. In the event Tenant does not agree to Landlord's Determination of Base Rent for Extended Term, Landlord and Tenant shall attempt to agree upon Base Rent for the Premises for the Extended Term, such rent to be the fair market Base Rent installment of rent for the Premises for the Extended Term, as defined in Subsection (c) below. If the parties are unable to agree upon the Base Rent for the Extended Term by the date three (3) months prior to the commencement of the Extended Term, then within ten (10) days thereafter each party, at its own cost and by giving notice to the other party, shall appoint a real estate appraiser with at least five (5) years full-time commercial real estate appraisal experience in the area in which the Premises are located to appraise and set Base Rent for the Extended Term. If a party does not appoint an appraiser within ten (10) days after the other party has given notice of the name of its appraiser, the single appraiser appointed shall be the sole appraiser and shall set Base Rent for the Extended Term. If each party shall have so appointed an appraiser, the two (2) appraisers shall meet promptly and attempt to set the Base Rent for the Extended Term. If the two (2) appraisers are unable to agree within thirty (30) days after the second appraiser has been appointed, they shall attempt to select a third appraiser meeting the qualifications herein stated within ten (10) days after the last day the two (2) appraisers are given to set Base Rent. If the two (2) appraisers are unable to agree on the third appraiser within such ten (10) day period, either of the parties to this Lease, by giving five (5) days' notice to the other party, may apply to the Arbitration Service of Portland for the selection of a third appraiser meeting the qualifications stated in this Section. Each of the parties shall bear one-half (1/2) of the cost of appointing the third appraiser and of paying the third appraiser's fee. The third appraiser, however selected, shall be a person who has not previously acted in any capacity for either party.

(b) The fair market Base Rent shall be fixed by the appraisers in accordance with the following procedures. Each party-appointed appraiser shall state, in writing, such appraiser's determination of the fair market Base Rent supported by the reasons therefor and shall make counterpart copies for the other party-appointed appraiser and any neutral appraiser. The party-appointed appraisers shall arrange for a simultaneous exchange of their proposed fair market Base Rent determinations. The role of any neutral appraiser shall be to select whichever of the two (2) proposed determinations of fair market Base Rent most closely approximates the neutral appraiser's own determination of fair market Base Rent. The neutral appraiser shall have no right to propose a middle ground or any modification of either of the two (2) proposed determinations of fair market Base Rent. The determination of fair market Base Rent the neutral appraiser chooses as that most closely approximating the neutral appraiser's determination of the fair market Base Rent shall constitute the decision of the appraisers and shall be final and binding upon the parties. The appraisers shall have no power to modify the provisions of this Lease.

(c) For purposes of the appraisal, the term "fair market Base Rent" shall mean the price that a ready and willing tenant would pay, as of the Extended

Term commencement date, as a base rent to a ready and willing landlord of premises comparable to the Premises, in terms of size, quality and comparable term, in their then-improved state, in the Portland and Gresham, Oregon market, if such premises were exposed for lease on the open market for a reasonable period of time; including any rent increases over the Extended Term. In no event shall there be deducted from such fair market rental the value of any concessions, including without limitation, tenant improvements, commission and/or "down time."

(d) Any neutral appraiser's decision shall be made not later than thirty (30) days after the submission by the appraisers of their proposals with respect to the fair market Base Rent. The parties have included these time limits in order to expedite the proceeding, but they are not jurisdictional, and the neutral appraiser may for good cause allow reasonable extensions or delays, which shall not affect the validity of the award. Absent fraud, collusion or willful misconduct by the neutral appraiser, the award shall be final, and judgment may be entered in any court having jurisdiction thereof. The Option to Extend the Lease hereby granted is personal to the entity executing this Lease as tenant and is not transferable; in the event of any assignment or subletting under this Lease, the Option to Extend the Lease shall automatically terminate and shall thereafter be null and void.

(e) Base Rent during the applicable Extension Period shall be increased on each anniversary of the Extension Period commencement date by three percent (3%) of the Base Rent then in effect and as determined hereunder, such that Base Rent payable for each twelve (12)-month period following the first twelve (12)-month period of the applicable Extension Period shall be one hundred and three percent (103%) of the Base Rent payable for the immediately preceding twelve (12)-month period.

ARTICLE V

BASE RENT

5.1 **Base Rent.** Tenant shall pay to Landlord Base Rent in monthly installments in the amount(s) specified above. The Prepaid Rent, if any, shall be due and payable on or before the date of execution of this Lease, and subsequent installments shall be due and payable on or before the first day of each calendar month during the Lease Term.

5.2 **Rent.** For purposes of this Lease, the term "Rent," "Rents," "Rental" or "Rentals" shall be deemed to include Base Rent, Tenant's required payments for Real Estate Charges and Insurance Expenses, Operating Costs and Additional Rent. Landlord and Tenant agree that each provision of this Lease for determining Rent adequately and sufficiently describes to Tenant the method by which such Rent is to be computed. Any and all other sums of money or charges to be paid by Tenant pursuant to the provisions of this Lease other than Base Rent are hereby designated as and included in the term "Additional Rent." A failure to pay Additional Rent shall be treated in all events as the failure to pay Rent.

5.3 **Payment of Rent.** Rent shall be payable to Landlord (i) by check mailed by certified mail or by overnight courier service, which provides a receipt to Landlord's address specified above, or (ii) by ACH transfer to the account specified by Landlord from time to time.

5.4 **Late Charge.** The parties agree that each monthly installment of Base Rent and Tenant's monthly payments for the Shared Expenses are payable in advance on or before the first day of each calendar month and without demand, offset or deduction of any nature. Any such payment of Rent which is not received on or before the first day of a particular calendar month shall be deemed past-due. Tenant shall pay Additional Rent that is not scheduled for payment on a regular monthly basis, without offset or deduction of any nature, within thirty (30) days after receipt of Landlord's written invoice therefor (i.e., net30), which invoice shall be supported by documentation evidencing and describing the charges therein. In the event any Rent which is payable pursuant to this Lease is not actually received by Landlord within five (5) days after its due date for any reason whatsoever (including, but not limited to, a failure in the United States mails), or if any Rent payment is by check which is returned for insufficient funds, then in addition to the past due amount, Tenant shall pay to Landlord a late charge in an amount equal to five percent (5%) of the Rent then due, in order to compensate Landlord for its administrative and other overhead expenses. Any such late charge shall be payable as Additional Rent under this Lease and shall be payable immediately on demand. If any Rent is paid by check which is returned for insufficient funds, Tenant shall immediately make the required payment to Landlord in the form of a cashier's check or money order and Tenant shall pay an additional fee of \$50.00 to compensate Landlord for its expense and effort in connection with the dishonored check.

ARTICLE VI

TAXES, REAL ESTATE CHARGES AND INSURANCE EXPENSES

6.1 **Personal Property.** Tenant shall be liable for all taxes and assessments of any kind or nature levied against personal property and trade fixtures placed by Tenant in the Premises. If any such taxes are levied against Landlord or Landlord's property and if Landlord elects to pay the same or if the assessed value of Landlord's property is increased by inclusion of personal property and trade fixtures placed by Tenant in the Premises and Landlord elects to pay the taxes based on such increase, Tenant shall pay to Landlord upon demand that part of such taxes for which Tenant is liable under this Section.

6.2 **Real Estate Charges and Insurance Expenses.** Tenant shall also be liable for Tenant's Proportionate Share of all Real Estate Charges (as defined below) and Insurance Expenses (as defined below) related to the Project or Landlord's ownership of the Project. Tenant, at its sole cost and expense, may apply in accordance with law for exemption from ad valorem real property taxes; provided that, at Tenant's request, Landlord will provide information reasonably required for Tenant to apply for such exemption. Any exemption granted as a result of any such application shall accrue for the sole benefit of Tenant, such that the total

compensation paid by Tenant under this Lease has been established to reflect the savings of below market rent resulting from the exemption from taxation. In the event that such exemption is granted, Landlord shall pay to Tenant, on or before December 1 of each applicable fiscal tax year beginning on the preceding July 1, an amount equal to the portion of Real Estate Charges which Landlord is not required to pay due to the reduction in Real Estate Charges as a result of the grant of exemption. "Real Estate Charges" shall include ad valorem taxes, general and special assessments, improvement bond or bonds, levy or tax, parking surcharges, any tax or excise on rents, any franchise or gross margins or receipt tax, any tax or charge for governmental services, any tax, exaction or other charge imposed in connection with the ownership, operation, leasing or use of the Project, any tax or charge which replaces or is in addition to any of such above-described Real Estate Charges, any tax or charge which is implemented after the date of this Lease and is reasonably determined by Landlord to have been assessed in lieu of the whole or part of any of such above-described Real Estate Charges, and any reasonable fees paid by Landlord to consultants, attorneys and other professionals who monitor, negotiate and/or contest any or all above-described Real Estate Charges; provided, however, that Real Estate Charges shall not be deemed to include any capital stock, estate, inheritance or general income tax. "Insurance Expenses" shall, subject to Section 12.1, include all premiums, deductibles and other expenses incurred by Landlord for liability (including umbrella) insurance, property insurance and business interruption insurance (including, without limitation and to the extent deemed appropriate by Landlord, environmental coverage, pollution coverage, mold coverage, terrorism coverage and whatever other special coverages and/or endorsements that Landlord, in Landlord's reasonable discretion, may from time to time consider appropriate in connection with Landlord's ownership, management or operation of the Project).

6.3 **Right to Contest.** Tenant agrees that, as between Tenant and Landlord, Landlord has the sole and absolute right to contest taxes levied against the Premises and the Project (other than taxes levied directly against Tenant's personal property within the Premises and other than any rights Tenant may have at law to contest a denial, whether in whole or part, of any application by Tenant for exemption as described in Section 6.2).

6.4 **Prorated Amounts.** If the total of the monthly payments for any appropriate period is not equal to the total of payments required from Tenant for either Real Estate Charges or Insurance Expenses, or both, then Tenant shall pay to Landlord any deficiency or Landlord shall refund, credit to Tenant or offset against future payments from Tenant any overpayment, as the case may be. Real Estate Charges for tax years commencing prior to or extending beyond the Lease Term shall be prorated to coincide with the corresponding Commencement Date or expiration date of this Lease. If the Building is not separately assessed, Real Estate Charges allocated to the Building shall be an equitable proportion of the Real Estate Charges for all of the land and improvements included within the tax parcel assessed.

ARTICLE VII

COMMON AREA; RULES AND REGULATIONS

7.1 **Common Area.** The term "Common Area" is defined for all purposes of this Lease as that part of the Project intended for the common use of all tenants and their employees and other invitees, including among other facilities (as such may be applicable to the Project), parking areas, private streets and alleys, landscaping, curbs, sidewalks, lighting facilities and the like, as they may exist from time to time, but excluding (i) space in buildings (now or hereafter existing) designated for rental for commercial purposes, as the same may exist from time to time, (ii) streets and alleys maintained by a public authority, (iii) areas within the Project which may from time to time not be owned by Landlord (unless subject to a cross-access agreement benefiting the area which includes the Premises), and (iv) areas leased to any other tenant or otherwise restricted by Landlord. In addition, although the roof(s) of the building(s) in the Project are not literally part of the Common Area, they will be deemed to be so included solely for purposes of (A) Landlord's ability to prescribe rules and regulations regarding same, and (B) Tenant's obligations to pay Operating Costs with respect thereto. Landlord reserves the right to change from time to time the dimensions, size and location of the Common Area, as well as the dimensions, identities, locations, number, size and types of any buildings, signs or other improvements in the Project, including, without limitation, driveways, entrances, parking stalls, parking areas, loading areas, ingress, egress, direction of traffic, walkways and landscape areas; provided, however, that no such changes will materially and adversely impair the access to the Premises. Landlord retains the right to construct additional buildings and other improvements within the Common Area.

7.2 **Use of Common Area.** Tenant and its employees and invitees shall have the nonexclusive right to use the Common Area (expressly excluding roofs of buildings in the Project), such use to be in common with Landlord, other tenants in the Project and other persons permitted by Landlord to use the same, and subject to such reasonable rules and regulations governing use as Landlord may from time to time prescribe. For example, and without limiting the generality of Landlord's ability to establish rules and regulations governing all aspects of the Common Area, Tenant agrees as follows:

(a) If Landlord designates specific parking areas for Tenant and Tenant's employees, then Tenant shall comply with Landlord's designation and shall institute procedures to ensure that its employees also comply. In the event Tenant or its employees fail to park their cars in designated parking areas as aforesaid, then Landlord at its option may charge Tenant Fifty Dollars (\$50.00) per day per car parked in any area other than those designated, as and for liquidated damages, and Tenant shall pay such charges upon demand. Tenant also authorizes Landlord to cause any car which is not parked in the designated parking areas to be towed from the Project; moreover, Tenant shall on demand from Landlord reimburse Landlord for the cost thereof, and Tenant shall in all respects indemnify and hold Landlord harmless with respect to such towing by Landlord.

(b) Tenant shall not take any action which would interfere with the rights of other persons to use the Common Area.

(c) Landlord may temporarily close any part of the Common Area for such periods of time as may be necessary to make repairs or alterations or during construction or to prevent the public from obtaining prescriptive rights.

(d) Subject to Tenant Alterations pursuant to Section 10.1: the use of the roof of the Building is hereby exclusively reserved to Landlord for any and all purposes; and Landlord shall have the exclusive rights to use, possess, lease, convey interests in, alter, construct on, or otherwise manage the roof in its sole and absolute discretion. Landlord shall have the exclusive rights to use, possess, lease, convey interests in, alter, transfer, construct on, or otherwise manage the portions of the Project other than the Premises and the parking areas provided the same does not materially and unreasonably interfere with Tenant's use of the Premises for the Permitted Use nor reduce the number of exclusive parking stalls allocated to Tenant under this Lease. Without limitation of the foregoing, Landlord shall have the right to enter into one or more antenna, tower, communication, solar panel or similar leases or licenses with one or more third parties pursuant to which Landlord shall lease or license space on the roof of the Building or other portions of the Project other than the Premises and the parking areas for antenna, tower, communication, solar panel or other rights and uses (each an "Ancillary Lease"). Tenant agrees that (i) any tenant or licensee under any Ancillary Lease and their respective agents, employees, contractors, representatives and invitees shall have the right to (a) access the areas on and about the Project (other than the Premises except in the case of Tenant's prior written consent), including, without limitation, the Unassigned Parking Stalls and other common parking areas (but excluding the MCSO Assigned Parking Stalls), on a temporary basis (meaning, as to only the Unassigned Parking Stalls, fewer than five (5) business days or as otherwise agreed to in advance by Tenant in writing) for purposes of performing any installations, maintenance, repairs and replacements of any improvements, provided such access does not materially and unreasonably interfere with Tenant's use of the Premises for the Permitted Use, (b) access and enter upon the roof of the Building and other areas of the Project other than the Premises and the parking areas of the Project and (c) perform any and all installation, maintenance, repair or replacement of any antennae, towers, panels, communication installations and related fixtures or appurtenances (collectively, the "Ancillary Rights") and (ii) Landlord shall be permitted to enter into any and all agreements (including, without limitation, easement agreements) with respect to the Project as Landlord deems necessary or advisable in connection with any Ancillary Lease and the Ancillary Rights. In no event shall Tenant or any of its employees, agents, subtenants, contractors, consultants, or invitees access or go upon the roof of the Building or cause or permit any penetration of such roof without the express prior written consent of Landlord (to be granted or withheld as provided in Section 10.1) and subject to a license agreement in form satisfactory to Landlord in Landlord's reasonable discretion.

7.3 **Maintenance of Common Area.** Landlord shall be responsible for the operation, management and maintenance of the Common Area, the manner of

maintenance and the expenditures therefore (which shall be included in Operating Costs), but to be generally in keeping with similar warehouse properties within the same geographical area as the Project.

7.4 **Operating Costs.**

(a) In addition to the Rent and other charges prescribed in this Lease, Tenant shall pay to Landlord, as Additional Rent required pursuant to this Lease, Tenant's Proportionate Share of the actual cost of Landlord's management, operation and maintenance of the Common Area, as well as other shared costs of any kind which may be incurred by Landlord in its reasonable discretion in connection with the operation, cleaning, security, maintenance, ownership, management, repair and replacement of the Building and the Project (collectively, the "Operating Costs"), including, without limitation, all costs of the following: lighting, painting, cleaning, policing, inspecting, repairing, replacing Common Area elements; trash removal (except as paid directly by Tenant); insect and pest treatments and eradication (whether in the Common Area or for the Building or the Project); security (if and to the extent Landlord elects to provide security; Tenant acknowledges that Landlord makes no representation or covenant regarding the provision of, or form of security services to be provided); roof repairs and maintenance; environmental protection improvements or devices and health and safety improvements and devices which may be required by applicable laws (including the maintenance, repair and replacement of same); wages and salaries of all employees, agents, consultants and others engaged in operation, cleaning maintenance, repair, replacement and security of the Project; charges and assessments paid by Landlord pursuant to any owner's association, reciprocal easement, covenants or comparable document affecting the Building or the Project; any fees which Landlord pays for the management or asset management of the Project; utilities; snow and ice removal; monthly amortization of capital improvements to the Common Area or the Building (such amortization to be calculated over the useful life of such improvement (consistent with typical industry standards applicable to similar capital improvements) at a rate of interest equal to the lesser of (x) a rate not to exceed 8% per annum and (y) the maximum annual interest rate permitted by law); the cost of resurfacing and restriping parking areas and roadways; reasonable reserves for any of the foregoing or any other Operating Costs; any other item stated in this Lease to be an Operating Cost, and the cost of any insurance for which Landlord is not reimbursed pursuant to Section 5.2. In addition, although the roof(s), canopies, sewer and water lines servicing the Project, fire-protection systems and devices, if any (such as sprinkler systems, if any), foundations and exterior surfaces of the building(s) in the Project are not literally part of the Common Area, Landlord and Tenant agree that all costs incurred by Landlord with respect to all sewer (including septic systems, if applicable) and water lines and other equipment (including maintenance, repair and replacement of same), fire-protection equipment and devices (including maintenance, repair and replacement of same), exterior painting and for roof and canopy maintenance, repair and replacement shall be included as Operating Costs pursuant to this Section 7.4, to the extent not specifically allocated to Tenant under this Lease nor to another tenant pursuant to its lease. With regard to capital expenditures, (i) the original investment in capital improvements, i.e., upon the initial construction of the Project, shall not be

included in Operating Costs, and (ii) capital improvements made either before or during the Lease Term shall be included in Operating Costs to the extent of a reasonable depreciation or amortization (including interest accruals commensurate with Landlord's interest costs) beginning with the date on which payment for the improvement was made and continuing through the reasonable useful life of the improvement. Operating Costs shall expressly exclude: (i) costs of alterations of tenant spaces (including all tenant improvements to such spaces); (ii) costs of the initial construction of the Project, costs to repair construction defects and to correct pre-existing non-compliance with applicable laws, and any other capital improvements, except for such other capital improvements as otherwise provided in this Lease; (iii) depreciation, interest and principal payments on mortgages, and other debt costs, if any; (iv) real estate brokers' leasing commissions or compensation and advertising and other broker marketing expenses; (v) costs of other services or work performed for the singular benefit of another tenant or occupant (other than for Common Area); (vi) legal, space planning, construction, and other expenses incurred in procuring tenants for the Building or renewing or amending leases with existing tenants or occupants of the Building (other than Tenant); (vii) costs of advertising and public relations and promotional costs and attorneys' fees associated with the leasing of the Building; (viii) any expense for which Landlord actually receives reimbursement from insurance, condemnation awards, other tenants, (other than through the payment of additional rent under such tenants' leases) or any other source; (ix) costs incurred in connection with the sale, financing, refinancing, mortgaging, or other change of ownership of the Building; (x) Real Estate Charges or Insurance Expenses, which are passed through to Tenant separately; (xi) costs, fines, interest, penalties, legal fees or costs of litigation incurred due to the late payments of utility bills and other costs incurred by Landlord's failure to make such payments when due unless caused by Tenant's failure to pay on time; (xii) any attorneys' fees incurred by Landlord in connection with any lease or proposed lease at the Project; and (xiii) costs arising from Landlord's charitable or political contributions. In no event shall Landlord be entitled to recover more than 100% of its actual Operating Costs. Notwithstanding any provision of this paragraph or any other provision of this Lease: (aa) Operating Costs arising from Landlord's overhead, management and administration of the Building and the Project shall not exceed three percent (3%) of gross rents for the Building, and shall not include personnel costs above the level of Building Manager; and (bb) in no event shall Tenant be required to pay Controllable Operating Costs in excess of the Controllable Operating Expense Cap. As used herein, the "Controllable Operating Expense Cap" shall be an amount equal to the amount of the Controllable Operating Expenses for the Project during the calendar year 2021, which cap amount shall be annually increased by five percent (5%) on each January 1 thereafter. The Controllable Operating Expense Cap is cumulative, and, further, shall be determined on an aggregate basis and not on an individual expense item basis, and, further, shall be applied to the lesser of the prior year's actual Controllable Operating Costs or the capped amount of such prior year expenses. As used herein "Controllable Operating Costs" are all Operating Costs other than utility charges, costs of snow removal, costs incurred to comply with new or revised laws (whether federal, state or local), and Non-Recurring Costs (as defined below), and not including Real Estate Charges and Insurance Expenses. "Non-Recurring Costs" shall mean Operating Costs that are not

customarily incurred and budgeted for by owners of comparable projects in the Portland and Gresham, Oregon area, or are materially in excess of such customary and budgeted costs, such as costs incurred due to unusual weather (i.e. snow and ice removal, wind damage, excessive ground water), labor trouble, shortages in supplies, utility shortages or black-outs and costs that may arise in connection with a force majeure event.

(b) Tenant shall make payment to Landlord for Tenant's Proportionate Share of Operating Costs based upon the estimated annual cost of Operating Costs, payable in advance at the same time each month as Base Rent is payable, but subject to adjustment after the end of the year on the basis of the actual costs for such year as provided for in this Lease. In addition, if either before or during the Lease Term Landlord in its discretion elects to amortize a non-capital expense instead of charging it in full during the year in which it is incurred by Landlord, then such expense shall be amortized (with interest accruals commensurate with Landlord's interest costs) beginning with the date on which payment for the expense was made and continuing through the amortization period. With regard to the charges contemplated in this Section, Tenant further agrees that unless within sixty (60) days after Landlord's delivery to Tenant of an assessment and/or statement related to any such charges, Tenant delivers to Landlord a written assertion of one or more specific errors or a written request for further detail regarding a specific charge, then the assessment and/or statement shall be deemed correct in all respects. In addition, Tenant further agrees that if it so asserts error or requests further information within such sixty (60) day period, Tenant will nevertheless pay all amounts charged by Landlord pending a resolution thereof.

7.5 **Tenant's Proportionate Share.** Tenant shall pay to Landlord Tenant's Proportionate Share of the Operating Costs, Real Estate Charges and Insurance Expenses (collectively, the "Shared Expenses") as set forth above. Further, Tenant shall during each calendar year pay to Landlord an estimate of Tenant's Proportionate Share of the Shared Expenses as hereinafter set forth. Beginning on the Commencement Date, Tenant shall pay to Landlord each month on the first day of the month an amount equal to one-twelfth (1/12) of Tenant's Proportionate Share of the Shared Expenses for the calendar year in question as reasonably estimated by Landlord, with an adjustment to be made between the parties at a later date as hereinafter provided. If the Commencement Date is not the first day of a calendar month, Tenant shall pay a prorated portion of Tenant's Proportionate Share of the Shared Expenses for such partial month on the Commencement Date. Furthermore, Landlord may from time to time furnish Tenant with notice of a re-estimation of the amount of Tenant's Proportionate Share and Tenant shall commence paying its re-estimated Tenant's Proportionate Share on the first day of the month following receipt of said notice. Following the end of any calendar year, Landlord shall submit to Tenant a statement setting forth the exact amount of Tenant's Proportionate Share of the Shared Expenses for the calendar year just completed and the difference, if any, between Tenant's Proportionate Share of the actual Shared Expenses for the calendar year just completed and the estimated amount of Tenant's Proportionate Share of the Shared Expenses which were paid for such year. Such statement shall also set forth the amount of the estimated Shared Expenses reimbursement for the

new calendar year computed in accordance with the foregoing provisions. To the extent that Tenant's Proportionate Share of the actual Shared Expenses for the period covered by such statement is higher than the estimated payments which Tenant previously paid during the calendar year just completed, Tenant shall pay to Landlord the difference within thirty (30) days following receipt of said statement from Landlord. To the extent that Tenant's Proportionate Share of the actual Shared Expenses for the period covered by the applicable statement is less than the estimated payments which Tenant previously paid during the calendar year just completed, Landlord shall at its option either refund said amount to Tenant within thirty (30) days or credit the difference against Tenant's estimated reimbursement for such Shared Expenses for the current year. In addition, with respect to the monthly reimbursement, until Tenant receives such statement, Tenant's monthly reimbursement for the new calendar year shall continue to be paid at the then current rate, but Tenant shall commence payment to Landlord of the monthly installments of reimbursement on the basis of the statement beginning on the first day of the month following the month in which Tenant receives such statement.

Tenant shall have the right, upon thirty (30) days written request, to review Landlord's records concerning Operating Costs for the immediately prior calendar year, which request must be delivered within sixty (60) days after the date Landlord's annual statement of Operating costs is delivered to Tenant (and if Tenant fails to object in writing to specific Operating costs within sixty (60) days after the date Landlord's annual statement of Operating costs is delivered to Tenant, Tenant shall be deemed to have approved the same and to have waived the right to object to such calculations); provided, however, Tenant shall have no right to review the Operating costs more than one time during a calendar year. Such review shall occur during regular business hours at the site Landlord maintains such records. Should Tenant choose to hire independent auditors, such auditors shall be paid on an hourly or lump sum basis, not on contingency of any potential refund. If Tenant questions any Operating costs, Landlord shall provide reasonably satisfactory evidence of the validity of Landlord's calculation (which evidence may be in summary statement (as opposed to the original invoice)) or adjust the item. Disputes which cannot be resolved after a reasonable period of good faith negotiations between the parties shall be resolved by a nationally recognized accounting firm mutually selected by Landlord and Tenant (the "CPA"), which CPA shall not then be employed by Landlord or Tenant. If such audit discloses that Tenant has overpaid Tenant's share of Operating costs, Landlord shall give Tenant credit on Operating costs with respect to such amount, or if the Lease is at the end of the Term, refund such amount to Tenant. In the event the audit discloses that Tenant has overpaid Tenant's share of Operating costs in excess of 5% of the actual amount due, then Landlord shall pay all costs and expenses of the audit by the CPA. Otherwise, Tenant shall pay all costs and expenses of the audit by the CPA. Tenant hereby agrees to keep the results of any such audit confidential except that Tenant may disclose such information to its accountants, legal advisors or as otherwise required by law, and to require Tenant's auditor and its employees and each of their respective attorneys and advisors likewise to keep the results of such audit in strictest confidence.

7.6 **Survival of Proportionate Share.** Tenant's obligation with respect to Tenant's Proportionate Share of the Shared Expenses shall survive the expiration or early termination of this Lease and Landlord shall have the right to retain the Security Deposit (if any), or so much thereof as it deems necessary, to secure payment of Tenant's Proportionate Share of the actual Shared Expenses for the portion of the final calendar year of the Lease during which Tenant was obligated to pay such expenses. If Tenant occupies the Premises for less than a full calendar year during the first or last calendar years of the Lease Term, Tenant's Proportionate Share for such partial year shall be calculated by proportionately reducing the Shared Expenses to reflect the number of months in such year during which Tenant occupied the Premises. Tenant shall pay Tenant's Proportionate Share within thirty (30) days following receipt of notice thereof.

7.7 **Rules and Regulations.** During the Lease Term and subject to the rules and regulations for the Project attached hereto as Exhibit D, as modified by Landlord from time to time (the "Rules"). Tenant shall have only the parking rights described in Section 1.1(q). In no event shall Tenant or its employees, invitees, licensees, agents, or any other persons entering the Project under express or implied invitation of Tenant (collectively, "Tenant Entrants") be permitted to park in or otherwise obstruct (a) the area behind Buildings "A" and "B" of the Project and identified on Exhibit B, or (b) any other parking stalls in the Project other than the MCSO Assigned Parking Stalls and the Unassigned Parking Stalls, including (without limitation) the parking stalls assigned to other tenants in the Project and identified as "Parking Assigned to Tenants" on Exhibit B. Tenant shall be responsible for enforcement of such restrictions at all times, which enforcement shall include, without limitation, providing onsite direction to all auction attendees or other Tenant Entrants visiting the Premises to use only the MCSO Assigned Parking Stalls and Unassigned Parking Stalls. Tenant's parking rights are the personal rights of Tenant, and Tenant shall not transfer, assign or otherwise convey its parking rights separate and apart from this Lease. Landlord shall not be responsible for enforcing Tenant's parking rights against any third parties other than other tenants in the Project.

(a) Notwithstanding Landlord's right to modify the Rules from time to time, Landlord shall have no right without Tenant's prior written consent, which shall not be unreasonably withheld, to modify the Rules in any manner which: (i) restricts, limits or otherwise obstructs Tenant's rights under this Lease in any material manner (as compared to the degree of restriction, limitation or other obstruction to such rights as of the date of Tenant's execution of this Lease); (ii) adds any new, or increases any existing, material obligation on the part of Tenant under this Lease; or (iii) prevents or unreasonably interferes with Tenant's right to make the Foreseeable Alterations. Notwithstanding anything to the contrary in the immediately foregoing sentence, (y) Tenant's prior written consent shall not be required for any modification to the Rules that is necessary due to any Regulations (as defined in Section 24.2) or is reasonably necessary due to a casualty, condemnation or Force Majeure Event affecting the Project or any portion thereof or to comply with any Legal Requirements; and (z) Landlord shall have the right to require that any work under Article X be performed in accordance with reasonable rules and regulations which Landlord may from time to time prescribe.

ARTICLE VIII

UTILITIES

8.1 **Utility Service.** Landlord shall deliver to the Premises envelope, in good and functioning condition and at standard levels delivered to comparable projects in the Portland and Gresham, Oregon area, connections for the following utilities: electricity, water, gas, telephone service, sewerage service, and sprinkler service. Tenant shall contract with all utility providers to arrange service to the Premises. Tenant and Landlord each shall cooperate with the other and with utility service providers at all times as reasonably necessary with regard to the installation, maintenance and repair of utility systems and facilities serving the Building, including, without limitation, allowing utility service providers (and Landlord with respect to utility components delivered by Landlord under this Section 8.1) reasonable access to the Premises, Building and Project, including the pipes, lines, feeders, risers, wiring, and any other machinery therein, thereon, and thereunder. Additionally, Tenant shall cooperate with Landlord to grant Landlord and its agents and contractors access to the Premises in order to (a) make repairs, and (b) install sprinkler and other utility systems and facilities in the Premises for the purpose of serving other space in the Building, provided, however, that any such work shall be performed in a commercially reasonable and prompt manner and Landlord shall use commercially reasonable efforts to minimize any material interfere with Tenant's business operations in the Premises. Tenant shall promptly pay all charges and maintenance costs for electricity, water, gas, telephone service, sewerage service, sprinkler service and other utilities or services furnished to the Premises plus all applicable deposits, surcharges, taxes, penalties or other costs related to such services unless any such utility is part of Operating Charges. Landlord may, if it so elects, furnish one or more such utility services to Tenant, and in such event Tenant shall purchase the use of such services as are tendered by Landlord, and shall pay on demand as Additional Rent under this Lease the rates established therefor by Landlord which shall not exceed the rates which would be charged for the same services furnished directly by the local public utility companies. In addition, if certain utilities are furnished to the Premises in common with other premises, then Landlord shall make a good faith estimate as to the amount used by each tenant (including Tenant) and reasonably bill each tenant accordingly; however, at any time, Landlord may elect to install one or more sub-meters for one or more premises (which, if installed at the Premises, shall be at Tenant's expense), in which event Landlord will bill each tenant whose premises is sub-metered for the amount used according to that tenant's sub-meter.

8.2 **Interruption of Service.** Provided that Landlord shall promptly and diligently take commercially reasonable steps to correct any interruptions in service to the extent such interruptions are caused by defects in utility systems within Landlord's reasonable control: (a) Landlord shall not be liable for any interruption whatsoever in utility services, whether or not furnished by Landlord, nor for interruptions in utility services furnished by Landlord which are due to fire, accident, strike, acts of God or other causes beyond the control of Landlord or which are necessary or useful in connection with making any alterations, repairs or improvements; and (b) none of such interruptions shall constitute an actual or

constructive eviction, in whole or in part, nor shall any such interruption entitle Tenant to any abatement or diminution of Rent. Without limiting the generality of the foregoing in this Section 8.2, Landlord shall in no way be liable or responsible for any loss, damage, or expense that Tenant may sustain or incur by reason of any failure, interference, disruption, or defect in the supply or character of the electric energy furnished to the Premises, or if the quantity or character of the electric energy supplied by any utility or service provider is no longer available or suitable for Tenant's requirement, and no such failure, defect, unavailability or unsuitability shall constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement or diminution of Rent.

ARTICLE IX

MAINTENANCE AND REPAIR OF PREMISES

9.1 **Maintenance by Landlord.** Landlord shall at Landlord's expense (subject to reimbursement as Operating Charges) keep the foundation, the structural elements of all exterior walls and the structural elements of the roof (including, without limitation, roof membrane, drains, gutters, penetrations, access doors and panels (including without limitation associated framing and sealing), and parapet) of the Premises in good repair, reasonable wear and tear and uninsured losses and damage caused by Tenant, its employees, agents or contractors excepted. As used in this Lease, the term "exterior walls" shall specifically exclude the following components of the Premises: plate glass; windows, doors and other exterior openings; dock bumpers, dock plates or levelers; office entries or store fronts; window and door frames, closure devices, locks and hardware; lighting, heating, air-conditioning, plumbing and other electrical, mechanical and electromotive installation equipment and fixtures (provided, however, nothing contained herein shall be deemed to in any way diminish Landlord's obligations to deliver the components of utility systems required to be delivered to the Premises by Landlord under Section 2.1 of this Lease); signs, placards, or other advertising media of any type; and interior painting or other treatment of interior walls, all of which are to be maintained, repaired and replaced by Tenant or at Tenant's sole cost. Landlord, however, shall not be required to make any repairs or replacements occasioned by (a) the failure of Tenant to perform its obligations under this Lease or (b) the act or negligence of Tenant, its agents, employees, subtenants, licensees and concessionaires (including, but not limited to, roof leaks resulting from Tenant's installation, replacement or maintenance of air-conditioning equipment or any other roof penetration or placement), provided Landlord shall make those repairs if the cost of those repairs are covered by Landlord's insurance, provided further that if Landlord, in its reasonable discretion, determines to make such repairs or replacements, Landlord shall have no liability to Tenant for any loss or damage which may result to its stock or business by reason of such repairs or replacements and Tenant shall pay to Landlord upon demand, as Additional Rent hereunder, the cost of such repairs or replacements plus a one-time charge in an amount equal to five percent (5%) of the cost of any such repair or replacement, in order to compensate Landlord for its administrative and other overhead expenses. If the Premises should become in need of repairs required to be made by Landlord hereunder, Tenant shall give immediate

written notice thereof to Landlord, and Landlord shall have a reasonable time after receipt by Landlord of such written notice in which to make such repairs; provided that Landlord shall promptly perform, without the need of prior notice from Tenant, its obligations under this Section 9.1, with respect to any needed maintenance, repair or replacement with respect to which Landlord has actual knowledge. Tenant waives the right to make repairs at Landlord's expense under any applicable Laws.

9.2 **Maintenance by Tenant.** Tenant shall keep the Premises in good, clean and habitable condition and shall at its sole cost and expense make all needed repairs and replacements, including replacement of cracked or broken glass, except for repairs and replacements required to be made by Landlord under this Lease, reasonable wear and tear and uninsured losses and damage caused by Landlord and its employees, agents or contractors excepted. It is understood that Tenant's responsibilities in this Section 9.2 include all items within the Premises or outside the Premises and serving the Premises which are expressly excluded from Landlord's responsibility above, as well as the maintenance, repair and replacement of all of the following facilities and equipment, to the extent located within the Premises or outside of the Premises and servicing the Premises: lighting, heating, air-conditioning, fire-protection sprinkler systems, plumbing, exhaust systems, and other electrical, mechanical and electromotive installation, equipment and fixtures (provided, however, nothing contained herein shall be deemed to in any way diminish Landlord's obligations to deliver the components of utility systems required to be delivered to the Premises by Landlord under Section 2.1 of this Lease); Landlord shall at Landlord's expense (subject to reimbursement as Operating Charges) keep the same in good repair, reasonable wear and tear and uninsured losses and damage caused by Tenant, its employees, agents or contractors excepted). In addition, Tenant's responsibilities shall also include all maintenance, repairs and replacements of ducts, conduits, pipes and wiring, and any sewer stoppage located in, under and above the Premises (provided, however, nothing contained herein shall be deemed to in any way diminish Landlord's obligations to deliver the components of utility systems required to be delivered to the Premises by Landlord under Section 2.1 of this Lease). Tenant shall give Landlord prompt written notice of any leaks or water damage and any need for repair or replacement of the fire-protection sprinkler system). If any maintenance, repairs or replacements required to be made by Tenant hereunder are not made within ten (10) days after written notice delivered to Tenant by Landlord (or less than ten (10) days, in the case of a situation which by its nature requires an immediate response or a response within less than thirty (30) days), Landlord may at its option perform such maintenance, repairs or replacements without liability to Tenant for any loss or damage which may result to its stock or business by reason of such maintenance, repairs or replacements; and Tenant shall pay to Landlord upon demand, as Additional Rent hereunder, the cost of such repairs plus a one-time charge in an amount equal to five percent (5%) of the cost of any such maintenance, repair or replacement, in order to compensate Landlord for its administrative and other overhead expenses. At the expiration or earlier termination of this Lease, Tenant shall surrender the Premises broom-clean and in good condition, free of debris and of Tenant's personal property and equipment excepting reasonable wear and tear, and in accordance with the Move-Out Standards set forth in Exhibit C to this Lease; and without limiting the generality of the foregoing, Tenant agrees that

it shall repair all damage which may be caused to the Premises by the removal of Tenant's property and Tenant shall remove all of Tenant's signage and repair all damage caused by the installation, operation or removal of same. Any of Tenant's property not removed by Tenant from the Premises on or before the expiration of this Lease shall be deemed abandoned and Landlord may dispose of or remove such property, at its sole election, without any liability whatsoever to Tenant for damages therefor, and Tenant shall reimburse Landlord for all costs incurred by Landlord in connection with such disposal.

9.3 **HVAC Maintenance.** Tenant shall be responsible for the cost of performing adequate monthly preventive maintenance on the hot water, heating, ventilation and air conditioning equipment ("HVAC") for the Premises pursuant to maintenance service contracts entered into by Tenant with a licensed or qualified HVAC contractor approved by Landlord in advance (the "HVAC Contractor") and a scope of services approved by Landlord, both of which approvals may be withheld in Landlord's reasonable discretion. Such contracts must be approved by Landlord and executed copies of such contracts must be delivered to Landlord within thirty (30) days of the date Tenant takes possession of the Premises. Without limiting the generality of the immediately preceding sentence, the following maintenance shall be performed by Tenant at Tenant's expense: (a) the replacement of all filters in the HVAC system at least quarterly; (b) inspection of the entire heating, ventilation and air-conditioning equipment by the HVAC Contractor at least quarterly; and (c) cleaning and inspection of valves, belts, and safety controls by the HVAC Contractor at least quarterly, with the invoice or report of same to be delivered to Landlord at least quarterly. If Tenant fails to timely perform its obligations under this Section, Landlord may contract for the foregoing and bill Tenant for the cost of each of the foregoing, which shall be paid within thirty (30) days of receipt of Landlord's invoice as Additional Rent.

ARTICLE X

ALTERATIONS

10.1 **Tenant's Construction.** Tenant shall not make any alterations, additions or improvements to the Premises ("Alterations") in excess of \$15,000 at any one time without the prior written consent of Landlord, which shall not be unreasonably withheld, conditioned or delayed, except for the installation of unattached, movable trade fixtures which may be installed without drilling, cutting, or otherwise defacing the Premises. Whenever Tenant proposes to do any construction work within the Premises, Tenant shall first furnish to Landlord the plans and specifications prepared by Tenant therefor, together with an identification of the contractor(s) whom Tenant plans to employ for the work. In no event shall Tenant make any Alterations that affect the structure of the Building, the roof or the foundations, the HVAC, electrical, plumbing, life safety or other Building systems, the Common Areas or any other tenant without Landlord's prior written consent (which shall not be unreasonably withheld, provided that it shall be reasonable for Landlord to withhold its consent if the Alterations will void any roof warranties). In no event shall Tenant puncture or penetrate, or cause the puncture or penetration of, the

Building floor slab or any underlying vapor barrier without Landlord's prior written consent (which shall not be unreasonably withheld), and if such consent is given, Tenant shall be required to repair at its sole cost and expense any damage caused to the Building floor slab or underlying vapor barrier in accordance with the recommendations of Landlord. In no event shall any construction work be commenced within the Premises without Landlord's written confirmation (which shall not be unreasonably withheld) that it has no objection to Tenant's plans and specifications. All such work shall be completed promptly, in a good and workmanlike manner and using only good grades of materials. Landlord may, at its reasonable election, monitor or engage a third party to monitor such work. Tenant shall reimburse Landlord for all reasonable third-party out-of-pocket expenses incurred by Landlord (including, without limitation, any construction management or similar fees and related costs payable by Landlord to a third party engaged by Landlord to monitor such work) in connection with Landlord's review of Tenant's plans and other submissions as requested by Landlord and for monitoring such construction in connection with Alterations, provided that such reimbursement shall not exceed three percent (3%) of all hard and soft costs pertaining to such work. Notwithstanding the rights accorded to Landlord pursuant to this Section 10.1, Tenant acknowledges and agrees that Landlord's permission for Tenant to commence construction or monitoring of such work shall in no way constitute any representation or warranty by Landlord as to the adequacy or sufficiency of such plans and specifications, the improvements to which they relate, the capabilities of such contractors or the compliance of any such work with any applicable laws, codes or other requirements; instead, any such permission or monitoring shall merely be the consent of Landlord as required hereunder, which consent may be withheld in Landlord's reasonable discretion. All construction work done by Tenant within the Premises shall be performed in a good and workmanlike manner, lien-free and in compliance with all governmental, legal, and insurance requirements, and in such manner as to minimize interference with other construction in progress and with the transaction of business in the Project. Without limiting the generality of the foregoing, Landlord shall have the right to require that such work be performed in accordance with reasonable rules and regulations which Landlord may from time to time prescribe. Tenant agrees to indemnify Landlord and hold Landlord harmless against any loss, liability or damage resulting from such work. Tenant shall provide Landlord with as-built plans and specifications for all Alterations done by Tenant.

(a) Notwithstanding the provisions of this Section 10.1 or any other provision of this Lease, Landlord hereby acknowledges that Tenant's performance of the Permitted Use requires the placement and/or attachment of equipment on or to the roof of the Building or the exterior walls of the Building and may require the puncture or penetration of the Building floor slab or any underlying vapor barrier and may require placement of equipment on the land adjacent to the Building and the Premises, together with any ancillary alterations ("Foreseeable Alterations"). Such equipment may include, but is not limited to, Information Technology (IT) systems equipment, security camera systems, secured access systems, venting and other air quality control equipment relating to the Firing Range Use, back-up generator system, and car rack storage system inside the Premises. Landlord is hereby deemed to consent to alteration of the Premises and the Building to accommodate all such

Foreseeable Alterations, such that the remaining consent required from Landlord under this Section 10.1 is limited to the following elements as described in this Section 10.1: plans, specifications, punctures, penetrations, and alterations to the Building systems, structural elements of the Building (including roof and foundation), or the Common Area; Landlord shall not unreasonably withhold such consent provided such plans, specifications and other elements are certified by County's architect and engineer for such work, any roof warranties are preserved in full, and Tenant remains subject to all other limitations and obligations set forth in this Section 10.1. Further, notwithstanding the provisions of Section 7.2(d) of this Lease or any other provision of this Lease, Landlord shall not enter into any Ancillary Leases or otherwise allow any alterations to the roof directly above the Premises, the Building exterior walls surrounding the Premises, or the land directly adjacent to the Premises without first obtaining Tenant's prior written consent, which shall not be unreasonably withheld; it shall not be unreasonable for Tenant to withhold such consent if any such alterations would prevent or unreasonably interfere with one or more potential or actual Foreseeable Alterations. Notwithstanding anything to the contrary in this Section 10.1(a), Landlord shall have the right to approve, in its business judgment, the location of any Foreseeable Alterations to the extent of any placement on the exterior of the Building or any land outside of the Building.

10.2 **Lien Waivers.** If Tenant uses a general contractor or other third party to perform construction work within the Premises, Tenant shall, prior to the commencement of such work, identify its general contractor, all subcontractors and material suppliers and require, as a condition to the commencement of the subject work or supplying of materials and in further consideration for access to the Premises, said general contractor, all subcontractors and each other third party performing work or providing supplies where the cost of such contract exceeds \$5,000, to the maximum extent permitted by applicable law, shall execute and deliver to Landlord a waiver and release of any and all claims against Landlord and liens against the Building and the Project to which such contractor, subcontractor, vendor or other third party might at any time be entitled to assert a statutory mechanic's lien claim or any common law claim in accordance with applicable law. The delivery of the applicable waiver and release of lien shall be a condition precedent to Tenant's ability to enter on and begin its construction work at the Premises and if applicable, to any reimbursement from Landlord for its construction work. Upon completion of the work, Tenant shall deliver to Landlord final lien waivers from all contractors and suppliers. Landlord may post at the Premises such notices of non-responsibility as may be provided for under applicable law. Tenant shall require any general contractor or other third party performing construction work for or on behalf of Tenant to provide to Landlord certificates of insurance for workers' compensation and other coverage in such amounts as County requires for other similar construction work provided such amounts are commercially reasonable to protect Landlord from liability for personal injury and property damage in connection with Tenant's construction.

10.3 **Ownership of Alterations.** Subject to Section 10.5 of this Lease, all Alterations and fixtures (including, without limitation, all floor coverings and all heating and air-conditioning equipment but excluding Tenant's unattached, readily movable furniture and office equipment) which may be made or installed by either

party upon the Premises shall remain upon and be surrendered with the Premises and become the property of Landlord at the termination of this Lease, unless Landlord requests their removal, in which event Tenant shall remove the same and restore the Premises, Building and Project to their original conditions at Tenant's expense. If installed in the Premises, the Firing Range shall, at all times during the Term and at expiration or termination of this Lease, remain the property of Tenant as owner thereof and, upon expiration or earlier termination of this Lease, Tenant shall remove all components of the Firing Range (including any indicia of installation), repair any damage to the Premises, Building and Project caused by such removal and restore the Premises, Building and Project to their original conditions, all at Tenant's expense. Any component of the Firing Range not removed from the Premises, Building or Project on or before the expiration of the Lease Term shall, at Landlord's sole election, (a) be treated as a holdover subject to Section 21.1, or (b) be deemed abandoned and Landlord may, but shall not be obligated to, remove and dispose of the Firing Range without any liability whatsoever to Tenant for damages therefor, and Tenant shall reimburse Landlord for all costs incurred by Landlord in connection with such removal and disposal and with restoration of the Premises, Building and Project to their original conditions. In the event of early termination of this Lease, Tenant shall have ninety (90) days from the date of such early termination (the "Removal Period") within which to remove all components of the Firing Range, repair any damage to the Premises, Building or Project caused by such removal and restore the Premises, Building and Project to their original conditions, during which period Tenant shall continue to pay to Landlord the Base Rent and Additional Rent that would otherwise be payable by Tenant notwithstanding the early termination. Any component of the Firing Range not removed from the Premises on or before the expiration of the Removal Period shall, at Landlord's sole election, (i) be treated as a holdover subject to Section 21.1, or (ii) be deemed abandoned and Landlord may, but shall not be obligated to, remove and dispose of the Firing Range without any liability whatsoever to Tenant for damages therefor, and Tenant shall reimburse Landlord for all costs incurred by Landlord in connection with such removal and disposal and with restoration of the Premises, Building and Project to their original conditions.

10.4 **Renovation by Landlord.** In the event that Landlord elects to renovate all or any portion of the Project, Tenant will, so long as such renovation does not materially interfere with Tenant's performance of the Permitted Use, reasonably cooperate with such renovation, including Tenant's tolerating temporary inconveniences (including, without limitation, the temporary removal of Tenant's signs) in order to facilitate such renovation, as it may relate to the exterior of the Premises.

10.5 **Trade Fixtures.** Tenant may, without Landlord's consent, at Tenant's sole cost, and in compliance with all applicable laws and codes and with Landlord's requirements set forth in this Lease, install shelves, racking and other trade fixtures in the ordinary course of its business, so long as such trade fixtures do not alter, overload or damage the Premises. Tenant shall at all times during the Term and at expiration or termination of this Lease remain the owner of such trade fixtures and, at the end of the Lease Term all such trade fixtures shall be removed at Tenant's cost and the Premises restored to its original condition at Tenant's expense.

Notwithstanding the provisions of Section 10.3, Tenant shall at all times during the Term and at expiration or termination of this Lease remain the owner of all Information Technology (IT), security camera and secured access systems and all associated equipment installed in, on, under or about the Premises, Building and Property in accordance with Section 10.1 and, at expiration or termination of this Lease all such systems and equipment shall be removed at Tenant's cost and the Premises, Building and Property (as applicable) restored to its original condition at Tenant's expense.

ARTICLE XI

SIGNS

11.1 **Signs.** Tenant shall not, without Landlord's prior written consent which shall not be unreasonably withheld: (a) make any changes to the exterior of the Premises; (b) install any exterior lighting, decorations, banners, placards, balloons, flags, awnings, canopies or the like; (c) erect or install any signs, lettering, decorations or advertising media of any type which can be viewed from the exterior of the Premises; or (d) install any window or door covering or treatment. All signs, lettering, placards, decorations and advertising media shall conform in all respects to any rules and regulations reasonably established by Landlord for the Building or Project from time to time in the exercise of its reasonable discretion as well as all applicable laws, codes and regulations and any covenants affecting the Project or the Building, and shall be subject to Landlord's requirements as to construction, method of attachment, size, shape, height, lighting, color and general appearance. Any signs, window treatment, bars or other installations visible from outside the Premises shall be removed by Tenant at the end of the Lease Term, at Tenant's sole cost, and Tenant shall restore the Premises to its original condition. Subject to the foregoing, Tenant shall have the right to install, at Tenant's sole cost and expense: (i) building façade signage on the exterior of the Premises (front and back) with illuminated channel letters, the size of which shall equal the maximum size allowed by local law for the size of the Premises and in conformance with the standards for the Project, and (ii) sign panels on the monument signage at street entry in such location as Landlord reasonably determines appropriate. Tenant shall utilize a licensed or qualified contractor or personnel for such signage installation and Tenant shall obtain all required permits from all applicable governmental entities.

ARTICLE XII

INSURANCE COVERAGES

12.1 **Insurance by Landlord.** To protect against the risks allocated to or otherwise assumed by Landlord under this Lease, Landlord shall procure and maintain throughout the Lease Term a policy or policies of insurance, at its sole cost and expense (but subject to Article VI above), causing the Project to be insured under special form of property coverage (sometimes referred to as "all-risk" coverage) and commercial general liability insurance (plus, as to either coverage, whatever endorsements or special coverages Landlord, in its sole and absolute discretion, may

from time to time consider appropriate) and such other insurance (if any) that Landlord reasonably deems appropriate for the Project.

12.2 **Insurance by Tenant.** Tenant, at its sole cost and expense, shall procure and maintain throughout the Lease Term the following policies of insurance:

(a) Property coverage for Tenant Improvements and Betterments and Contents on an All Risk or Fire and Extended Coverage against loss or damage by fire, vandalism and malicious mischief, extended coverage perils commonly known as "Special Risk," and all physical loss perils normally included in such Special Risk insurance, including (without limitation) sprinkler leakage, storm, windstorm, fungus and mold, back up of sewer and drain, wind/hail, together with coverage for earthquake (including earth movement and tsunami) if the Premises is located in moderate or high hazard earthquake zone, and flood if the Premises is located in whole or in part within a designated 100-year flood plain area, all in an amount equal to one hundred percent (100%) of the full replacement cost of tenant improvements and betterments and contents with an agreed amount endorsement (such that the insurance carrier(s) has accepted the amount of coverage and has agreed that there will be no-co-insurance penalty);

(b) Broad Form Comprehensive General Liability Insurance, including products and completed operations liability, blanket contractual liability, independent contractors liability, personal and advertising injury, and medical payments protecting against claims for bodily injury, death, medical expenses, property damage occurring on, in or about the Premises, affording the parties protection of not less than Ten Million Dollars (\$10,000,000) per occurrence and aggregate on a per location basis, arising out of or in connection with Tenant's use or occupancy of the Premises or by the condition of the Premises (and no offset for occurrences on property other than the Premises), and with coverage for contractual liability, legal liability for Accidental Discharge, Firearms Liability, Assault and Battery Coverage with a \$5,000,000 per occurrence limit of liability. Limits may be provided in conjunction with a commercial excess policy.

(c) Worker's compensation insurance insuring against and satisfying Tenant's obligations and liabilities under the worker's compensation laws of the state where the Premises is located, together with employer's liability insurance in an amount not less than \$1,000,000.00 each accident; and

(d) Automobile liability insurance covering all owned, non-owned, and hired vehicles with a \$1,000,000 per accident limit for bodily injury and property damage; and

(e) Prior to Tenant commencing Tenant's Work or construction of any Alterations (including Foreseeable Alterations), Tenant shall carry, or cause to be carried (i) completed operations coverage as a part of the commercial general liability insurance policy and shall renew such coverage for a minimum of ten (10) years after the project is complete, (ii) builder's risk insurance, completed value form, covering all physical loss, in an amount and subject to policy conditions satisfactory to Landlord, and (iii) such other insurance, in such amounts, as Landlord deems

necessary to protect Landlord's interest in the Premises from any act or omission of Tenant's contractors or subcontractors.

(f) In the event Tenant operates underground or aboveground storage tanks at the Property, it shall be required to carry Pollution Legal Liability insurance covering both sudden and non-sudden spilling, leaking, emitting, discharging, dispersing, seeping, escaping or releasing of the contents of any "covered underground storage tank" or "covered aboveground storage tank" into surface soils, subsurface soils, surface water, sediments or groundwater. Such policy must have limits of at least \$1,000,000 per incident with \$3,000,000 policy aggregate. Claims-made coverage is permitted, provided the policy retroactive date is continuously maintained prior to the Commencement Date, and coverage is continuously maintained during the Lease Term and for an additional period of twelve (12) months after expiration or earlier termination of this Lease.

If the operations of Tenant should change in a material manner from those conducted on the date that Tenant commences operations in the Property and in the opinion of Landlord or Landlord's insurance advisor, the amount or scope of such coverage is reasonably deemed inadequate at any time during the Lease Term, Tenant shall increase such coverage to such reasonable amounts or scope as Landlord or Landlord's advisor deems adequate. All insurance procured and maintained by Tenant shall be written by insurance companies reasonably satisfactory to Landlord which are licensed to do business in the state in which the Project is located with a general policyholder's rating of not less than A and a financial rating of not less than Class VIII, as rated in the most current edition of Best's Key Rating Guide. With the exception of the insurance prescribed in subsection (c) above, Landlord and Landlord's lender(s), ground lessor (if any) and property manager shall be named as additional insureds under all insurance maintained by Tenant, and Tenant shall obtain waivers of subrogation in favor of Landlord. Policies provided by tenant must be primary and non-contributory. Tenant shall notify Landlord at least thirty (30) days prior to cancellation of such insurance (unless cancellation is for non-payment, in which event ten (10) days' prior notice shall be required). Tenant shall provide Landlord with an original Certificate of Insurance demonstrating that the insurance required by this Lease was purchased and is in effect. Tenant shall also provide Landlord with a copy of the Additional Insured, Waiver of Subrogation and Primary and Noncontributory endorsements or such other policy language demonstrating that the insurance policies comply with this Lease. Neither the review nor the failure to review such certificates or any accompanying endorsements, shall constitute acceptance or waive, alter or diminish Landlord's right under this Lease. If Tenant should fail to comply with the foregoing requirements relating to insurance, Landlord may obtain such insurance and Tenant shall pay to Landlord on demand as Additional Rent hereunder. If Tenant is unable to provide certificates reflecting required coverages, policy copies are acceptable in lieu thereof.

12.3 **Self-Insurance.** Landlord acknowledges that Tenant maintains a statutory self-insurance program for its risks and liabilities under this Lease, supplemented by an excess liability policy and a property policy (collectively, "**Self-Insurance Program**"). So long as Tenant maintains its Self-Insurance Program during

the Lease Term, Tenant shall not be required to provide the insurance required in Section 12.2 of this Lease. Tenant shall notify Landlord at least thirty (30) days in advance of any material change to Tenant's Self-Insurance Program. For purposes of Tenant's follow form excess liability insurance policy, Landlord is hereby required to be an additional insured and, accordingly, shall be deemed an additional insured for purposes of the blanket additional insured provision within such policy. The rights set forth in this Section 12.3 to self insure Tenant's insurance requirements are personal to MCSO and shall not run with the land or inure to the benefit of any other party, including, without limitation, any assignee or sublessee under an assignment or sublease permitted under Section 16.1

ARTICLE XIII

INDEMNITY; WAIVER OF SUBROGATION

13.1 **Non-Liability of Landlord.** Landlord and Landlord's agents and employees shall not be liable to Tenant or to Tenant's employees, subtenants, concessionaires, agents, invitees, or visitors, or to any other person whomsoever, for any injury to person, death or damage to property caused by the Premises or other portions of the Project becoming out of repair, or by defect or failure of any structural element of the Project or of any equipment, pipes or wiring, or broken glass, or by the backing up of drains, or by gas, water, steam, electricity or oil leaking, escaping or flowing into the Project, except to the extent that the same arises from the willful misconduct or gross negligence of Landlord or Landlord's agents and employees; nor shall Landlord be liable to Tenant, or to Tenant's employees, subtenants, concessionaires, agents, invitees, or visitors, or to any other person whomsoever, for any loss or damage that may be occasioned by or through the acts or omissions of other tenants of the Project or of any other persons whomsoever. Landlord shall not be held responsible in any way on account of any construction, repair or reconstruction (including widening) of any private or public roadways, walkways or utility lines, provided that Landlord shall remain responsible for its willful misconduct and gross negligence. This Section 13.1 shall survive the expiration or earlier termination of this Lease.

13.2 **Indemnity by Tenant.** Landlord shall not be liable to Tenant or to Tenant's employees, agents, or visitors, or to any other person whomsoever, for any injury to person, death or damage to property on or about the Premises or the Project caused by the negligence or misconduct of Tenant, its employees, subtenants, licensees or concessionaires, or of any other person entering the Project under Tenant, or arising out of the use of the Premises by Tenant and the conduct of its business therein, or arising out of any breach or default by Tenant in the performance of its obligations under this Lease; and Tenant hereby agrees to indemnify Landlord and its partners, members, affiliates and subsidiaries, and all of their respective officers, trustees, directors, employees, stockholders, partners, representatives, servants, insurers, and agents and Landlord's designated property management company (collectively, the "Landlord Indemnitees") and hold each of the Landlord Indemnitees harmless from any loss, cost, expense, damage, or claim arising out of such damage or injury. To the extent permitted by law, Tenant agrees to indemnify,

defend, and hold harmless the Landlord Indemnitees from and against any and all losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees and costs) resulting from claims by third parties for injuries to or death of any person and damage to or theft or misappropriation or loss of property occurring in or about the Project and arising from the use and occupancy of the Premises or from any activity, work, or thing done, permitted or suffered by Tenant in or about the Premises or due to any other act or omission of Tenant, its subtenants, assignees, invitees, employees, contractors or agents, except to the extent that the same arises from the willful misconduct or gross negligence of the Landlord Indemnitees or any of them. Landlord shall in no event be liable to Tenant or any other person for any consequential damages, special or punitive damages, or for loss of business, revenue, income or profits, and Tenant hereby waives any and all claims for any such damages. This Section 13.2 shall survive the expiration or earlier termination of this Lease.

(a) Tenant's liability and obligations to indemnify and hold harmless under this Lease, as set forth in Section 13.2 and in each other instance in other provisions of this Lease, are subject to the limitations and conditions of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 to 30.300), including (without limitation) specifically subject to and within the financial limits and conditions set forth at ORS 30.272 for local public bodies and at ORS 30.273 for public bodies. This Section 13.2(a) shall survive the expiration or earlier termination of this Lease.

(b) Tenant shall in no event be liable to Landlord or any other person for any consequential, special or punitive damages, except for any such damages related to the Firing Range Use, the liability of Tenant under Section 19 or a holdover by Tenant under Section 21.1. This Section 13.2(b) shall survive the expiration or earlier termination of this Lease.

13.3 **Waiver of Claims/Waiver of Subrogation.** Landlord and Tenant each hereby waive and release one another from any and all liability or responsibility to the other, or to any other party claiming through or under them by way of subrogation or otherwise, for any loss or damage to property caused by a casualty which is insurable under the special form of property coverage (sometimes referred to as "all-risk" coverage) required in Section 12.1 and Section 12.3; provided, however, that this mutual waiver and release shall be applicable only with respect to a loss or damage occurring during the time when property insurance policies, which are readily available in the marketplace, contain a clause or permit an endorsement to the effect that any such release and waiver shall not adversely affect or impair the policy or the right of the insured party to receive proceeds under the policy; provided, further, that this release and waiver shall not be applicable to the portion of any damage which is not reimbursed by the damaged party's insurer because of the "deductible" in the damaged party's insurance coverage; provided, further, notwithstanding anything to the contrary contained in this Lease, this release and waiver shall always apply so long as Tenant is self-insuring Tenant's insurance obligations. The release and waiver specified in this Section 13.3 is cumulative with any releases or exculpations which may be contained in other provisions of this Lease.

ARTICLE XIV

DAMAGES BY CASUALTY

14.1 **Notice by Tenant.** Tenant shall give immediate written notice to Landlord of any damage caused to the Premises by fire or other casualty.

14.2 **Election by Landlord.** If the Premises shall be damaged or destroyed by fire or any other casualty insurable under special form (sometimes referred to as "all-risk") property insurance and Landlord does not elect to terminate this Lease as hereinafter provided, Landlord shall proceed with reasonable diligence to rebuild and repair the Premises. In the event (a) the Building is destroyed or substantially damaged by a casualty not covered by Landlord's insurance, (b) such Building is destroyed or rendered untenable to an extent in excess of fifty percent (50%) of the first floor area by a casualty covered by Landlord's insurance, (c) the holder of a mortgage, deed of trust or other lien on such building at the time of the casualty elects, pursuant to such mortgage, deed of trust or other lien, to require the use of all or part of Landlord's insurance proceeds in satisfaction of all or part of the indebtedness secured by the mortgage, deed of trust or other lien, or (d) the damage will require more than ninety (90) days to restore, then Landlord may elect in its sole and absolute discretion either to terminate this Lease or to proceed to rebuild and repair the Premises. Landlord shall give written notice to Tenant of such election within sixty (60) days after the occurrence of such casualty and if it elects to rebuild and repair, shall proceed to do so with reasonable diligence.

14.3 **Election by Tenant.** If (a) more than fifty percent (50%) of the Premises is rendered untenable by damage or destruction caused by fire or any other casualty and, in the reasonable opinion of Landlord's architect or general contractor, such damage cannot be completely repaired within twelve (12) months after the occurrence of such casualty (under a normal construction schedule not requiring the payment of overtime or premium), or (b) during the last twelve (12) months of the Lease Term, more than fifty percent (50%) of the Premises is rendered untenable by damage or destruction caused by fire or any other casualty, then, provided that the damage or destruction is not due to the gross negligence or willful misconduct of Tenant or its employees, agents, contractors or invitees, Tenant may terminate this Lease by delivery of written notice to Landlord within (y) thirty (30) days after the date on which the opinion described in clause (a) of this paragraph is delivered to Tenant (such opinion to be delivered to Tenant by Landlord within sixty (60) days after the occurrence of such casualty), or (z) for purposes of clause (b) of this paragraph, within thirty (30) days after the occurrence of the casualty.

14.4 **Restoration.** Landlord's obligation to rebuild and repair shall in any event be limited to restoring the Premises, including the Landlord's Work if any, to substantially the condition in which the same existed prior to such casualty, exclusive of any alterations, additions, improvements, fixtures and equipment installed by Tenant (including, without limitation, the Firing Range, any Foreseeable Alterations, and any improvements to be constructed by Tenant pursuant to Exhibit H). Except in the event of a casualty occurring during the last twelve (12) months of the Lease

Term, Tenant agrees that promptly after completion of such work by Landlord, Tenant will proceed with reasonable diligence and at Tenant's sole cost and expense to restore, repair and replace all alterations, additions, improvements, fixtures and equipment installed by Tenant, including, without limitation, the Tenant's Improvements pursuant to Exhibit H and other office and administrative alterations, additions, improvements, fixtures and equipment, but excluding the Firing Range and the car rack storage system (which may be restored, repaired or replaced at Tenant's election).

14.5 **Rent Abatement after Casualty.** During any period from the occurrence of a casualty to the of completion of reconstruction or repair of the Premises or the date of termination as the case may be pursuant to Section 14.2 or 14.3, Tenant shall continue the operation of its business within the Premises to the extent practicable in Tenant's reasonable discretion and Base Rent and Tenant's Proportionate Share of Shared Expenses shall be reduced in proportion to the percentage of leaseable area of the Premises rendered untenable by the casualty. In the event of termination pursuant to Section 14.2 or 14.3, Tenant shall pay the Rent due and owing as of the date of termination in accordance with this Section 14.5 and both parties hereto shall thereafter be freed and discharged of all further obligations under this Lease, except as provided for in provisions of this Lease that by their terms survive the expiration or termination of this Lease and excluding any liabilities or obligations of each party under this Lease arising during or relating to the period prior to the date of termination. Additionally, Tenant shall comply with all provisions under this Lease related to removal of its property and any Alterations and restoration of damage to the Premises, Building or Project caused thereby, as applicable to any portion of the Premises not affected by the casualty.

ARTICLE XV

EMINENT DOMAIN

15.1 **Termination for Taking of Premises.** If more than twenty-five percent (25%) of the floor area of the Premises should be taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or by private purchase in lieu thereof, this Lease shall terminate and the rent shall be abated during the unexpired portion of this Lease, effective on the date physical possession is taken by the condemning authority, and both parties hereto shall thereafter be freed and discharged of all further obligations under this Lease, except as provided for in provisions of this Lease that by their terms survive the expiration or termination of this Lease and excluding any liabilities or obligations of each party under this Lease arising during or relating to the period prior to the date of termination.

15.2 **Adjustment for Partial Taking.** If less than twenty-five percent (25%) of the floor area of the Premises should be taken as aforesaid, this Lease shall not terminate; however, the Base Rent payable hereunder during the unexpired portion of this Lease shall be reduced in proportion to the area of the Premises taken, effective on the date physical possession is taken by the condemning authority, and

Tenant's Proportionate Share shall be recalculated. Following such partial taking, Landlord shall, in each instance, to the extent of net proceeds received by Landlord from the condemnation award, make all necessary repairs or alterations to the remaining Premises, including the Landlord's Work, but excluding any alterations, additions, improvements, fixtures and equipment installed by Tenant (including, without limitation, the Firing Range, any Foreseeable Alterations, and Tenant's Improvements pursuant to Exhibit H), to cause the remaining portions of the Premises to be an architectural whole.

15.3 **Condemnation Awards.** All compensation awarded for any taking (or the proceeds of private sale in lieu thereof) of the Premises or any part of the Project outside the Premises shall be the sole property of Landlord, and Tenant hereby assigns its interest in any such award to Landlord; provided, however, Landlord shall have no interest in any award made to Tenant for Tenant's moving and relocation expenses or for the loss of Tenant's fixtures and other tangible personal property if a separate award for such items is made to Tenant, as long as such separate award does not reduce the amount of the award that would otherwise be awarded to Landlord.

ARTICLE XVI

ASSIGNMENT AND SUBLETTING

16.1 **Assignment and Sublease.** Tenant shall not assign or in any manner transfer this Lease or any estate or interest therein, or sublet the Premises or any part thereof or grant any license, concession or other right of occupancy of any portion of the Premises to any other party (including, without limitation, a different agency, department, instrumentality or other body of Multnomah County, Oregon) without the prior written consent of Landlord, which consent shall not be unreasonably withheld by Landlord. Tenant acknowledges that Landlord's acceptance of Rent from an assignee or subtenant shall not be deemed to constitute Landlord's consent to such assignment or sublease. In determining whether or not to grant its consent to a proposed assignment or subletting, Landlord may take into consideration factors such as the existing uses in the Project, existing use restrictions affecting the Project, the creditworthiness, credit history, reputation and net worth of the proposed transferee, environmental risk, the effect that the operations of such proposed transferee will have on other tenants, whether or not the proposed transferee is a governmental agency or instrumentality thereof, the then current market conditions (including market rental rates), any limitations imposed by the Internal Revenue Code and the regulations promulgated thereunder relating to real estate investment trusts; the nature of any services provided by the proposed transferee to members of the public; and any or all other objective or subjective factors. It shall not be unreasonable for Landlord to withhold its consent to any proposed assignment or sublease if (i) the proposed assignee's or sublessee's anticipated use of the Premises involves any Drug-Related Activities or the generation, storage, use, treatment or disposal of Hazardous Materials that are materially different than authorized hereunder for Tenant in type, quantity, or use; (ii) the proposed assignee or sublessee has been required by any prior landlord, lender, or governmental authority

to take remedial action in connection with Hazardous Materials contaminating a property if the contamination resulted from such assignee's or sublessee's actions or use of the property in question; or (iii) the proposed assignee or sublessee is subject to an enforcement order issued by any governmental authority in connection with the use, storage, management, treatment or disposal of Hazardous Materials. In addition, Landlord shall also be entitled to charge Tenant a \$1,500.00 fee for processing Tenant's request, plus any attorneys' fees and costs incurred by Landlord, regardless of whether or not Landlord grants its consent. Consent by Landlord to one or more assignments or sublettings shall not operate as a waiver of Landlord's rights as to any subsequent assignments and sublettings. Any assignee or sublessee of an interest in and to this Lease shall be deemed, by acceptance of such assignment or sublease or by taking actual or constructive possession of all or any portion of the Premises, to have assumed all of the obligations set forth in or arising under this Lease. Such assumption shall be effective as of the earlier of the date of such assignment or sublease or the date on which the assignee or sublessee obtains possession of all or any portion of the Premises; however, with specific regard to any assignment, the assignee shall be responsible for all unsatisfied obligations of Tenant under this Lease, regardless of when such obligations arose and when such assumption became effective. Tenant shall not mortgage, pledge or otherwise encumber its interest in this Lease or in the Premises.

16.2 **Tenant Change in Ownership.** If Tenant is a corporation, partnership or other entity and if at any time during the Lease Term the person or persons who own, directly or indirectly, a majority of either the outstanding voting rights or the outstanding ownership interests of Tenant at the time of the execution of this Lease cease to own a majority of such voting rights, ownership interests or control (except as a result of transfers by devise or descent), the loss of a majority of such voting rights, ownership interests or control shall be deemed to be an assignment of this Lease by Tenant and, therefore, subject in all respects to Landlord's approval rights above. The previous sentence shall not apply, however, if at the time of the execution of this Lease, Tenant is a corporation and the outstanding voting shares of capital stock of Tenant are listed on a recognized United States national securities exchange.

16.3 **Tenant Remains Liable; Excess Rent.** Notwithstanding any assignment or subletting, Tenant and any guarantor of Tenant's obligations under this Lease shall at all times remain fully responsible and liable for the payment of the Rent herein specified and for compliance with all of Tenant's other obligations under this Lease (even if future assignments and sublettings occur subsequent to the assignment or subletting by Tenant, and regardless of whether or not Landlord's approval has been obtained for such future assignments and sublettings). If the rental due and payable by a sublessee (or a combination of the rental payable under such sublease plus any bonus or other consideration therefor or incident thereto) exceeds the Rent payable under this Lease, or if with respect to a permitted assignment or sublease, permitted license or other transfer by Tenant permitted by Landlord, the consideration payable to Tenant by the assignee, sublessee, licensee or other transferee (collectively, "sublessee") exceeds the rental payable under this Lease after deducting all leasing commission and tenant improvement allowances

expended by Tenant in connection with such sublease or assignment, then Tenant shall be entitled to one-half of such excess rental and the other half of such excess rental shall be paid to Landlord. Tenant hereby irrevocably authorizes and directs any such assignee or sublessee, upon receipt of a written notice from Landlord stating that a breach or default exists in the performance of Tenant's obligations under this Lease, to pay to Landlord all Rent due and to become due under the assignment or sublease; provided, however, that the receipt of any such amounts from any such sublessee or assignee shall not be deemed a waiver by Landlord of any such default by Tenant or in any way be deemed to limit or preclude Landlord from the right to exercise its rights under this Lease in connection with any such default of this Lease. Sublessee shall rely upon any such notice from Landlord and shall pay all Rents to Landlord without any obligation or right to inquire as to whether such breach or default exists, notwithstanding any claim from Tenant to the contrary.

16.4 **Transfer by Landlord.** In the event of the transfer and assignment by Landlord of its interest in this Lease and in the Building to a person expressly assuming Landlord's obligations under this Lease, Landlord shall thereby be released from any future obligations hereunder, and Tenant agrees to look solely to such successor-in-interest of the Landlord for performance of such obligations.

ARTICLE XVII

LANDLORD'S RIGHT OF ACCESS

17.1 **Right of Entry.** Landlord shall have the right to enter upon the Premises upon at least forty-eight (48) hours' notice (unless in the event of an emergency, in which case Landlord shall provide at least two (2) hours' notice unless such advance notice is not possible, in which case Landlord shall provide as much advance notice as possible) for the purpose of inspecting the same, or of making repairs to the Premises, or of making repairs, alterations or additions to adjacent premises, or of showing the Premises to prospective purchasers, tenants or lenders (including their designees), all without being deemed guilty of or liable for any breach of any covenant of quiet enjoyment or eviction of Tenant and without abatement of Rent, provided that Landlord shall use commercially reasonable efforts to comply with Tenant's reasonable requirements for minimizing interference with the Permitted Use. At all times when entering upon the Premises, Landlord shall be accompanied by an employee of Tenant when accessing the Premises under this Section 17.1 and Tenant shall cooperate in good faith with Landlord to facilitate and coordinate such accompanied entry. Tenant shall cooperate with Landlord in connection with any and all showings of the Premises to prospective tenants during the last twelve (12) months of the Lease Term. Any entry upon the Premises pursuant to this Section 17.1 shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Tenant from the Premises or any portion thereof, or grounds for any abatement or reduction of Rent and, except in the case of Landlord's willful misconduct or gross negligence, Landlord shall not have any liability to Tenant for any damages or losses on account of any such entry by Landlord. Tenant will permit Landlord to place and maintain "For Rent"

or "For Lease" signs on the Premises during the last one hundred eighty (180) days of the Lease Term.

ARTICLE XVIII

ESTOPPEL CERTIFICATE; SUBORDINATION

18.1 **Estoppel Certificate.** Tenant agrees that it will within ten (10) business days following written request by Landlord execute and deliver to Landlord a written statement (an "Estoppel Certificate") addressed to Landlord (and/or parties designated by Landlord), which statement shall identify Tenant and this Lease, shall certify that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as so modified), shall confirm that Landlord is not in default as to any obligations of Landlord under this Lease (or if Landlord is in default, specifying any default), shall state the dates to which the rent and other charges have been paid in advance, if any, and shall contain such other information or confirmations as Landlord may reasonably require. If Tenant fails to do so within ten (10) business days after the delivery of a written request from Landlord to Tenant, then this shall be a default under the Lease and Landlord would have all rights and remedies accorded to Landlord pursuant to this Lease. Landlord is also hereby irrevocably appointed and authorized as the agent and attorney-in-fact of Tenant to execute and deliver any such written statement on Tenant's behalf. Additionally, upon written request by Landlord as required under this Section 18.1, Tenant agrees to execute an Estoppel Certificate with respect to Landlord's anticipated upcoming financing in the form attached as Exhibit I.

18.2 **Subordination.** Tenant accepts this Lease subject and subordinate to any mortgage, deed of trust, ground lease or other lien presently existing or hereafter placed upon the Building or any portion of the Premises, and to any renewals and extensions thereof. Tenant agrees that any mortgagee or ground lessor shall have no duty, liability or obligation to perform any of the obligations of Landlord under this Lease and shall have the right at any time to subordinate its mortgage, deed of trust, ground lease or other lien to this Lease; provided, however, notwithstanding that this Lease may be (or may become) superior to a mortgage, deed of trust, ground lease or other lien, the mortgagee shall not be liable for prepaid rentals, security deposits and claims accruing during Landlord's ownership; and further provided that the provisions of a mortgage, deed of trust, ground lease or other lien relative to the rights of the mortgagee with respect to proceeds arising from an eminent domain taking (including a voluntary conveyance by Landlord) and provisions relative to proceeds arising from insurance payable by reason of damage to or destruction of the Premises shall be prior and superior to any contrary provisions contained in this Lease with respect to the payment or usage thereof. Landlord is hereby irrevocably vested with full power and authority to subordinate this Lease to any mortgage, deed of trust, ground lease or other lien hereafter placed upon the Premises. The foregoing agreements shall be effective without the execution of any further documents, provided, however, that Tenant hereby agrees that it will, within ten (10) business days following any request, execute such further instruments subordinating this Lease as Landlord or a mortgagee may request, including, without

limitation, such mortgagee's standard form of subordination, non-disturbance and attornment agreement. Tenant shall recognize as its landlord and attorn to any person succeeding to Landlord under this Lease upon any foreclosure or deed in lieu of foreclosure by Landlord's mortgagee at the election of such mortgagee or successor-in-interest. Upon request of such mortgagee or successor-in-interest, Tenant shall execute and deliver an instrument or instruments confirming its attornment; provided, however, that any successor-in-interest will not be (i) bound by payment of rent for more than one month in advance (except as otherwise required under this Lease), (ii) bound by any amendment or modification to this Lease which was subject to approval by such mortgagee or successor-in-interest pursuant to such mortgagee's agreements with Landlord, if such amendment or modification to this Lease was in fact made without the consent of the mortgagee, (iii) liable for any security deposit not actually received by such mortgagee or successor-in-interest, or (iv) liable for or subject to claims or offsets accruing during Landlord's ownership or previous acts or omissions of Landlord, instead Landlord shall remain liable for the same.

18.3 **Notice to Holder.** At any time when the holder of an outstanding mortgage, deed of trust, ground lease or other lien covering Landlord's interest in the Premises has given Tenant written notice of its interest in this Lease, Tenant may not exercise any remedies for default by Landlord hereunder unless and until the holder of the indebtedness secured by such mortgage, deed of trust, ground lease or other lien shall have received written notice of such default and a reasonable time (not less than 30 days) shall thereafter have elapsed without the default having been cured.

ARTICLE XIX

ENVIRONMENTAL MATTERS/HAZARDOUS MATERIALS

19.1 **Compliance with Environmental Laws.** Tenant's operations in, on or at the Premises and any applicable portions of the Project—as well as all property, substances and other materials kept, stored, allowed to be brought within, or disposed of from the Premises—shall comply in all respects with all federal, state, and municipal laws, ordinances, codes and regulations relating to the protection of the environment and natural resources, now existing or hereafter enacted (collectively, the "Environmental Laws"), including without limitation the following: (i) the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (often referred to as "CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986, presently in effect or hereafter amended, (ii) the federal Resource Conservation and Recovery Act of 1976, as amended by the Used Oil Recycling Act of 1980, the Solid Waste Disposal Act Amendments of 1980, and the Hazardous and Solid Waste Amendments of 1984, presently in effect or hereafter amended ("RCRA"), (iii) the federal Water Pollution Control Act of 1972 (often referred to as the "Clean Water Act"), presently in effect or hereafter amended, and (iv) any and all other federal, state, county, local, and municipal laws, statutes, ordinances, codes, rules, regulations, judgments, orders, governmental restrictions, guidance or requirements which relate in any way to the

protection of the environment or the keeping, use or disposition of environmentally hazardous materials, substances or wastes, presently in effect or hereafter adopted or amended. All property kept, stored or allowed to be brought within, on or at the Premises or any applicable portions of the Project shall be at Tenant's sole risk. Tenant shall immediately notify Landlord in the event Tenant becomes aware of any actual or potential environmental hazard or any actual or alleged violation of one or more Environmental Laws.

19.2 **Definition of Hazardous Materials.** As used in this Lease, the term "Hazardous Materials" shall mean and include (a) any hazardous or toxic wastes, materials or substances, and other pollutants or contaminants, which are or become regulated by any Environmental Laws; (b) petroleum, petroleum by-products, gasoline, diesel fuel, crude oil or any fraction thereof; (c) asbestos and asbestos-containing material, in any form, whether friable or non-friable; (d) polychlorinated biphenyls; (e) radioactive materials; (f) lead and lead-containing materials; (g) pesticides; (h) any other material, waste or substance displaying toxic, reactive, ignitable or corrosive characteristics, as all such terms are used in their broadest sense, and are defined or become defined by any Environmental Law; or (i) any materials which cause or threaten to cause a nuisance upon or waste to any portion of the Project or any surrounding property; or pose or threaten to pose a hazard to the health and safety of persons or of natural resources.

19.3 **Tenant's Representations and Covenants.**

(a) Tenant hereby represents, warrants, and covenants to Landlord, its successors and assigns, the holder of any mortgage lien on the Building and the lessor under any ground lease affecting the Premises that Tenant has not and will not bring or permit to be brought upon the Premises or the Project any Hazardous Materials, except as expressly agreed to in this Lease.

(b) Except as otherwise provided in this paragraph, without the express prior written consent of Landlord (which consent may be withheld in Landlord's reasonable discretion), Tenant or Tenant's agents, employees, contractors, subtenants, invitees or assignees ("Tenant's Parties") shall not cause or permit any Hazardous Material to be generated, brought onto, used, stored, created, treated, transported, released or disposed of in or about the Premises or the Project. Notwithstanding the foregoing, Tenant may use or store without first obtaining Landlord's consent products containing such quantities of Hazardous Materials (such as aerosol cans containing insecticides, toner for copiers, paints, household cleaners, office supplies, janitorial supplies, munitions, ammunitions, firearm cleaning solutions, materials associated with evidentiary vehicle storage, and the like) to the extent customary or necessary for the use of the Premises for the Permitted Use; provided that Tenant shall always use or store any such Hazardous Materials in a safe and lawful manner and never allow such Hazardous Materials to contaminate the Premises, Building and appurtenant land or the environment.

(c) In the event Landlord consents to Tenant's use or storage of Hazardous Materials on the Premises or such consent is not required, Tenant

represents and warrants that it shall comply with all Environmental Laws applicable to Hazardous Materials including doing the following: (i) adhere to all reporting and inspection requirements imposed by Environmental Laws and provide Landlord copies of any such reports or agency inspections; (ii) prepare, obtain and provide Landlord copies of all necessary permits, registrations, business plans, and environmental notifications that need to be given to persons entering or occupying the Premises or neighboring properties, that are required for the presence, use or handling of Hazardous Materials on the Premises; (iii) enforce Hazardous Materials handling, management and disposal practices consistent with industry standards; (iv) surrender the Premises free from any Hazardous Materials arising from Tenant's generating, bringing, using, storing, creating, treating, management, releasing, or disposing of Hazardous Materials; and (v) properly close the facility with regard to Hazardous Materials, including as applicable, the removal of any equipment, structures or facilities involved in Tenant's use or management of Hazardous Materials, and the decontamination of any Building equipment, utilities, structures, floors, walls, ceilings, fixtures, piping, mechanical ducting, or other materials which have come into contact with Hazardous Materials, and if required under Environmental Laws, obtaining a closure certificate from the local administering agency prior to the Expiration Date or earlier termination of this Lease. Tenant shall be permitted to use and/or store only those Hazardous Materials that are customary or necessary for the use of the Premises for the Permitted Use and to the extent disclosed in a Hazardous Materials disclosure certificate (the "HazMat Certificate") substantially in the form attached hereto as Exhibit E and as expressly approved by Landlord in writing, which approval shall not be unreasonably withheld. Tenant covenants, represents and warrants to Landlord that the information in the HazMat Certificate, if any, is true and correct and accurately describes the nature and use(s) of Hazardous Materials which will be made and/or used on the Premises by Tenant. If requested by Landlord, Tenant shall, commencing with the date which is one year from the Commencement Date and continuing every year thereafter, and at such other times as Landlord may reasonably request, deliver to Landlord an updated executed HazMat Certificate describing Tenant's then-present use of Hazardous Materials on the Premises, and any other reasonably necessary documents and information as requested by Landlord. Any usage and storage of Hazardous Materials by Tenant may only be to the extent of the quantities of Hazardous Materials as specified in the then-applicable HazMat Certificate as expressly approved by Landlord, which approval may be withheld in Landlord's reasonable discretion. In all events such usage and storage must at all times be in full compliance with any and all Environmental Laws (as interpreted by judicial and administrative decisions), decrees, directives, guidelines, permits or permit conditions, currently existing and as amended, enacted, issued or adopted in the future which are or become applicable to Tenant or all or any portion of the Premises and in compliance with the recommendations of Landlord's consultants. Tenant agrees that any changes to the type and/or quantities of Hazardous Materials specified in the most recent HazMat Certificate be implemented only with the prior written consent of Landlord, which consent shall not be unreasonably withheld.

(d) Without the express written consent of Landlord, which may be given or withheld in Landlord's sole discretion, Tenant shall not be entitled or

permitted to (i) install any tanks under, on or about the Premises for storage of Hazardous Materials, (ii) store hazardous wastes on the Premises for more than ninety (90) days; "hazardous waste" has the meaning given it under RCRA and analogous state and local laws and regulations, (iii) dispose of any solid waste on the Premises or the Project, or (iv) install any Hazardous Material in the Premises in connection with performing any alterations of the Premises permitted by this Lease.

(e) Landlord shall have the right, subject to the provisions of Section 17.1, at all times during the Lease Term when Landlord reasonably believes that the Premises, the Building or the Project have become contaminated with Hazardous Materials or Tenant is otherwise in violation of this Lease to (i) inspect the Premises, (ii) conduct tests and investigations to determine whether Tenant is in compliance with the provisions of this Lease or to determine if Hazardous Materials are present in, on or about the Project, (iii) request lists of all Hazardous Materials used, stored or otherwise located on, under or about any portion of the Premises and/or the Common Areas, and (iv) require Tenant to complete a survey of its use, storage and handling of Hazardous Materials in the Premises, using a form and following procedures designated by Landlord, in Landlord's reasonable discretion (the "Survey"). Tenant shall cooperate in any tests, inspections or investigations conducted by or on behalf of Landlord. If such Survey reflects the contamination of the Premises, the Building or the Project with Hazardous Materials arising out of an act or omission of Tenant or its agents, employees, contractors or invitees: (i) Tenant shall reimburse Landlord for the cost of all such inspections, tests and investigations, and all costs associated with any Survey; and (ii) if as a result of an inspection, test or Survey, Landlord's consultant having professional qualifications and expertise in the matter recommends the implementation or performance of safety, security, compliance, additional investigation, remedial or other mitigation measures, Tenant shall within thirty (30) days after written notice thereof by Landlord perform such measures, at Tenant's sole cost and expense to the extent of its contribution to the contamination of the Premises, the Building or the Project with Hazardous Materials. The aforementioned rights granted herein to Landlord and its representatives shall not create (a) a duty on Landlord's part to inspect, test, investigate, monitor or otherwise observe the Premises or the activities of Tenant with respect to Hazardous Materials, including, without limitation, Tenant's operation, use and any remediation relating thereto, or (b) liability on the part of Landlord and its representatives for Tenant's use, storage, disposal or remediation of Hazardous Materials, it being understood that Tenant shall be solely responsible for all liability in connection with contamination of the Premises, the Building or the Project with Hazardous Materials to the extent arising out of an act or omission of Tenant or its agents, employees, contractors or invitees.

(f) Tenant shall not interfere with or obstruct, or cause interference with or obstruction of, any remedial or monitoring work being performed on the Premises, the Project or any surrounding area and shall not damage or destroy remedial or monitoring equipment installed on the Premises, the Project or any surrounding area.

19.4 **Reporting and Cleanup.** Tenant shall give to Landlord immediate verbal and follow-up written notice of (i) any actual or threatened spills, releases, discharges, disposals, emissions, or migration of Hazardous Materials on, under or about any portion of the Premises or Project or in any Common Areas, or (ii) any inquiry, investigation, proceeding, claim, notice or order by any private or public person or entity regarding the presence of Hazardous Materials on, under or about any portion of the Premises or Project, including alleged violations of Environmental Laws by Tenant or Tenant's Parties, provided that Tenant has actual, implied or constructive knowledge of such event(s). Tenant, at its sole cost and expense, covenants and warrants to promptly investigate, clean up, remove, restore and otherwise remediate (including, without limitation, preparation of any feasibility studies or reports and the performance of any and all closures) any spill, release, discharge, disposal, emission, or migration of Hazardous Materials arising from or related to the acts or omissions of Tenant or Tenant's Parties such that the affected portions of the Premises or Project and any adjacent property are returned to the condition existing prior to the appearance of such Hazardous Materials. Any such investigation, cleanup, removal, restoration and other remediation shall only be performed after Tenant has obtained Landlord's prior written consent, which consent shall not be unreasonably withheld, so long as such actions would not potentially have a material adverse long-term or short-term effect on any portion of the Project and do not impose on Landlord any long-term operation, monitoring or post-closure obligations. Notwithstanding the foregoing, Tenant shall be entitled to respond immediately to an emergency without first obtaining Landlord's prior written consent. Tenant, at its sole cost and expense, shall conduct and perform, or cause to be conducted and performed, all closures as required by any Environmental Laws or any agencies or other governmental authorities having jurisdiction thereof. All such work undertaken by Tenant, as required herein, shall be performed in such a manner as to enable Landlord to make full economic use of the Premises and other portions of the Project after the satisfactory completion of such work and without imposing on Landlord any long-term operation, monitoring or post-closure obligations.

19.5 **Environmental Indemnity.** In addition to Tenant's other indemnity obligations under this Lease, Tenant agrees to, and shall, protect, indemnify, defend (with counsel acceptable to Landlord) and hold harmless Landlord and Landlord Indemnitees from and against any and all losses, damages, liabilities, liens, suits, actions (including remedial or enforcement actions of any kind and administrative or judicial proceedings, orders or judgments), causes of action (whether in tort or contract, law or equity, or otherwise), demands, charges, assessments, fines, penalties of any kind, regulatory agency oversight costs, and costs and expenses (including, without limitation, attorneys', consultants' and experts' fees and court costs) which result from, relate to, or arise in any manner whatsoever, directly or indirectly, out of: (i) the use, presence, transportation, storage, treatment, management, release or disposal (on- or off-site) (collectively referred to hereafter as "Management") of Hazardous Materials in, on, under or about the Premises, the Building or the Project by Tenant and/or Tenant's Parties; (ii) any breach or violation of any Environmental Laws applicable to the Premises, the Building or the Project or of any of Tenant's obligations of this Lease, by Tenant and/or Tenant's Parties; (iii) any required or necessary testing, sampling or other investigation, repair, cleanup,

remediation, removal, restoration, and/or detoxification, and the preparation of any closure or other required plans, whether such actions are required or necessary during the Lease Term or after the termination of this Lease, which actions relate to or arise out of Management of Hazardous Materials in, on, under or about the Premises, the Building or the Project by Tenant and/or Tenant's Parties; (iv) the failure of Tenant or any of Tenant's Parties to maintain records as required by Environmental Laws concerning Management of Hazardous Materials at or from the Premises or the Project; (v) Tenant's failure to clean up and properly dispose of any Hazardous Materials which are spilled, released, dumped or otherwise deposited in, on, under or about the Premises or the Project by Tenant and/or Tenant's Parties; (vi) the diminution in value of any portion of the Premises; (viii) the loss of or restriction on the use of rentable or usable space; and (vii) any adverse impact of Landlord's marketing of any space within the Premises. This indemnification shall survive the expiration or termination of this Lease. Neither the written consent of Landlord to the presence, use or storage of Hazardous Materials in, on, under or about any portion of the Premises nor the strict compliance by Tenant with all Environmental Laws shall excuse Tenant from its obligations of indemnification pursuant hereto.

ARTICLE XX

DEFAULT BY TENANT AND REMEDIES

20.1 **Events of Default.** The following events shall be deemed to be events of default (each, a "**default**") by Tenant under this Lease:

(a) Tenant shall fail to pay any installment of Rent or any other obligation under this Lease involving the payment of money and such failure shall continue for a period of five (5) days after written notice thereof to Tenant; provided, however, that if during the immediately preceding twelve (12) month period Landlord has already given Tenant two (2) written notices of Tenant's failure to pay an installment of Rent or if Landlord has already given Tenant five (5) written notices of Tenant's failure to pay an installment of Rent during the Lease Term, no notice shall be required for a Rent delinquency to become an event of default (i.e., the event of default will automatically occur on the fourth (4th) day after the date upon which the Rent becomes due). In addition, if Tenant fails to pay any Rent when due more than three (3) times during any twelve-month period or more than three times during the entirety of the Lease Term or any extension thereof, Landlord may, in its sole and absolute discretion, demand in writing that Tenant pay, and Tenant shall thereafter pay, all future Rent quarterly in advance and by cashier's check or certified funds.

(b) Tenant shall fail to comply with any provision, term, condition or covenant of this Lease, other than as described in subsection (a) above, and either (i) shall not cure such failure within ten (10) days after written notice thereof to Tenant, or if such default cannot reasonably be cured within ten (10) days then Tenant shall not be in default so long as it has commenced to cure within ten (10) days and is diligently prosecuting same and completes such cure within thirty (30) days after written notice thereof to Tenant, or (ii) shall cure that particular failure but

shall again fail to comply with the same provision of the Lease within one (1) year after Landlord's written notice.

(c) Tenant or any guarantor of Tenant's obligations under this Lease shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors.

(d) Tenant or any guarantor of Tenant's obligations under this Lease shall file a petition under any section or chapter of the federal Bankruptcy Code, as amended, or under any similar law or statute of the United States or any state thereof; or Tenant or any guarantor of Tenant's obligations under this Lease shall be adjudged bankrupt or insolvent in proceedings filed against Tenant or any guarantor of Tenant's obligations under this Lease.

(e) Tenant shall fail to maintain insurance as required under this Lease and such failure is not cured within five (5) days after written notice thereof to Tenant.

(f) The default of any guarantor of Tenant's obligations hereunder under any guaranty of this Lease, or the attempted repudiation or revocation of any such guaranty.

20.2 **Landlord's Remedies.** Upon the occurrence of any such events of default, then in addition to the remedies available to Landlord under the other provisions of this Lease and all applicable laws, Landlord shall also have the option to pursue any one or more of the following remedies without any notice or demand whatsoever. Landlord's election of any one remedy shall in no way prejudice Landlord's right at anytime thereafter to exercise any other remedy.

(a) **Rent and Other Damages.** Tenant shall be obligated pay to Landlord all unpaid Rent and to reimburse Landlord for the damages suffered by Landlord as a result of the event of default, plus interest on such amounts at the maximum contractual rate which could legally be charged in the event of a loan of such amounts to Tenant (but in no event to exceed 18% per annum), such interest to accrue continuously on any unpaid balance due to Landlord by Tenant during the period commencing with the Rent due date and terminating with the date on which Tenant makes full payment of all amounts owing to Landlord at the time of said payment; and Landlord may pursue a monetary recovery from Tenant.

(b) **Landlord's Re-Entry Without Termination.** Landlord may enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part of the Premises, by force, if necessary (except to the extent prohibited by the laws applicable to the Premises), without being liable for prosecution or any claim for damages for such action. Such expulsion and removal by Landlord cannot be deemed a termination or forfeiture of this Lease or acceptance of Tenant's surrender of the Premises unless Landlord expressly notifies Tenant in writing that Landlord is terminating or forfeiting this Lease or accepting Tenant's surrender of the Premises. If Landlord expels or removes Tenant and any other person from the Premises without terminating or forfeiting this

Lease or accepting surrender of the Premises, Landlord shall attempt in good faith to relet the Premises. Until Landlord is able, through such efforts, to relet the Premises, Tenant must pay to Landlord, on or before the first day of each calendar month, in advance, the monthly Rent and other charges provided in this Lease.

(c) Landlord's Right to Terminate. Landlord may terminate this Lease by written notice to Tenant, in which event Landlord shall have the right to enter upon the Premises, and Tenant shall immediately surrender the Premises to Landlord; and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which Landlord may have for possession or arrearages in Rent (including any late charge or interest which may have accrued), enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, by force if necessary, without being liable for prosecution or any claim for damages therefor. Tenant hereby waives any statutory requirement of prior written notice for filing eviction or damage suits for nonpayment of rent. In addition, Tenant agrees to pay to Landlord on demand the amount of all loss and damage which Landlord may suffer by reason of any termination.

(d) Landlord's Right to Perform. Except as specifically provided otherwise in this Lease, all covenants and agreements by Tenant under this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any abatement or offset of Rent. In the event of any default by Tenant, Landlord may, without waiving or releasing Tenant from any of Tenant's obligations, make such payment or perform such other act as required to cure such default on behalf of Tenant, including a 15% administrative fee. All sums so paid by Landlord and all necessary incidental costs incurred by Landlord in performing such other acts shall be payable by Tenant to Landlord within five (5) days after demand therefor as Additional Rent.

(e) Rights and Remedies Cumulative. Landlord may restrain or enjoin any breach or threatened breach of any covenant, duty or obligation of Tenant herein contained without the necessity of proving the inadequacy of any legal remedy or irreparable harm. All rights, options and remedies of Landlord shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and Landlord shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law or in equity, whether or not stated in this Lease. No agreement to accept a surrender of the Premises and no act or omission by Landlord or Landlord's agent during the Lease Term shall constitute an acceptance or surrender of the Premises unless made in writing and signed by Landlord. No reentry or taking possession of the Premises by Landlord shall constitute an election by Landlord to terminate this Lease unless a written notice of such intention is given to Tenant. Pursuit of any of the above remedies shall not preclude pursuit of any other remedies prescribed in other sections of this Lease and any other remedies provided by law. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default or any remedy therefor.

20.3 **Mitigation of Damages.**

(a) In the event of a default under this Lease, Landlord and Tenant shall each use commercially reasonable efforts to mitigate any damages resulting from a default of the other party under this Lease.

(b) Landlord's obligation to mitigate damages after a default by Tenant shall be satisfied in full if Landlord undertakes to lease the Premises to another tenant (a "Substitute Tenant") in accordance with the following criteria:

(i) Landlord shall have no obligation to solicit or entertain negotiations with any other prospective tenant for the Premises until Landlord obtains full and complete possession of the Premises including, without limitation, the final and unappealable legal right to relet the Premises free of any claim of Tenant. Landlord shall not be obligated to offer the Premises to a Substitute Tenant when other premises in the Project suitable for that prospective tenant's use are (or soon will be) available. Landlord shall not be obligated to lease the Premises to a Substitute Tenant for a rental less than the current fair market rental then prevailing for similar space, nor shall Landlord be obligated to enter into a new lease under other terms and conditions that are unacceptable to Landlord under Landlord's then current leasing policies for comparable space.

(ii) Landlord shall not be obligated to enter into a lease with any proposed tenant whose use would: (a) disrupt the tenant mix or balance of the Project; (b) violate any restriction, covenant, or requirement contained in the lease of another tenant of the Project; (c) adversely affect the reputation of the Project; or (d) be incompatible with the operation of the Project.

(iii) Landlord shall not be obligated to enter into a lease with any proposed Substitute Tenant (a "Substitute Lease") which does not have, in Landlord's reasonable opinion, sufficient financial resources or operating experience to operate the Premises in a first-class manner. Landlord shall not be required to expend any amount of money to alter, remodel, or otherwise make the Premises suitable for use by a proposed Substitute Tenant unless: (a) Tenant pays any such sum to Landlord in advance of Landlord's execution of a Substitute Lease with such Substitute Tenant (which payment shall not be in lieu of any damages or other sums to which Landlord may be entitled as a result of Tenant's default under this Lease); or (b) Landlord, in Landlord's sole and absolute discretion, determines that any such expenditure is financially justified in connection with entering into any such Substitute Lease.

(c) Upon compliance with the above criteria regarding the releasing of the Premises after a default by Tenant, Landlord shall be deemed to have fully satisfied Landlord's obligation to mitigate damages under this Lease and under any law or judicial ruling in effect on the date of this Lease or at the time of Tenant's default.

(d) Tenant's right to seek damages from Landlord as a result of a default by Landlord under this Lease shall be conditioned on Tenant taking all actions reasonably required, under the circumstances, to minimize any loss or damage to

Tenant's property or business, or to any of Tenant's officers, employees, agents, invitees, or other third parties that may be caused by any such default of Landlord.

20.4 **Landlord Expenses.** It is further agreed that, in addition to all payments required above, Tenant shall compensate Landlord for all reasonable expenses incurred by Landlord in repossession (including, among other expenses, any increase in insurance premiums caused by the vacancy of the Premises), all expenses incurred by Landlord in reletting (including, among other expenses, repairs, remodeling, replacements, advertisements and brokerage fees), all concessions granted to a new tenant upon reletting (including, among other concessions, renewal options), all actual losses incurred by Landlord as a direct result of Tenant's default (including, among other losses, any claims asserted by Landlord's mortgagee or by other tenants or potential tenants of the Project which result in any loss, cost or expense to Landlord) and a reasonable allowance for Landlord's administrative efforts, salaries and overhead attributable directly to Tenant's default and Landlord's pursuing the rights and remedies provided herein and under applicable law.

20.5 **Attorney Fees.** If on account of any breach or default by Tenant in its obligations hereunder, Landlord shall employ an attorney to represent, enforce or defend any of Landlord's rights or remedies hereunder, Tenant agrees to pay any reasonable attorneys' fees and costs, expert fees and court costs incurred by Landlord in connection therewith (regardless of whether litigation is commenced), including any that are awarded at trial or any other proceeding, as well as any incurred in any bankruptcy proceeding, and in any appeal of any of the foregoing proceedings.

ARTICLE XXI

HOLDING OVER

21.1 **Holdover.** Tenant is not permitted to hold over possession of the Premises after the expiration or earlier termination of the Lease Term without the express prior written consent of Landlord, which consent Landlord may withhold in its sole and absolute discretion. If Tenant holds over after the expiration or earlier termination of the Lease Term with or without the express written consent of Landlord, then, in addition to all other remedies available to Landlord at law or at equity or under this Lease, Tenant shall become a tenant at sufferance only, upon the terms and conditions set forth in this Lease so far as applicable (including Tenant's obligation to pay all Additional Rent under this Lease), but at a Base Rent equal to one hundred fifty percent (150%) of the Base Rent applicable to the Premises immediately prior to the date of such expiration or earlier termination. Any such holdover Rent shall be paid on a per month basis without reduction for partial months during the holdover. Acceptance by Landlord of Rent after such expiration or earlier termination shall not constitute consent to a hold over hereunder or result in an extension of this Lease. Tenant shall be liable, and shall pay to Landlord within thirty (30) days after demand, for all direct losses incurred by Landlord as a result of such holdover (including, without limitation, any loss, cost or expense to Landlord or damages incurred by Landlord in connection with any claim asserted by, or the cancellation or failure of a lease with, a proposed succeeding tenant for the Premises,

including an existing tenant with an expansion right into the Premises), and shall indemnify, defend and hold Landlord and the Landlord Indemnitees harmless from and against all liabilities, damages, losses, claims, suits, costs and expenses (including reasonable attorneys' fees and costs) arising from or relating to any such holdover tenancy, including without limitation, any claim for damages made by a proposed succeeding tenant, including an existing tenant with an expansion right into the Premises. Tenant's indemnification obligation hereunder shall survive the expiration or earlier termination of this Lease.

ARTICLE XXII

NOTICES

22.1 **Notices.** Wherever any notice (including request, demand, or other communication) is required or permitted under this Lease, such notice shall be in writing. Any notice or document required or permitted to be delivered under this Lease shall be deemed to be delivered when it is actually received by the designated addressee or, if earlier and regardless of whether actually received or not, when it is either (i) three (3) days after deposited in the United States mail, postage prepaid, certified mail, return receipt requested, or (ii) delivered to the custody of a reputable messenger service or overnight courier service, addressed to the applicable party to whom it is being delivered at the respective address for such party as is set out above, or at such other address as such applicable party may have theretofore specified to the delivering party by written notice. If and when included within the term "Landlord" as used in this Lease there be more than one person, firm or corporation, all shall jointly arrange among themselves for their joint execution of such notice specifying some individual at some specific address for the receipt of notices and payments to the Landlord; if and when included within the term "Tenant" as used in this Lease there be more than one person, firm or corporation, all shall jointly arrange among themselves for their joint execution of such a notice specifying some individual at some specific address for the receipt of notices and payments to Tenant. All parties included within the terms "Landlord" and "Tenant," respectively, shall be bound by notices and payments given in accordance with the provisions of this Article to the same effect as if each had received such notice or payment. In addition, Tenant agrees that notices (including requests, demands, or other communication) to Tenant under this Lease may be given on behalf of Landlord by Landlord's attorney, property manager or other agent.

ARTICLE XXIII

COMMISSIONS

23.1 **Brokers.** Landlord shall be responsible for the payment of brokerage commissions to Agent and Cooperating Agent. Tenant hereby represents and warrants to Landlord that Tenant has not dealt with any broker or finder or real estate licensee in connection with this Lease other than Agent and the Cooperating Agent. Tenant shall protect, indemnify, defend and hold harmless Landlord from and against any and all damages, liabilities, losses, costs, or expenses (including, without

limitation, reasonable attorneys' fees and costs) which Landlord may incur or sustain from a claim for a commission, broker's fee, finder's fee, or other similar compensation by any party other than Agent or Cooperating Agent claiming by, through or under Tenant with respect to this Lease.

ARTICLE XXIV

LAWS AND REGULATIONS

24.1 **OFAC.** Each of Landlord and Tenant certifies, represents, warrants and covenants that: (i) it is not acting and will not act, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person", or other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule, or regulation that is enforced or administered by the Office of Foreign Assets Control; and (ii) it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Landlord and Tenant each hereby agrees to defend (with counsel reasonably acceptable to the other party), indemnify and hold harmless the other party and the respective Landlord Indemnitees and Tenant Indemnitees, as applicable, from and against any and all claims arising from or related to any such breach of the foregoing certifications, representations, warranties and covenants.

24.2 **Tenant's Compliance with Regulations.** Landlord and Tenant acknowledge that there are in effect federal, state, county and municipal laws, orders, rules, directives and regulations (collectively referred to hereinafter as the "Regulations"), and that additional Regulations may hereafter be enacted or go into effect, relating to or affecting the Premises or the Project. Regulations shall include all Environmental Laws. Tenant agrees that it will not cause or permit to be caused any act or practice, by negligence, omission or otherwise, that would violate any of said Regulations. In addition, and notwithstanding any other provisions of this Lease, Tenant shall have no claim against Landlord by reason of any changes Landlord may make to the Project or the Premises pursuant to said Regulations or any charges imposed upon Tenant, Tenant's customers or other invitees pursuant to same.

ARTICLE XXV

MISCELLANEOUS

25.1 **Relationship of Parties.** Nothing in this Lease shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, it being understood and agreed that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant.

25.2 **No Offset; Independent Covenants.** Tenant shall not for any reason withhold or reduce Tenant's required payments of Rent and other charges provided in this Lease, it being agreed (i) that the obligations of Landlord under this Lease are independent of Tenant's obligations except as may be otherwise expressly provided in this Lease and (ii) that to the maximum extent permitted under applicable law, Tenant hereby waives all rights which it might otherwise have to withhold Rent. The immediately preceding sentence shall not be deemed to deny Tenant the ability of pursuing all rights granted it under this Lease or at law (with the exception of any right of Tenant to offset or withhold the payment of Rent, which right is hereby waived to the maximum extent permitted by applicable law; provided, such waiver shall not apply if Tenant obtains a non-appealable judgment from a court that grants Tenant the right to withhold the payment of Rent).

25.3 **Limitation on Liability.** THE LIABILITY OF LANDLORD TO TENANT FOR ANY DEFAULT BY LANDLORD UNDER THE TERMS OF THIS LEASE SHALL BE LIMITED SOLELY TO LANDLORD'S INTEREST IN THE PROJECT, PROCEEDS IN THE PROJECT AND THE RENTS DERIVED THEREFROM, AND LANDLORD SHALL NOT BE PERSONALLY LIABLE FOR ANY DEFICIENCY. NOTWITHSTANDING ANYTHING CONTAINED IN THIS LEASE TO THE CONTRARY, THE OBLIGATIONS OF LANDLORD UNDER THIS LEASE (INCLUDING AS TO ANY ACTUAL OR ALLEGED BREACH OR DEFAULT BY LANDLORD) DO NOT CONSTITUTE PERSONAL OBLIGATIONS OF THE INDIVIDUAL MEMBERS, MANAGERS, INVESTORS, PARTNERS, DIRECTORS, OFFICERS, OR SHAREHOLDERS OF LANDLORD OR LANDLORD'S MEMBERS, AFFILIATES, PARTNERS OR PROPERTY MANAGER AND TENANT SHALL NOT SEEK RECOURSE AGAINST THE INDIVIDUAL MEMBERS, MANAGERS, INVESTORS, PARTNERS, DIRECTORS, OFFICERS, SHAREHOLDERS OR EMPLOYEES OF LANDLORD OR LANDLORD'S MEMBERS, AFFILIATES PARTNERS, PROPERTY MANAGER OR ANY OTHER PERSONS OR ENTITIES HAVING ANY INTEREST IN LANDLORD, OR ANY OF THEIR PERSONAL ASSETS FOR SATISFACTION OF ANY LIABILITY WITH RESPECT TO THIS LEASE. In the event of any transfer or conveyance of any such title or interest (other than a transfer for security purposes only), the transferor shall be automatically relieved of all covenants and obligations on the part of Landlord contained in this Lease arising after the date of such transfer. Landlord and Landlord's transferees and assignees shall have the absolute right to transfer all or any portion of their respective title and interest in the Premises, the Building, and/or this Lease without the consent of Tenant, and such transfer or subsequent transfer shall not be deemed a violation on Landlord's part of any of the terms and conditions of this Lease.

25.4 **No Continuing Waiver.** One or more waivers of any covenant, term or condition of this Lease by either party shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition. The consent or approval by either party to or of any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act. The receipt by Landlord of Rent or any other payment required to be made by Tenant, or any part thereof, shall not be a waiver of any other additional Rent or payment then due, nor shall such receipt, even with knowledge of the breach of any covenant or condition hereof, operate as or be

deemed a waiver by Landlord of any of the provisions hereof, or of any of Landlord's rights, remedies, privileges or options hereunder.

25.5 **Force Majeure.** Whenever a period of time is herein prescribed for action to be taken by either party hereto, except with respect to the timely payment of monetary obligations under this Lease and the Rent Commencement Date, neither party shall be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions, pandemics, epidemics or any other causes of any kind whatsoever which are beyond its reasonable control (each, a "Force Majeure Event").

25.6 **Landlord's Manager.** Tenant is hereby notified that Landlord may, from time to time, appoint a manager for the Project (each a "Landlord's Manager") to whom Landlord may delegate some or all of Landlord's obligations under this Lease. Upon appointment of a Landlord's Manager and notice to Tenant of the same; (a) Tenant shall be required and authorized to take direction from Landlord's Manager with respect to Tenant's obligations under this Lease and (b) any release or indemnification of Landlord under this Lease shall also apply to Landlord's Manager.

25.7 **Severability.** In the event that any provision or part of this Lease should be held to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be reformed and enforced to the maximum extent permitted by law. If such provision cannot be reformed, then it shall be severed from this Lease and the validity and enforceability of the remaining provisions of this Lease shall not be affected thereby.

25.8 **Governing Law; Venue.** The laws of the state of Oregon shall govern the interpretation, validity, performance and enforcement of this Lease. Except to the extent required otherwise by applicable law, the venue for any action relating to this Lease shall be brought solely and exclusively in the state and the county in which the Premises are located.

25.9 **Headings.** The captions and headings used herein are for convenience only and do not limit or amplify the provisions hereof. Whenever herein the singular number is used, the same shall include the plural, and words of any gender shall include each other gender.

25.10 **Inurement.** The terms, provisions and covenants contained in this Lease shall apply to, inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors-in-interest and legal representatives except as otherwise herein expressly provided.

25.11 **Entire Agreement; Amendments.** This Lease contains the entire agreement between the parties, and no rights are created in favor of either party on account of any condition or event other than as specified or expressly contemplated in this Lease. No brochure, rendering, information or correspondence shall be deemed to be a part of this agreement unless specifically incorporated herein by reference. In addition, no agreement shall be effective to change, modify or

terminate this Lease in whole or in part unless such is in writing and duly signed by the party against whom enforcement of such change, modification or termination is sought. LANDLORD AND TENANT HEREBY ACKNOWLEDGE THAT THEY ARE NOT RELYING UPON ANY BROCHURE, RENDERING, OFFERING MATERIALS, INFORMATION, REPRESENTATION OR PROMISE OF THE OTHER, OR OF THE AGENT OR COOPERATING AGENT, EXCEPT AS MAY BE EXPRESSLY SET FORTH IN THIS LEASE.

25.12 **No Recording.** Neither this Lease nor any memorandum thereof shall be recorded by or on behalf of Tenant in any real property records or other public records without the prior written consent of Landlord, which may be withheld in Landlord's sole and absolute discretion.

25.13 **Inducement Recapture in Event of Breach.** Any agreement by Landlord for possession of the Premises by Tenant without the payment or with reduced payment of Rent or other charges or any agreement for the giving or paying by Landlord to or for Tenant of any cash or other bonus, inducement, incentive or consideration for Tenant's entering into this Lease including, but not limited to tenant improvement allowances and abated Rent, all of which concessions are hereinafter collectively referred to as "Inducement Provisions," are conditioned upon Tenant's full, timely and faithful performance of all of the terms, covenants, and conditions of this Lease to be performed or observed by Tenant. Upon the occurrence of an event of default by Tenant, any Rent, other charge, bonus, inducement or consideration abated, given or paid by Landlord under such an Inducement Provision shall be immediately due and payable by Tenant to Landlord and recoverable by Landlord as Additional Rent due under this Lease, notwithstanding any subsequent cure by Tenant of such event of default.

25.14 **Tenant Financial Statements.** [*Intentionally omitted*].

25.15 **Quiet Enjoyment.** Upon payment by Tenant of the Rents herein provided, and upon the observance and performance of all terms, provisions, covenants and conditions on Tenant's part to be observed and performed, Tenant shall, subject to all of the terms, provisions, covenants and conditions of this Lease, peaceably and quietly hold and enjoy the Premises for the entire term of this Lease without hindrance or molestation from all persons claiming by, through or under Landlord.

25.16 **Landlord's Costs.** Tenant shall reimburse Landlord on demand for all reasonable legal, engineering, and other professional or consulting services and expenses incurred by Landlord in connection with any requests by Tenant or any lender of Tenant for consent, waiver or approval of any kind.

25.17 **No Offer.** The submission by Landlord of this instrument to Tenant for examination, negotiation or signature does not constitute an offer of, an option for, or a representation by Landlord regarding, a prospective lease. This Lease shall be effective if and when (and only if and when) it has been executed and delivered by both Landlord and Tenant.

25.18 **Counterparts and Electronic Transmissions.** 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 parties contemplate that they may be executing counterparts of this Agreement transmitted by facsimile or email in PDF format and agree and intend that a signature by either facsimile machine or email in PDF format shall bind the party so signing with the same effect as though the signature were an original signature.

25.19 **Waiver of Trial by Jury.** It is mutually agreed by and between Landlord and Tenant that, to the extent permitted by law, the respective parties hereto shall, and each hereby does, waive trial by jury (unless such waiver would preclude a right to counterclaim) 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 any emergency statutory or other statutory remedy. It is further mutually agreed that in the event Landlord commences any summary proceedings for non-payment of Rent or other sums due hereunder, Tenant will not interpose any non-mandatory counterclaim of whatever nature or description in any such proceedings.

[Landlord and Tenant signatures, next page.]

EXECUTED to be effective as of the later of the dates accompanying a signature by Landlord or Tenant below; provided, however, that if the later of the dates accompanying a signature by Landlord or Tenant below is different from the date specified as the "Date of This Lease" on the cover page of this Lease, then the date so specified on the cover page of this Lease shall be deemed to be the "Date of This Lease" for all purposes.

LANDLORD:

Lot-306 LLC, an Oregon limited liability company

By:_____

Name printed:_____

Title: Authorized Signatory

Date of Signature: November __, 2020

Portal 53, LLC, an Oregon limited liability company

By:_____

Name printed:_____

Title: Authorized Signatory

Date of Signature: November __, 2020

Portal 4th LLC, an Oregon limited liability company

By:_____

Name printed:_____

Title: Authorized Signatory

Date of Signature: November __, 2020

TENANT:
**Multnomah County, an Oregon political
subdivision**

By:_____

Name printed: Deborah Kafoury

Title: Chair

Date of Signature: November __, 2020

Reviewed By:
JENNY M. MADKOUR, COUNTY
ATTORNEY FOR MULTNOMAH COUNTY,
OREGON

Assistant County Attorney
Date: November __, 2020

EXHIBIT A

The Site Plan of the Premises

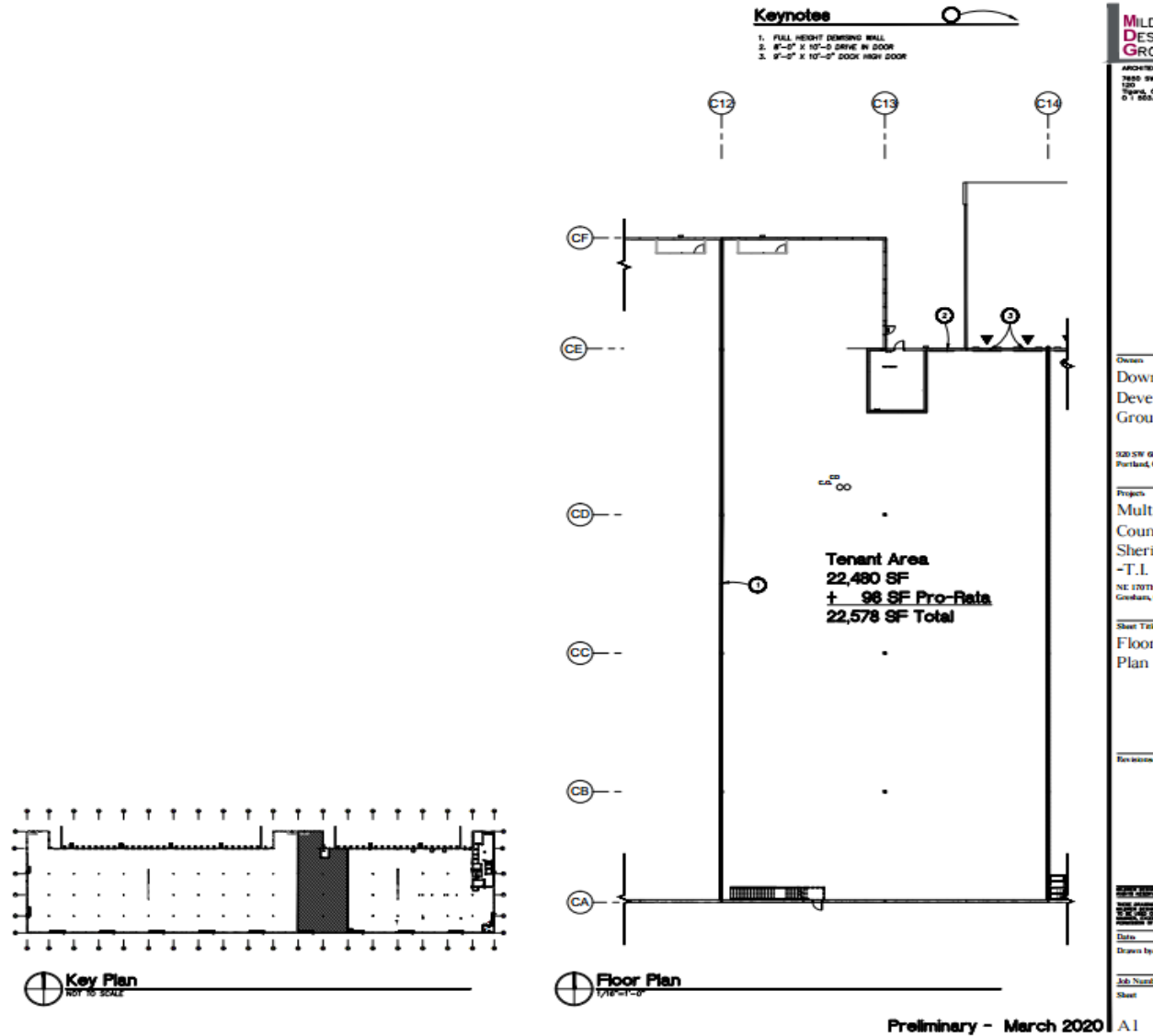


EXHIBIT B

Depiction of The Project



EXHIBIT C

Move-Out Standards

At the expiration or earlier termination of the Lease and in addition to any other provisions of the Lease regarding surrender of the Premises, Tenant shall surrender the Premises in the same condition as they were upon delivery of possession thereto under the Lease (excepting: reasonable wear and tear; uninsured losses and damage caused by Landlord and its employees, agents or contractors; and conditions that cannot be achieved as a result of casualty under Article XIV or eminent domain under Article XIV of this Lease), and shall deliver all keys to Landlord. Before surrendering the Premises, Tenant shall remove all of its personal property and trade fixtures and such alterations or additions to the Premises, Building and Project made by Tenant as may be specified by Landlord for removal. If Tenant fails to remove its personal property, fixtures or alterations or additions upon the expiration or earlier termination of the Lease, the same shall be deemed abandoned and shall become the property of Landlord. Notwithstanding the foregoing, Tenant shall be liable to Landlord for all costs and damages incurred by Landlord in removing, storing or selling such property, fixtures, alterations or additions and in restoring the Premises, Building and Project to the condition required pursuant to the Lease.

Notwithstanding anything to the contrary in the Lease, Tenant shall surrender the Premises, at the time of the expiration or earlier termination of the Lease, in a condition that shall include, but is not limited to, the following:

1. Lights: Office, exterior, emergency exit and warehouse lights will be fully operational with all bulbs functioning. Replacement lamps should be consistent in color, type and style.
2. Roll-Up Doors & Pedestrian Doors: Roll-up doors must receive final maintenance by a licensed contractor to include: lube, adjustments, alignment and replacement of seals and panels (if required). Pedestrian doors must have all hardware in working condition (including crash hardware, thresholds, closers and weather-stripping). Replacement of doors and/or hardware shall be of similar type as existing. Tenant shall provide written evidence of such maintenance/repairs to Landlord.

3. Loading Docks: Includes dock levelers, dock bumpers, dock door seals, pit levelers and sump pumps. Tenant to provide evidence of final maintenance on all items from a licensed contractor.
4. Warehouse Floor: Tenant shall remove all paint and stickers and leave floors free of stains and swept, with no racking bolts or other protrusions left in floor. Cracks should be repaired with an epoxy or polymer.
5. Tenant-Installed Equipment & Wiring: Tenant shall remove all air lines, junction boxes, distribution boxes, conduit, etc. All wiring shall be terminated back to point of connection. Telecom and associated data wiring shall be removed and terminated at the original phone board.
6. Walls: Warehouse Walls - Sheetrock (drywall) damage should be patched and fire-taped so that there are no holes remaining. Office walls shall be patched and returned to a paint-ready condition.
7. Roof: Any tenant-installed equipment must be removed and roof penetrations properly repaired by Landlord's roofing contractor.
8. Signs: All Tenant-installed signage shall be removed, including interior and exterior window signage. Exterior building surface shall be restored to original condition, including patching of all holes and painting to match exterior color.
9. Heating & Air Conditioning System: HVAC equipment must receive final maintenance by a licensed HVAC contractor, including filter changes and repairs/replacements if required. Tenant shall provide written evidence of maintenance/repairs to Landlord.

10. Plumbing:

Restroom/Kitchen fixtures and accessories (i.e. "insta-hot" water heaters, vanity heaters, handrails, soap dispensers, paper towel holders, etc.) shall be returned in good working condition, free of leaks and stains. Tenant shall provide written evidence of final service to water heater.

11. Overall Cleanliness:

Clean windows, sanitize bathroom(s), vacuum carpet, and remove any and all debris from office and warehouse. Remove all pallets and debris from exterior of premises and dock areas. In addition, Tenant shall properly dispose of all hazardous materials, including paint, at Tenant's expense.

EXHIBIT D

Rules and Regulations

General Rules

Tenant shall faithfully observe and comply with the following Rules and Regulations:

1. *[Intentionally omitted]*.
2. In case of invasion, mob, riot, public excitement or other existing or imminent commotion, Landlord reserves the right to prevent access to the Project during the continuance thereof by any means it deems appropriate for the safety and protection of life and property, provided that Landlord shall use commercially reasonable efforts to provide Tenant with continued access to the Premises.
3. No ongoing commercial cooking shall be done or permitted on the Premises, nor shall the Premises be used for any improper or reasonably objectionable purposes. Notwithstanding the foregoing, Tenant's Laboratory-approved equipment and microwave ovens, hot plates, toasters, refrigerators and the like may be used in the Premises for heating and storing food and brewing coffee, tea, hot chocolate and similar beverages for employees and visitors of Tenant, provided that such use is in accordance with all applicable federal, state and city laws, codes, ordinances, rules and regulations; and provided further that such cooking does not result in odors escaping from the Premises.
4. No boring or cutting for wires shall be allowed, except in accordance with Section 10.1 of this Lease. Tenant shall not interfere with broadcasting or reception from or in the Project or elsewhere. No commercial gaming devices shall be operated in the Premises.
5. Landlord reserves the right to exclude or expel from the Project any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of these Rules and Regulations.
6. Tenant shall store all its trash and garbage in accordance with Section 3.3 of this Lease. All moveable trash receptacles provided by the trash disposal firm for the Premises must be kept in the trash enclosure areas, if any, provided for that purpose. No material shall be placed in the trash boxes or receptacles if such material is of such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash in the vicinity of the Project without violation of any law or ordinance governing such disposal.
7. Tenant shall comply with all safety, fire protection and evacuation procedures and regulations established by Landlord or any governmental agency.

8. The sidewalks, entries, and driveways of the Project shall not be obstructed by Tenant or any Tenant Parties, or used by them for any purpose other than ingress to and egress from the Premises.
9. Except for qualified service animals, no animals shall be allowed in or about the Premises or in the Common Areas.
10. Tenant shall not install or operate any steam or gas engine, boiler, or other similar mechanical apparatus in the Premises, except as specifically approved in the Lease. The use of oil, gas or inflammable liquids for heating, lighting or any other purpose is expressly prohibited. Explosives or other articles deemed extra hazardous shall not be brought into the Project, excepting the storage of munitions and ammunitions pursuant to the Permitted Use.
11. Tenant shall not permit dumping of waste or refuse or permit any harmful materials to be placed in any drainage system or sanitary system in or about the Premises or the Project.
12. Tenant shall ascertain from Landlord the maximum amount of electrical current which can safely be used in the Premises, taking into account the capacity of the electrical wiring in the Project and the Premises and the needs of other tenants, and shall not use more than such safe capacity. Landlord's consent to the installation of electric equipment shall not relieve Tenant from the obligation not to use more electricity than such safe capacity.

PARKING RULES

1. Tenant shall not permit or allow any vehicles that belong to or are controlled by Tenant or Tenant's employees, suppliers, shippers, customers or invitees to be loaded, unloaded or parked in areas other than those designated by Landlord for such activities and at times approved by Landlord in Landlord's reasonable discretion. Tenant shall ensure that users of the parking area obey all posted signs and park only in the areas designated for vehicle parking. Tenant and its customers, employees, suppliers, shippers and invitees shall comply with all rules and regulations adopted by Landlord from time to time relating to truck parking and/or truck loading and unloading.
2. Landlord will not be responsible for any damage to vehicles, injury to persons or loss of property, all of which risks are assumed by the party using the parking area.
3. The maintenance, washing, waxing or cleaning of vehicles in the parking area or Common Areas is prohibited.
4. Tenant shall be responsible for seeing that all of its employees, agents, contractors, suppliers, shippers, and invitees comply with the applicable parking rules, regulations, laws and agreements.

5. Tenant shall (a) ensure that all Tenant Entrants use only the MCSO Assigned Parking Stalls and Unassigned Parking Stalls, and (b) provide onsite parking direction to all auction attendees or other Tenant Entrants visiting the Premises.
6. Parking any type of recreational vehicles is specifically prohibited on or about the Project. Subject to the following sentence, no vehicle of any type shall be stored in the parking areas at any time. No overnight vehicle parking shall be allowed, except with respect to trucks to the extent that the Premises include truck loading doors in which event one truck may be parked overnight in front of each loading door, and except as is customary or necessary for the use of the Premises for the Permitted Use. In the event that a vehicle is disabled, it shall be removed within 48 hours. There shall be no "For Sale" or other advertising signs on or about any parked vehicle. All vehicles shall be parked in the designated parking areas in conformity with all signs and other markings. All parking will be open parking, and no reserved parking, numbering or lettering of individual spaces will be permitted except as specified by Landlord.
7. If Tenant commits or allows in the parking lot any of the activities prohibited by this Lease or the Rules, then Landlord shall have the right, without notice, 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 by Tenant upon demand by Landlord.

Landlord reserves the right at any time to change or rescind any one or more of these Rules and Regulations, or to make such other and further reasonable Rules and Regulations as in Landlord's judgment may from time to time be necessary for the management, safety, care and cleanliness of the Project, and for the preservation of good order therein, as well as for the convenience of other tenants therein, subject to Section 7.7(a) of this Lease. Landlord may waive any one or more of these Rules and Regulations for the benefit of any particular tenant, but no such waiver by Landlord shall be construed as a waiver of such Rules and Regulations in favor of any other tenant, nor prevent Landlord from thereafter enforcing any such Rules or Regulations against any or all tenants of the Project. Tenant shall be deemed to have read these Rules and Regulations and to have agreed to abide by them as a condition of its occupancy of the Premises.

EXHIBIT E

Form of Hazardous Materials Disclosure Certificate

General Information

Name of Responding Company: _____

Mailing Address: _____

Signature: _____

Title: _____ Phone: _____

Date: _____ Age of Facility: _____ Length of Occupancy: _____

Major products manufactured and/or activities conducted on the property: _____

Types of Business Activities (check all that apply)

- ☐ Machine Shop
- ☐ Light assembly
- ☐ Research and development
- ☐ treatment
- ☐ Product service or repair
- ☐ Photo processing
- ☐ Automotive service and repair
- ☐ Manufacturing
- ☐ Warehouse
- ☐ Integrated/printed circuit
- ☐ Chemical/pharmaceutical product
- ☐ Chemical/missing/synthesis

Hazardous Materials Activities (check all that apply)

- ☐ Degreasing
- ☐ Chemical/etching/milling
- ☐ Wastewater
- ☐ Painting
- ☐ Striping
- ☐ Cleaning
- ☐ Printing
- ☐ Analytical lab
- ☐ Plating
- ☐
- ☐ Silkscreen
- ☐ Lathe/mill machining
- ☐ Deionizer water product
- ☐ Photo masking
- ☐ Wave solder
- ☐ Metal finishing

HAZARDOUS MATERIALS/WASTE HANDLING AND STORAGE

A. Are hazardous materials handled on any of your shipping and receiving docks in container quantities greater than one gallon? ☐ Yes ☐ No

B. If hazardous materials or waste are stored on the premises, please check off the nature of the storage and type(s) of materials below.

Types of Storage Container
and/or Waste Stored

(list above-ground storage only)

- ☐ 1 gallon or 3 liter bottles/cans
- ☐ 5 to 30 gallon carboys
- ☐ 55 gallon drums
- ☐ Tanks

solvent

Type of Hazardous Materials

- ☐ Acid
- ☐ Phenol
- ☐ Caustic/alkaline cleaner
- ☐ Cyanide
- ☐ Photo resist stripper
- ☐ Paint
- ☐ Flammable solvent
- ☐ Gasoline/diesel Fuel
- ☐ Nonflammable/chlorinated
- ☐ Oil/cutting fluid

C. Do you accumulate hazardous waste onsite? ☐ Yes ☐ No

If yes, how is it being handled?

- ☐ On-site treatment or recovery
- ☐ Discharged to sewer
- ☐ Hauled offsite If hauled offsite, by whom: _____
- ☐ Incineration

D. Indicate your hazardous waste storage status with Department of Health Services:

- ☐ Generator
- ☐ Interim status facility
- ☐ Permitted TSDF
- ☐ None of the above

WASTEWATER TREATMENT/DISCHARGE

A. Do you discharge industrial wastewater to:

- ☐ Sewer
- ☐ Storm drain
- ☐ Surface water
- ☐ No industrial discharge

B. Is your industrial wastewater treated before discharge? ☐ Yes
☐ No

If yes, what type of treatment is being conducted:

- ☐ Neutralization
- ☐ Metal hydroxide formation
- ☐ Closed-loop treatment
- ☐ Cyanide destruct
- ☐ HF treatment
- ☐ Other

SUBSURFACE CONTAINMENT OF HAZARDOUS MATERIALS/WASTES

A. Are buried tanks/sumps being used for any of the following:

- ☐ Hazardous waste storage
- ☐ Chemical storage
- ☐ Gasoline/diesel fuel storage
- ☐ Waste treatment
- ☐ Wastewater neutralization
- ☐ Industrial wastewater treatment
- ☐ None of the above

B. If buried tanks are located onsite, indicate their construction:

- ☐ Steel ☐ Fiberglass ☐ Concrete
- ☐ Inside open vault ☐ Double walled

C. Are hazardous materials or untreated industrial wastewater transported via buried piping to tanks, process areas or treatment areas: ☐ Yes ☐ No

D. Do you have wet floors in your process areas? ☐ Yes ☐ No

If yes, name processes: _____

E. Are abandoned underground tanks or sumps located on the property? ☐ Yes ☐ No

HAZARDOUS MATERIALS SPILLS

A. Have hazardous materials ever spilled to:

- ☐ The sewer
- ☐ The storm drain
- ☐ Onto the property
- ☐ No spills have occurred

B. Have you experienced any leaking underground tanks or sumps? ☐ Yes
☐ No

C. If spills have occurred, were they reported? ☐ Yes ☐
No

Check which government agencies that you contacted regarding the spill(s):

- ☐ Department of Health Services
- ☐ Department of Fish and Game
- ☐ Environmental Protection Agency
- ☐ Regional Water Quality Control Board
- ☐ Fire Department

D. Have you been contacted by a government agency regarding soil or groundwater contamination on your site? ☐ Yes ☐ No

Do you have exploratory wells onsite? ☐ Yes ☐ No

If yes, indicate the following:

Number of wells: ____ Approximate depth of wells: _____ Well
diameters: _____

PLEASE ATTACH ENVIRONMENTAL REGULATORY PERMITS, AGENCY REPORTS THAT APPLY TO YOUR OPERATION AND HAZARDOUS WASTE MANIFESTS.

Check off those enclosed:

- ☐ Hazardous Materials Inventory Statement, HMIS
- ☐ Hazardous Materials Management Plan, HMMP
- ☐ Department of Health Services, Generator Inspection Report
- ☐ Underground Tank Registrations
- ☐ Industrial Wastewater Discharge Permit
- ☐ Hazardous Waste Manifest

EXHIBIT F

Commencement Date Certificate

**[SAMPLE ONLY – FORM TO BE COMPLETED BY LANDLORD AND EXECUTED
BY TENANT
ON OR AFTER COMMENCEMENT DATE AND/OR RENT COMMENCEMENT
DATE]**

LANDLORD:

TENANT:

LEASE DATE: _____,

PREMISES:

Tenant hereby accepts the Premises as being in the condition required under the Lease.

The Commencement Date of the Lease is ____, ____.

The Rent Commencement Date under the Lease is ____, ____.

The Expiration Date of the Lease is ____, ____.

Landlord:

Tenant:

[DO NOT SIGN]

[DO NOT SIGN]

By: _____,
a

By: _____
Its: _____

By: _____
Its: _____

Telephone: (____) _____
Telephone: (____) _____

Facsimile: (____) _____
Facsimile: (____) _____

Date: _____

Date: _____

EXHIBIT G

[Intentionally omitted.]

EXHIBIT H

IMPROVEMENT ADDENDUM

This Exhibit defines Landlord's Work and Tenant's Work and sets forth the procedures relevant to the completion of the work. Unless otherwise noted, capitalized terms used herein shall have the meanings attributed to them in the Lease.

As an accommodation to Tenant, Landlord has agreed to: (i) contract with LRS Architects (tenant's architect) for the preparation of construction drawings for Tenant's Work (it being understood that the scope of work under such contract with LRS Architects shall not include any of the design drawing for Tenant's Work, which is covered by a separate contract between Tenant and LRS Architects and all amounts payable under such separate contract shall be paid by Tenant to LRS Architects under the terms of such separate contract); (ii) contract with Walen Construction, LLC ("Walen") for the performance of Tenant's Work (other than the for the installation of cabling, security systems and furniture, fixtures and equipment, all of such installations shall be performed by Tenant (the "Tenant Installations")); and (iii) hold construction progress meetings attended by representatives of Landlord, LRS Architects, Walen, and Tenant for the purpose of identifying and resolving issues with the Landlord's Work or the Tenant's Work that could lead to cost over-runs or delays and other matters pertaining to such work, all on a weekly basis commencing at the start of such work or other frequency to which such attendees mutually agree. In consideration of Landlord agreeing to such accommodations, Tenant agrees: (a) to pay Landlord a construction management fee equal to five percent (5%) of all hard and soft costs pertaining to the cost of preparation of construction drawings, obtaining permits for, and constructing and installing Tenant's Work other than Tenant Installations; (b) be responsible for all cost over runs pertaining to Tenant's Work, except to the extent that such cost over runs arise out of Landlord's gross negligence or willful misconduct; (c) within fifteen (15) business days of request therefor, reimburse Landlord for all increased costs and expenses Landlord incurs in connection with obtaining financing for the Project, if any, as a result of such accommodations, including, without limitation, any increased title insurance costs pertaining to such financing for the Project, (d) within ten (10) business days of request therefor, reimburse Landlord for all costs and expenses (including attorneys' fees) Landlord incurs in connection with the negotiation and enforcement of the architect contract with LRS Architects and the negotiation and enforcement of the construction contract with Walen described in clauses (i) and (ii) of this paragraph, (e) if there is any prevailing wage requirements under any applicable law pertaining to the Tenant's Work, the cost for compliance with such prevailing wage requirements shall be paid solely by Tenant, (f) Tenant shall look solely to any warranties from LRS Architects and Walen with respect to any claims Tenant may have with respect to the design and performance of Tenant's Work and, in connection therewith, Tenant waives and releases any and all claims, liabilities, damages, costs and expenses which Tenant may have, whether known or unknown, against Landlord and Landlord's

agents and employees pertaining to the design and performance of Tenant's Work, and (g) [*Intentionally omitted*]. Tenant further acknowledges that notwithstanding Landlord's willingness to accommodate Tenant as provided in this paragraph, the Rent Commencement Date set forth in Section 1.1(j) of the Lease shall not be delayed as a result of any delays in the design and/or performance of Tenant's Work, except that the Rent Commencement Date shall be delayed for the same number of days that Substantial Completion of the Tenant's Work is delayed due to Landlord's gross negligence or willful misconduct.

1. Landlord's Work. Subject to the terms and conditions of this Improvement Addendum and the applicable provisions of the Lease, Landlord shall construct a demising wall to demise the Premises and deliver the Premises in the condition set forth in Section 2.1 of the Lease. The improvements to be performed by Landlord in accordance with this Section 1 are referred to as "Landlord's Work". Landlord shall enter into a direct contract for Landlord's Work with a general contractor selected by Landlord. In addition, Landlord shall have the right to select and approve of any subcontractors used in connection with Landlord's Work. Tenant acknowledges and agrees that Landlord's Work shall be constructed using Building-standard materials designated by Landlord for the Building. In no event shall Landlord's Work include (i) any costs of procuring or installing in the Premises any trade fixtures, equipment, furniture, furnishings, telephone equipment, cabling for any of the foregoing or other personal property to be used in the Premises by Tenant, and the cost of such Personal Property shall be paid by Tenant, or (ii) any costs or expenses of any consultants retained by Tenant with respect to design, procurement, installation or construction of improvements or installations, whether real or personal property, for the Premises.

2. Tenant's Work. To prepare the Premises for Tenant's occupancy, Tenant intends to install certain leasehold improvements in the Premises ("Tenant's Improvements"). The installation of the Tenant's Improvements shall be accomplished in accordance with this Improvement Addendum and all other applicable provisions of the Lease; provided, in the event of a conflict, the provisions of this Improvement Addendum shall control. The installation of the Tenant's Improvements are referred to as "Tenant's Work" and shall occur in the manner set forth in this Section 2 and in the prefatory paragraphs to this Exhibit H.

2.1 Plans. Prior to commencing Tenant's Work, Tenant shall obtain Landlord's prior written approval of the final plans and specifications for Tenant's Work, which approval shall not be unreasonably withheld, but which may be issued subject to reasonable conditions. The final plans and specifications as approved by Landlord are herein referred to as the "Final Plans". Landlord may withhold approval to any part of proposed plans based on a determination that it (a) is likely to adversely affect Building systems, the structure of the Building, or the safety of the Building or its occupants; (b) might impair Landlord's ability to furnish services to Tenant or other tenants in the Building; (c) would increase Operating Costs; (d) would violate any applicable legal requirements; (e) contains or uses Hazardous Materials; (f) would adversely affect the appearance of the Building; (g) might adversely affect another occupant's use and enjoyment of its premises; (h) is prohibited by any ground lease affecting the Building, any recorded matters, or any

mortgage, trust deed or other instrument encumbering the Building; (i) is likely to be substantially delayed because of unavailability or shortage of labor or materials necessary to perform such work or the difficulties or unusual nature of such work; or (j) is not, at a minimum, in accordance with Landlord's standards. Tenant assumes full and complete responsibility to ensure that the Tenant Improvements are adequate to fully meet the needs and requirements of Tenant's business and Tenant's use of the Premises. Neither the approval by Landlord of the Final Plans or of any other plans, specifications, drawings or other items associated with the Tenant Improvements shall constitute any opinion, warranty or covenant by Landlord to Tenant as to the adequacy of the design for Tenant's intended use or as to the compliance of the same with any applicable law or code.

2.2 Permits and Approvals. Prior to commencing any construction activity, Tenant shall work with LRS Architects to obtain, at Tenant's sole cost and expense, all permits and approvals necessary to perform Tenant's Work in accordance with the Final Plans. Copies of all such permits and approvals shall be delivered to Landlord as obtained.

2.3 Contractors.

(a) ***General Contract for Contract Work.*** Landlord shall engage Walen to construct and install the Tenant's Work (other than the Tenant Installations) (the "Contract Work") in accordance with the Final Plans. Tenant acknowledges that in consideration of Landlord's agreement to engage Walen to perform the Contract Work and to engage LRS Architects to prepare the construction drawings, Tenant shall pay for the cost of the design and construction of the Contract Work in a timely manner such that Landlord never is obligated to come out of pocket for the cost of the design or construction of the Contract Work. In connection therewith, upon the mutual execution of the Lease, Tenant shall deposit with Landlord an amount equal to \$135,000.00 as the "Retainage Amount". Upon receipt of an invoice for the design and/or performance of Contract Work for a month, Landlord shall provide Tenant with a copy of such invoice and Tenant shall pay such invoiced amount along with such portion of Landlord's construction management fee for the oversight of the Contract Work as Landlord then determines payable in Landlord's reasonable business judgment no later than ten (10) business days after the date such invoice is received by Tenant. The failure of Tenant to timely pay any such invoice in full shall entitle Landlord to receive a late charge with respect to such invoice pursuant to Section 5.4 of the Lease and collect default interest as provided in Section 20.2(a) until such invoiced amount is paid in full by Tenant to Landlord. Landlord may, but shall not be obligated to, use a portion of the Retainage Amount to pay any amounts owed by Tenant that are not paid when due (in which event Tenant shall deposit with Landlord such portion of the Retainage Amount used by Landlord within ten (10) business days of written request). Upon the final completion of the Contract Work, any remaining portions of the Retainage Amount shall be returned to Tenant and Landlord shall assign to Tenant all warranties and guaranties of Walen

related to the Contract Work, which assignment shall be on a nonexclusive basis such that the warranties and guarantees may be enforced by Landlord and/or Tenant, and Tenant hereby waives all claims against Landlord relating to, or arising out of the design and construction of, the Contract Work. If Landlord fails to perform the Tenant's Work to Final Completion, or if, in Tenant's reasonable determination, Landlord's failure to perform the work appears imminent, the Retainage Amount shall be immediately refunded to Tenant upon Tenant's written demand to Landlord.

(b) ***Contract for Tenant Installations.*** Tenant shall include, within the provisions of its contract with any person or entity Tenant contracts with for the performance of the Tenant Installations, the following provisions:

(i) Such person or entity, and any person or entity that such person shall subcontract with must be appropriately licensed.

(ii) Such contract shall contain all customary warranties for work of the types performed and shall require such person or entity to obtain all customary warranties from each contractor and supplier. All such warranties shall expressly state that they are for the benefit of both Landlord and Tenant, that the same are assignable to Landlord, and that Landlord shall have a direct right to enforce the same.

(c) ***Performance.*** A copy of all contracts, supplier contracts, and operating manuals shall be delivered to Landlord as executed/received. Tenant shall pay and perform all of its obligations and otherwise with respect to the Tenant Installations as they are completed.

(d) ***Relationship.*** Landlord shall have no liability to any contractors, subcontractors, material suppliers or any other third party for any work, labor, services or materials done for or supplied with respect to Tenant Installations at the request of Tenant or any other person claiming through or under Tenant in or about the Premises or Building. Such contractors, subcontractors, material suppliers, and other third parties are not third-party beneficiaries of this Lease. Tenant is not Landlord's agent or representative, and has no authority to obligate Landlord with respect to any such work, labor, services or materials.

2.4 Construction of Tenant Installations. Tenant shall comply with the following provisions in connection with the installation of the Tenant Installations:

(a) ***Lien Waivers.*** Tenant shall cause all contractors and each other third party performing work or providing supplies with respect to the Tenant Installation where the cost of such contract exceeds \$5,000, to the maximum extent permitted by applicable law, to execute and deliver to Landlord a waiver and release of any and all claims against Landlord and liens against the Building and the Project to which such contractor, vendor or other third party might at any time be entitled to assert a statutory

mechanic's lien claim or any common law claim in accordance with applicable law. Additionally, Tenant shall deliver to Landlord, on a monthly basis during the construction period, lien waivers from each contractor, subcontractor, vendor or other third party performing work or providing supplies, to the extent of the amount paid to such parties.

(b) **Course of work.** Tenant Installations shall be conducted and scheduled so as to avoid disruption of Tenant's Work and to avoid disruption of the operations of other tenants or occupants of the Building and to avoid any odor or noise that disturbs any other lessee, provided that Landlord will cooperate with Tenant to allow installation during Landlord's performance of Landlord's Work and/or Tenant's Work of the Low-Voltage Infrastructure Improvements pursuant to Section 2.5 of this Exhibit H. No dust or debris shall be created, nor materials stored, outside of enclosed Premises.

(c) **Compliance.** Tenant Installations shall be constructed in strict conformity with all applicable permits and approvals, all applicable laws, any conditions of Landlord's approval of the Final Plans, and any reasonable directions or requirements of Landlord's property manager.

(d) **Deliveries.** Upon final completion of Tenant Installations, Tenant shall deliver to Landlord the following:

(i) A complete set of "as built" plans and specifications showing fully and in detail all work, including changes from the approved Final Plans and any variations from the work as shown on the Final Plans, and a certificate from the architect that Tenant Installations have been finally completed in accordance with the Final Plans.

(ii) A copy of all warranties from all contractors and all material suppliers, together with an assignment of the rights of Tenant with respect to all such warranties in form acceptable to Landlord.

(iii) Paid invoices and unconditional lien waivers for all of Tenant Installations.

(e) **Liens.** Tenant shall pay, as and when due, all amounts with respect to the Tenant Installations. Tenant shall not allow any claim of lien to be perfected by filing with respect to Tenant Installations. In the event any such claim of lien is filed, and Tenant does not discharge (and deliver to Landlord proof of discharge of) the lien within ten (10) business days, then without waiver of such default or of other rights or remedies, but with at least two (2) business days' notice to Tenant, Landlord shall have the right to cause such claim of lien to be removed by any means, including by payment; Landlord is not obligated to inquire as to the validity of any such lien or to determine whether all amounts claimed are due. Tenant acknowledges that Tenant's failure to discharge a lien and the subsequent payment of the same by Landlord may preclude Tenant from contesting the

amount claimed. Any amounts expended by Landlord in connection with such claim of lien and/or in payment or other discharge of such lien shall be immediately reimbursed from Tenant to Landlord. Tenant shall defend, indemnify and save harmless Landlord and any mortgagee for, from, against and regarding any and all mechanics, materialmen's and other liens and encumbrances filed in connection with, and any other claims, charges, liabilities, obligations, penalties, causes of action, liens, damages, cost and expense (including attorneys' fees) arising or incurred by or against Landlord and arising in connection with, Tenant Installations, or any other work, labor, services or materials done for or supplied to Tenant, or any person claiming through or under Tenant, in or about the Project.

(f) ***Construction Oversight; Construction Oversight Fee.*** Landlord and its property manager shall have the right to conduct such construction oversight of Tenant Installations, as desired, and for this purpose shall at all times have access to the Premises. Landlord and/or its property manager (or designee) shall be given the schedule for all project meetings and shall have the right to attend all such meetings. Landlord and Landlord's agents shall have the right, but not the obligation, to inspect the construction of Tenant Installations from time to time during the progress thereof. If Landlord shall give Tenant written notice of faulty construction or any deviation from the Final Plans (except as approved in writing by Landlord), Tenant shall promptly make the necessary corrections to Landlord's reasonable satisfaction. However, neither the right herein granted to Landlord to make such inspections, nor the making of such inspections by Landlord, shall operate as a waiver of any rights of Landlord to require good and workmanlike performance of all Tenant Installations in accordance with the requirements of this Improvement Addendum. Notwithstanding any inspection or acceptance by Landlord of Tenant Installations, or any portion thereof, Tenant acknowledges that Landlord's sole interest in doing so is to protect the Building and Landlord's interests. Accordingly, Tenant shall not rely upon Landlord's inspections or approvals, and agrees that Landlord shall not be the guarantor of, nor responsible for, any Tenant Installations. Tenant shall be solely responsible for, and shall remedy, at Tenant's sole expense, any and all defects in Tenant Installations that may appear during or after the completion thereof, whether the same shall affect the Premises in particular or any part of the Building in general. Tenant shall pay to Landlord a construction oversight fee equal to three percent (3%) of all hard costs related to Tenant Installations.

2.5 Early Access and Low-Voltage Infrastructure Improvements. Tenant will have access to the Premises following execution of this Lease for the sole purpose of installing, concurrently with Landlord's Work and/or, as efficient, Landlord's performance of Tenant's Work, certain low-voltage infrastructures to support Tenant's telecommunications, electronics, and alarms services ("Low-Voltage Infrastructure Improvements"), which work is part of the Tenant's Improvements and therefore subject to all terms and conditions in this Improvement Addendum. Prior to such access, Tenant shall deliver to Landlord evidence of insurance as

required by this Lease. All provisions of this Lease shall apply during such period of early access except the obligation to pay Base Rent and Tenant's Proportionate Share of the Shared Expenses. Tenant's activities shall be conducted as not to interfere with Landlord's Work.

2.6 Representatives. Tenant has designated **Toni Weiner, Project Manager, Multnomah County Facilities & Property Management Division** as its sole representative with respect to the matters set forth in this Improvement Addendum, who shall have full authority and responsibility to act on behalf of the Tenant as required in this Improvement Addendum, until further written notice to Landlord. Landlord has designated Stephen Goodman of Downtown Development Group LLC as its sole representative with respect to the matters set forth in this Improvement Addendum, who, until further notice to Tenant, shall have full authority and responsibility to act on behalf of the Landlord as required in this Improvement Addendum.

2.7 Interpretation; Incorporation Into Lease. This Improvement Addendum shall not be deemed applicable to any additional space added to the original Premises at any time or from time to time, whether by any options under the Lease or otherwise, or to any portion of the original Premises or any additions to the Premises in the event of a renewal or extension of the original Lease Term or Term, whether by any options under the Lease or otherwise, unless expressly so provided in the Lease or any amendment or supplement to the Lease. Landlord shall not be required to perform under this Improvement Addendum during the existence of any default under the Lease.

Exhibit I

ESTOPPEL CERTIFICATE FORM

TENANT ESTOPPEL LETTER

Minnesota Life Insurance Company
c/o Securian Asset Management, Inc.
400 Robert Street North
St. Paul, Minnesota 55101-2098
Attention: Mortgage Department

Re: Lease Dated: _____
Borrower: _____
Tenant: _____
Premises: _____

[City]_____, [State]
Suite No.: _____

Ladies and Gentlemen:

It is our understanding that you are making a loan (hereinafter referred to as the "Loan") to _____, a _____ (hereinafter referred to as the "Borrower"), which loan is to be secured by a Mortgage or Deed of Trust and Security Agreement and Fixture Financing Statement on the premises described above (hereinafter referred to as the "Premises") and an Assignment of Leases and Rents (hereinafter referred to as the "Assignment of Leases") by the Borrower to you of the Borrower's interest in the above-described Lease (hereinafter referred to as the "Lease"). It is our further understanding that, among other things, as a condition precedent to the making of the Loan you require the following certifications by the undersigned (hereinafter referred to as the "Tenant").

Accordingly, Tenant, in and under the Lease, hereby certifies that as of the date hereof:

1. The Lease represents the entire agreement between Borrower and Tenant, is in full force and effect and has not been assigned, extended, modified, supplemented or amended in any way, except as follows (if none, please so state):

-
2. Tenant has accepted delivery of _____ square feet of the Premises commonly known as Suite No. _____ (hereinafter referred to as the "Demised Premises"), has entered into occupancy thereof and is conducting business therein.
 3. Tenant has not entered into any agreements providing for the discounting, advance payment, abatement or offsetting of rents, and no rent has been paid for more than one (1) month in advance.
 4. Tenant has fully inspected the Demised Premises and found the same to be as required by the Lease, in good order and repair, and all conditions under the Lease to be performed by Borrower have been satisfied.
 5. The primary term of the Lease commenced on _____, _____, and continues to _____, 20____, and contains _____ (_____) renewal options of _____ (_____) years each.
 6. Rental payments are being made on a current basis and have been paid through the month of _____, 20____.
 7. Minimum annual rent payable (exclusive of percentage rental, Tenant's share of operating expenses and Tenant's share of taxes) is \$_____
_____.
 8. Tenant has paid a security deposit of \$_____ to Borrower.
 9. As of this date, Borrower is not in default under any of the terms, conditions, provisions or agreements of the Lease, and Tenant has no offsets, claims or defenses against Borrower.
 10. Tenant has no options or rights of first refusal to purchase the Premises or any part thereof.

Dated: _____, 20____

Sincerely,

_____,

By: _____

Its: _____