

INDUSTRIAL BUILDING LEASE

BETWEEN

221 ROGERS, LLC, AS LANDLORD

AND

WAKE COUNTY, A _____

AS TENANT

EASTPARK

Raleigh, North Carolina

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INDUSTRIAL BUILDING LEASE AGREEMENT

This Industrial Building Lease Agreement (the "**Lease**") is made and entered into as of the ____ day of November, 2015 (the "Effective Date") between **221 ROGERS, LLC**, an Indiana limited liability company ("**Landlord**"), and **Wake County**, a _____ ("**Tenant**").

A. Landlord is the owner of a parcel of real property in Raleigh, North Carolina and more particularly described on **Exhibit A-1** attached hereto (together with all rights, privileges, easements and appurtenances thereto, the "**Land**").

B. Landlord and Tenant desire that Landlord lease the Premises to Tenant, pursuant to the terms and conditions of this Lease.

W I T N E S S E T H:

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants, agreements and conditions as set forth in this Lease, and desiring to provide for the terms and conditions in which the efforts of the parties will be conducted, Landlord and Tenant covenant and agree as follows:

1. **Definitions**

The following are definitions of some of the defined terms used in this Lease. The definition of other defined terms are found throughout this Lease.

A. "**Building**" shall mean the multi-tenant industrial building located (or to be located) after the Effective Date upon the real property described in **Exhibit A-1** attached hereto, which land is located in Raleigh, North Carolina in the project currently known as Eastpark.

B. "**Base Rent**": Base Rent shall be paid according to the following schedule, subject to the provisions of Section 4 hereof.

PERIOD	ANNUAL BASE RENT	MONTHLY INSTALLMENTS OF BASE RENT
Month 1- 12	\$546,000.00	\$45,500.00
Months 13-24	\$559,650.00	\$46,637.50
Months 25-36	\$573,641.25	\$47,803.44
Months 37-48	\$587,982.28	\$48,998.52
Months 49-60	\$602,681.84	\$50,223.49

PERIOD	ANNUAL BASE RENT	MONTHLY INSTALLMENTS OF BASE RENT
Months 61-72	\$617,748.88	\$51,479.07
Months 73-84	\$633,192.61	\$52,766.05
Months 85-96	\$649,022.42	\$54,085.20
Months 97-108	\$665,247.98	\$55,437.33
Months 109-120	\$681,879.18	\$56,823.27
Months 121-132	\$698,926.16	\$58,243.85
Months 133-144	\$716,399.32	\$59,699.94
Months 144-156	\$734,309.30	\$61,192.44
Months 156-168	\$752,667.03	\$62,722.25
Months 168-180	\$771,483.71	\$64,290.31

The Base Rent due for the month of [Month], [Year] shall be paid by Tenant to Landlord contemporaneously with Tenant's execution hereof.

C. **"Additional Rent"** shall mean Tenant's Pro Rata Share of Basic Costs (hereinafter defined) and any other sums (exclusive of Base Rent) that are required to be paid to Landlord by Tenant hereunder, which sums are deemed to be Additional Rent under this Lease.

D. **"Basic Costs"** are defined in **Exhibit C** attached hereto. Tenant's initial estimated monthly Basic Costs payment is \$1.09/12 or 09/100 Dollars per Square Foot (\$0.09/SF) .

E. **"Broker"** shall mean, collectively, Avison Young Real Estate Advisors (represented by J.R. Jones, III), representing Tenant, and NAI Carolantic Realty, Inc. (represented by Ed Brown), representing Landlord.

F. **"Business Day(s)"** shall mean Mondays through Fridays exclusive of the normal business holidays.

G. **"Common Areas"** shall mean those areas located within the Project designated by Landlord, from time to time, for the common use or benefit of tenants generally and/or the public.

H. **"Declaration"** shall mean that certain Declaration of Restrictive Covenants by Ammons East Corporation recorded in Book 5992 at Page 829, as amended by Book 6300, Page 474, Book 7082 at Page 316 and Book 7459 at Page 635 in the Wake County Register of Deeds, North Carolina, and as further amended from time to time.

I. **"Default Rate"** shall mean the lower of (i) eighteen percent (18%) per annum, or (ii) the highest rate of interest from time-to-time permitted under applicable federal and state law.

J. **Intentionally Omitted.**

K. **"Lease Term"** shall mean the Delivery Date as defined in **Exhibit D** (the **"Commencement Date"**) and, unless sooner terminated as provided herein, ending on the date which is fifteen (15) years after the Delivery Date, subject to extensions as permitted under this Lease (**"Expiration Date"**).

L. **"Notice Addresses"** shall mean the following addresses for Tenant and Landlord, respectively:

Tenant:

Wake County
P.O. Box 550
Raleigh, NC 27602
Attn: Mark Forestieri,
Director of Facilities, Design and Construction

Landlord:

221 Rogers, LLC
800 East 96th Street, Suite 175
Indianapolis, Indiana 46240
Attn: James C. Carlino, Manager
Tel: 317-843-5107
Email: jimc@scannellproperties.com

with a copy to:

221 Rogers, LLC
400 W. North Street, Suite 112
Raleigh, North Carolina 27603

Payments of Rent only shall be made payable to the order of:

221 Rogers, LLC

at the following address:

221 Rogers, LLC

Attn: Controller

800 E.96th Street, Suite 175

Indianapolis, IN 46240

or such other name and address as Landlord shall, from time to time, designate.

M. **"Permitted Use"** shall mean warehouse and public safety training center facilities and uses ancillary thereto, **[insert additional uses]** and no other use or purpose.

N. **"Premises"** shall mean approximately 70,000 square feet in the building outlined on **Exhibit A** to this Lease.

O. **"Project"** shall mean the Premises, the Building and the Land, other buildings and improvements located on the Land, adjacent parcels of land that Landlord operates jointly with the Building, and other buildings and improvements located on such adjacent parcels of land.

P. Intentionally Omitted.

Q. **"Square Footage in the Premises"** shall mean approximately 70,000 square feet.

R. **"Square Footage in the Building"** shall mean approximately **[160,000]** square feet and **"Square Footage in the Project"** shall mean approximately **[N/A square feet]**.

S. **"Target Delivery Date"** shall mean July 1, 2016.

T. **"Tenant's Pro Rata Share"** shall mean, with respect to the Building, Forty-four percent (44%), being the square footage of the Premises divided by the square footage of the Building, expressed as a percentage, and with respect to the Project, **[N/A%]**, being the square footage of the Premises divided by the square footage of the Project, expressed as a percentage.

2. **Lease Grant/Possession**

A. Subject to and upon the terms herein set forth, Landlord leases to Tenant and Tenant leases from Landlord the Premises on an "as is where is with all faults" basis (except as otherwise expressly set forth herein), together with the right, in common with others, to use the Common Areas. By taking possession of the Premises, Tenant is

deemed to have accepted the Premises and agreed that the Premises is in good order and satisfactory condition, with no representation or warranty by Landlord as to the condition of the Premises or the Building or suitability thereof for Tenant's use. **NO WARRANTIES, EXPRESS OR IMPLIED, ARE MADE REGARDING THE CONDITION OR SUITABILITY OF THE PREMISES ON THE COMMENCEMENT DATE. FURTHER, TO THE EXTENT PERMITTED BY LAW, TENANT WAIVES ANY IMPLIED WARRANTY OF SUITABILITY OR OTHER IMPLIED WARRANTIES THAT LANDLORD WILL MAINTAIN OR REPAIR THE PREMISES OR ITS APPURTENANCES EXCEPT AS MAY BE CLEARLY AND EXPRESSLY PROVIDED IN THIS LEASE.** Notwithstanding the foregoing, Landlord warrants that the Building (a) shall be free of all environmental hazards and contaminants including, without limitation, asbestos and mold, (b) shall comply with all applicable building codes, and the Americans with Disabilities Act. Further, Landlord shall cause all mechanical, electrical (including light fixtures and bulbs) and plumbing systems serving the Premises to be in good working order on the date the Premises are delivered to Tenant, failing which, Landlord shall, as Tenant's sole and exclusive remedy, cause the same to be in such condition.

B. Notwithstanding anything to the contrary contained in this Lease, if Landlord is unable to tender possession of any portion of the Premises on the date possession is to be delivered, this Lease shall not be void or voidable or otherwise affected and Tenant shall have no claim for damages against Landlord. Landlord shall use reasonable efforts to provide possession of the Premises in order to deliver the same to Tenant. If the Commencement Date as set forth in Section 1 is a specified date, the Commencement Date shall be postponed until the date Landlord delivers possession of the Premises to Tenant, and the Expiration Date shall, at the option of Landlord, correspondingly be postponed, and, upon determination of the actual Commencement Date and the actual Expiration Date, Landlord and Tenant shall each execute and deliver a commencement letter setting forth the Commencement Date and Expiration Date.

C. Following full execution and delivery of this Lease and Tenant's delivery of insurance certificates as required in Section 11 below, Tenant may take possession of the Premises on a date selected by Landlord for the purpose of performing the Tenant's Work (as approved by Landlord under this Lease) and conducting business therein. Such possession shall be subject to all of the terms and conditions of the Lease, except that Tenant shall not be required to pay Rent with respect to the period of time prior to the Commencement Date. Tenant shall, however, be liable for the cost of all utilities provided to the Premises during the period of Tenant's possession prior to the Commencement Date.

3. Use

The Premises shall be used for the Permitted Use and for no other purpose. Tenant shall not conduct or give notice of any auction, liquidation, or going out of business sale on the Premises. Tenant agrees not to use or permit the use of the Premises for any purpose which is illegal or dangerous, which creates a nuisance or which would increase the cost of insurance coverage with respect to the Building. Tenant will conduct its business and control its contractors,

agents, servants, employees, customers, licensees and invitees in such a manner as not to interfere with or disturb other tenants or Landlord in the management of the Project. Tenant shall not permit any objectionable or unpleasant odors, smoke, dust, gas, noise, or vibrations to emanate from the Premises, or take any other action that would constitute a nuisance or would disturb, unreasonably interfere with, or endanger Landlord or any tenants of the Project. Outside storage, including without limitation, storage of trucks and other vehicles, is prohibited without Landlord's prior written consent. Tenant will maintain the Premises in a clean and healthful condition, and comply with all laws, ordinances, orders, rules and regulations of any governmental entity with reference to the use, condition, configuration or occupancy of the Premises. Tenant shall not place a load on any floor exceeding the floor load per square foot, which such floor was designed to carry. Tenant shall not, and shall not allow its contractors, agents, servants, employees, customers, licensees and invitees to bring into the Building or the Premises any dangerous or hazardous materials, except for customary office and cleaning supplies, provided Tenant uses, stores and disposes of the same in compliance with all applicable law. Tenant, at its expense, will comply with the rules and regulations of the Building attached hereto as **Exhibit B** and such other rules and regulations adopted and altered by Landlord from time-to-time and will cause all of its contractors, agents, servants, employees, customers, licensees and invitees to do so. All such changes to rules and regulations will be reasonable and shall be sent by Landlord to Tenant in writing. In the event of a conflict between the rules and regulations and the terms of this Lease, the terms of this Lease shall control. Landlord shall not knowingly enforce the rules and regulations against Tenant in a discriminatory manner.

4. **Rent**

A. Tenant covenants to pay to Landlord during the Lease Term, without any setoff or deduction except as otherwise expressly provided herein, the full amount of all Base Rent and Additional Rent due hereunder and the full amount of all such other sums of money as shall become due under this Lease, all of which hereinafter may be collectively called "**Rent**." In addition, Tenant shall pay, as Additional Rent, all rent, sales and use taxes or other similar taxes, if any, levied or imposed by any city, state, county or other governmental body having authority, such payments to be in addition to all other payments required to be paid to Landlord by Tenant under this Lease. Such payments shall be paid concurrently with the payments of the Rent on which the tax is based. Base Rent and Additional Rent for each calendar year or portion thereof during the Lease Term, shall be due and payable in advance in monthly installments on the first day of each calendar month during the Lease Term, without demand. If the Lease Term commences on a day other than the first day of a month or terminates on a day other than the last day of a month, then the installments of Base Rent and Additional Rent for such month or months shall be prorated, based on the number of days in such month. All amounts received by Landlord from Tenant hereunder shall be applied first to the earliest accrued and unpaid Rent then outstanding. Tenant's covenant to pay Rent shall be independent of every other covenant set forth in this Lease.

B. To the extent allowed by law, all installments of Rent not paid when due shall bear interest at the Default Rate from the date due until paid and shall incur a "**Late Charge**" equal to four percent (4%) of such unpaid amount which shall be incurred by

Tenant to Landlord on the fifth (5th) day after the date the unpaid amount was due and payable.

C. The Additional Rent payable hereunder shall be adjusted from time-to-time in accordance with the provisions of **Exhibit C** attached hereto.

5. **Intentionally Omitted.**

6. **Utilities**

Tenant shall pay for all water, gas, heat, light, power, telephone, sewer, sprinkler charges and other utilities and services used on or from the Premises, together with any taxes, penalties, surcharges or the like pertaining thereto and any maintenance charges for utilities, as well as shall furnish all electric light bulbs and tubes. To the extent possible, all utility services will be separately metered to the Premises and placed in Tenant's name. If it is not possible to place a utility service on a separate meter in Tenant's name, then all costs associated with the provision of such utility service to the Premises will, at Landlord's option, either: (a) be billed directly by Landlord to Tenant and paid by Tenant within 30 days after receipt of such billing; or (b) included as part of Basic Costs and paid by Tenant in accordance with the provisions of **Exhibit C** attached hereto. The failure by Landlord to any extent to furnish, or the interruption or termination of utilities in whole or in part, resulting from adherence to laws, regulations and administrative orders, wear, use, repairs, improvements, alterations or any other cause shall not render Landlord liable in any respect nor be construed as a constructive eviction of Tenant, nor give rise to an abatement of rent, nor relieve Tenant from the obligation to fulfill any covenant or agreement hereof. Landlord shall have the right at any time and from time-to-time during the Lease Term to designate the provider of electrical service to the Project as Landlord shall elect (each being an "**Electric Service Provider**"). Tenant shall cooperate with Landlord, and the applicable Electric Service Provider, at all times and, as reasonably necessary, shall allow Landlord and such Electric Service Provider reasonable access to the Building's electric lines, feeders, wiring, and any other machinery within the Premises.

7. **Signage**

Tenant shall not make any changes to the exterior of the Premises, install any exterior lights, decorations, balloons, flags, pennants, banners, or painting, or erect or install any signs, windows or door lettering, placards, decorations, or advertising media of any type which can be viewed from the exterior of the Premises, without Landlord's prior written consent. Notwithstanding the foregoing, Tenant shall be permitted to place one (1) sign at the entry of the Tenant's suite, one (1) sign on the Building, and one (1) sign on the to-be-constructed monument sign, meeting criteria and at a location previously approved by Landlord. Tenant shall deliver sign drawings submissions, which shall include the following: Signage incorporated into elevation, letter size, typical letter section, method of wiring and mounting, colors and materials. The sign location on the monument shall be equitably allocated by Landlord among its other tenants and shall be based on Tenant's pro-rata share of its Premises in the Building. All signs installed by

Tenant shall be subject to any applicable governmental laws, ordinances, regulations, the sign criteria for the Project, and Landlord's or other architectural controls and other requirements. Tenant shall maintain all signs upon the Premises and the Building in good condition and repair. Tenant shall pay all costs associated with any signage installed by Tenant, including without limitation, installation expenses, maintenance and repair costs, utilities and insurance. Tenant agrees that Landlord shall have the right, after notice to Tenant, to temporarily remove and replace any of Tenant's signage in connection with and during the course of any repairs, changes, alterations, modifications, renovations or additions to the Building. Upon surrender or vacation of the Premises, Tenant shall remove all signs and repair, paint, and/or replace the building facia surface to which its signs are attached. All signs, blinds, draperies and other window treatment or bars or other security installations visible from outside the Premises shall be subject to Landlord's approval and conform in all respects to Landlord's requirements.

8. **Maintenance, Repairs and Alterations**

A. Except to the extent such obligations are imposed upon Landlord hereunder, Tenant shall, at its sole cost and expense, maintain the Premises in good order, condition and repair throughout the entire Lease Term, ordinary wear and tear excepted, including but not limited to, windows, glass, plate glass doors, any special office entry, interior walls and finish work, floors and floor covering, heating and air conditioning systems, lighting, electrical systems, dock boards, truck doors, and door bumpers. Tenant agrees to keep the areas visible from outside the Premises in a neat, clean and attractive condition at all times. Tenant shall be responsible for repair, maintenance and replacement, if necessary, of the HVAC system and equipment serving the Premises. All such repairs, replacements or alterations shall be performed in accordance with Section 8.C below and the rules, policies and procedures reasonably enacted by Landlord from time to time for the performance of work in the Building. Tenant shall, at its own costs and expense, enter into a regularly scheduled preventive maintenance/service contract with a maintenance contractor for servicing all hot water, heating and air conditioning systems and equipment within or exclusively serving the Premises. The maintenance contractor and the contract must be approved by Landlord, which approval shall not be unreasonably withheld. The service contract must include all services suggested by the equipment manufacturer within the operation/maintenance manual and must become effective (and a copy thereof delivered to Landlord) within thirty (30) days of the date Tenant takes possession of the Premises and provide for service not less than a quarterly basis. Additionally, the service contract must provide that a copy of all service reports shall be delivered to Landlord promptly. At least 14 days before the end of the Lease Term, Tenant shall deliver to Landlord a certificate from an engineer reasonably acceptable to Landlord certifying that the hot water equipment and the HVAC system are then in good repair and working order. Tenant shall, at Tenant's sole cost and expense, provide janitorial service to the Premises and contract for trash removal and pest control for the Premises. If Tenant fails to maintain the Premises in good order, condition and repair, Landlord shall give Tenant notice to perform such acts as are reasonably required to so maintain the Premises. If Tenant fails to promptly commence such work and diligently pursue it to its completion, then Landlord may, at its option, make such repairs, and Tenant shall pay the cost thereof to Landlord on demand as Additional Rent, together with an administration charge in an

amount equal to ten percent (10%) of the cost of such repairs. Tenant shall, within thirty (30) days after Landlord's written demand therefor, reimburse Landlord for the cost of all repairs, replacements and alterations (collectively, "**Repairs**") in and to the Premises, Building and Project and the facilities and systems thereof, plus any administration charge of ten percent of such cost, the need for which Repairs arises out of (1) Tenant's use or occupancy of the Premises, (2) the installation, removal, use or operation of Tenant's Property (hereinafter defined) or Alterations (hereinafter defined), or (3) the act, omission, misuse or negligence of Tenant, its contractors, agents, servants, employees, customers, licensees and invitees.

B. Landlord shall keep and maintain in good repair and working order and make all repairs to and perform necessary maintenance upon the roof, foundation and exterior walls of the Building, reasonable wear and tear excepted. The term "walls" as used herein shall not include windows, glass or plate glass, doors, special storefronts or office entries. Tenant shall immediately give Landlord written notice of the need for repairs, after which Landlord shall have reasonable opportunity to repair same. Landlord shall also maintain in good repair and condition the parking areas and other Common Areas of the Project, including, but not limited to driveways, alleys, landscape and grounds. Tenant will be responsible for the payment of all costs associated with Landlord's maintenance if the need therefor arises due to the fault or negligence of Tenant or its contractors, agents, servants, employees, customers, licensees and invitees. Except as otherwise expressly provided in this Section 8.B, Landlord will not at any time be required to make any improvements, repairs, replacements or alterations to the Premises.

C. Tenant shall not make or allow to be made any alterations, additions or improvements to the Premises (collectively, "**Alterations**"), without first obtaining the written consent of Landlord. Prior to commencing any Alterations and as a condition to obtaining Landlord's consent, Tenant shall deliver to Landlord plans and specifications acceptable to Landlord; names and addresses of contractors reasonably acceptable to Landlord; copies of contracts; necessary permits and approvals; evidence of contractor's and subcontractor's insurance in accordance with Section 11 hereof; and a payment bond or other security, all in form and amount satisfactory to Landlord. Tenant shall be responsible for ensuring that all such persons procure and maintain insurance coverage against such risks, in such amounts and with such companies as Landlord may reasonably require. All Alterations shall be constructed in a good and workmanlike manner using Building standard materials or other new materials of equal or greater quality. Landlord, to the extent reasonably necessary to avoid any disruption to the tenants and occupants of the Building, shall have the right to designate the time when any Alterations may be performed and to otherwise designate reasonable rules, regulations and procedures for the performance of work in the Building. Upon completion of the Alterations, Tenant shall deliver to Landlord "as-built" plans, contractor's affidavits and full and final waivers of lien and receipted bills covering all labor and materials. All Alterations shall comply with the insurance requirements and with applicable codes, ordinances, laws and regulations. Tenant shall reimburse Landlord upon demand for all reasonable sums, if any, expended by Landlord for third party examination of the architectural, mechanical, electrical and plumbing plans for any Alterations. In addition, if Landlord so requests, Landlord shall be

entitled to oversee the construction of any Alterations that may affect the structure of the Building or any of the mechanical, electrical, plumbing or life safety systems of the Building. If Landlord elects to oversee such work, Landlord shall be entitled to receive a fee for such oversight in an amount equal to five percent (5%) of the cost of such Alterations. Landlord's approval of Tenant's plans and specifications for any Alterations performed for or on behalf of Tenant shall not be deemed to be a representation by Landlord that such plans and specifications comply with applicable insurance requirements, building codes, ordinances, laws or regulations or that the Alterations constructed in accordance with such plans and specifications will be adequate for Tenant's use. Tenant may, without the consent of Landlord, but at its own cost and expense and in a good workmanlike manner, erect such shelves, bins, machinery, and trade fixtures (together with any other personal property brought into the Premises by Tenant, collectively, "**Tenant's Property**") as it may deem advisable, without altering the basic character of the Building or improvements and without overloading or damaging such Building or improvements, and in each case complying with all applicable governmental laws, ordinances, regulations and other requirements. All Alterations and partitions erected by Tenant shall be and remain the property of Tenant during the term of this Lease, and Tenant shall, unless Landlord otherwise elects as hereinafter provided, remove all Alterations and partitions erected by Tenant and restore the Premises to its original condition by the date of termination of this Lease or upon earlier vacating of the Premises; provided, however, that if Landlord so elects prior to termination of this Lease or upon earlier vacating of the Premises, such Alterations and/or partitions shall become the property of Landlord as of the date of termination of this Lease or upon earlier vacating of the Premises and shall be delivered up to the Landlord with the Premises. All of Tenant's Property may be removed by Tenant prior to the termination of this Lease, and all of Tenant's Property and all electronic, phone and data cabling exclusively serving the Premises (whether such cabling is located within or outside of the Premises) shall be removed by the date of termination of this Lease or upon earlier vacating of the Premises. Any removal by Tenant shall be accomplished in a good workmanlike manner so as not to damage the primary structure or structural qualities of the Building. If Tenant fails to remove any of the foregoing items or to perform any required repairs and restoration, (i) Landlord, at Tenant's sole cost and expense, may remove the same (and repair any damage occasioned thereby) and dispose thereof or deliver such items to any other place of business of Tenant, or warehouse the same, and Tenant shall pay the cost of such removal, repair, delivery, or warehousing of such items within five (5) days after demand from Landlord and (ii) such failure shall be deemed a holding over by Tenant under Section 21 hereof until such failure is rectified by Tenant or Landlord.

9. **Assignment and Subletting**

A. Except in connection with a Permitted Transfer (defined in Section 9E below), Tenant shall not assign, sublease, transfer or encumber any interest in this Lease or allow any third party to use any portion of the Premises (collectively or individually, a "**Transfer**") without the prior written consent of Landlord. Without limitation, it is agreed that Landlord's consent may be withheld if: (1) the proposed transferee's financial condition is not adequate for the obligations such transferee is assuming in connection

with the proposed Transfer; (2) the transferee's business or reputation is not suitable for the Project considering the business and reputation of the other tenants and the Project's prestige, or would result in a violation of another tenant's rights under its lease at the Project; (3) the transferee is a governmental agency or occupant of the Project; (4) Tenant is in default beyond any applicable notice and cure period; (5) any portion of the Project or the Premises would likely become subject to additional or different laws as a consequence of the proposed Transfer; or (6) Landlord or its leasing agent has received a proposal from or made a proposal to the proposed transferee to lease space in the Project within six (6) months prior to Tenant's delivery of written notice of the proposed Transfer to Landlord. Any attempted Transfer in violation of this Section 9, shall, exercisable in Landlord's sole and absolute discretion, be void. Consent by Landlord to one or more Transfers shall not operate as a waiver of Landlord's rights to approve any subsequent Transfers. If Landlord withholds its consent to any Transfer contrary to the provisions of this Section 9, Tenant's sole remedy shall be to seek an injunction in equity to compel performance by Landlord to give its consent and Tenant expressly waives any right to damages in the event of such withholding by Landlord of its consent. In no event shall any Transfer or Permitted Transfer release or relieve Tenant from any obligation under this Lease or any liability hereunder.

B. If Tenant requests Landlord's consent to a Transfer, Tenant shall submit to Landlord (i) financial statements for the proposed transferee, (ii) a copy of the proposed assignment or sublease, and (iii) such other information as Landlord may reasonably request. After Landlord's receipt of the required information and documentation, Landlord shall either: (1) consent or reasonably refuse consent to the Transfer in writing; (2) in the event of a proposed assignment of this Lease, terminate this Lease effective the first to occur of ninety (90) days following written notice of such termination or the date that the proposed Transfer would have come into effect; and (3) in the event of a proposed subletting, terminate this Lease with respect to the portion of the Premises which Tenant proposes to sublease effective the first to occur of ninety (90) days following written notice of such termination or the date the proposed Transfer would have come into effect. Tenant shall pay Landlord a review fee of \$1,000.00 for Landlord's review of any Permitted Transfer or proposed Transfer. In addition, Tenant shall reimburse Landlord for its actual reasonable costs and expenses (including, without limitation, reasonable attorney's fees) incurred by Landlord in connection with Landlord's review of such proposed Transfer or Permitted Transfer.

C. Tenant shall pay to Landlord one hundred percent (100%) of all cash and other consideration which Tenant receives as a result of a Transfer that is in excess of the rent payable to Landlord hereunder for the portion of the Premises and Lease Term covered by the Transfer within ten (10) days following receipt thereof by Tenant.

D. Except as provided below with respect to a Permitted Transfer, if Tenant is a corporation, limited liability company, partnership or similar entity, and the person, persons or entity which owns or controls a majority of the voting interests at the time changes for any reason (including but not limited to a merger, consolidation or reorganization), such change of ownership or control shall constitute a Transfer. The

foregoing shall not apply so long as Tenant is an entity whose outstanding stock is listed on a nationally recognized security exchange, or if at least eighty percent (80%) of its voting stock is owned by another entity, the voting stock of which is so listed.

E. Tenant may assign its entire interest under this Lease or sublet the Premises (i) to any entity controlling or controlled by or under common control with Tenant or (ii) to any successor to Tenant by purchase, merger, consolidation or reorganization (hereinafter, collectively, referred to as "**Permitted Transfer**") without the consent of Landlord, provided: (1) Tenant is not in default under this Lease; (2) if such proposed transferee is a successor to Tenant by purchase, said proposed transferee shall acquire all or substantially all of the stock or assets of Tenant's business or, if such proposed transferee is a successor to Tenant by merger, consolidation or reorganization, the continuing or surviving entity shall own all or substantially all of the assets of Tenant; (3) with respect to a Permitted Transfer to a proposed transferee described in clause (ii), such proposed transferee shall have a net worth which is at least equal to the greater of Tenant's net worth at the date of this Lease or Tenant's net worth as of the day prior to the proposed purchase, merger, consolidation or reorganization as evidenced to Landlord's reasonable satisfaction; and (4) Tenant shall give Landlord written notice at least thirty (30) days prior to the effective date of the proposed purchase, merger, consolidation or reorganization.

10. **Mechanic's Liens**

Tenant has no express or implied authority to create or place any lien or encumbrance of any kind upon, or in any manner to bind the interest of Landlord or Tenant in, the Premises or the Project or to charge the rentals payable hereunder for any claim in favor of any person dealing with Tenant, including those who may furnish materials or perform labor for any construction or repairs. Tenant covenants and agrees that it will pay or cause to be paid all sums due and payable by it on account of any labor performed or materials furnished in connection with any work performed on the Premises and that it will save and hold Landlord harmless from all loss, cost or expense (including without limitation, reasonable attorneys' fees) based on or arising out of asserted claims or liens against the leasehold estate or against the interest of Landlord in the Premises or under this Lease. If a lien is attached to the Project or any part thereof, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to, discharge the same. Any amount paid by Landlord for any of the aforesaid purposes including, but not limited to, reasonable attorneys' fees, shall be paid by Tenant to Landlord within thirty (30) days after demand as Additional Rent. Tenant shall within ten (10) days of receiving such notice of lien or claim have such lien or claim released of record. Tenant's failure to comply with the provisions of the foregoing sentence shall be deemed an Event of Default entitling Landlord to exercise all of its remedies therefor without the requirement of any additional notice or cure period.

11. **Insurance**

A. Tenant shall procure and maintain, at its expense, (i) all-risk (special form) property insurance in an amount equal to the full replacement cost of Tenant's personal property and for damage to others property located in the Premises, which property policy

shall also provide rent loss coverage for the Base Rent and Additional Rent for a period of one (1) year; (ii) a policy or policies of general liability and umbrella or excess liability insurance including bodily injury and property damage applying to Tenant's operations and use of the Premises, providing a minimum limit of \$5,000,000.00 per occurrence and \$10,000,000.00 in the (annual) aggregate, naming Landlord and Landlord's project manager as additional insureds, (iii) automobile liability insurance covering Tenant's owned, non-owned and hired vehicles against any losses arising out of liability for personal injuries or deaths of persons and property damage in an amount not less than a combined single limit of \$1,000,000.00 per accident, and (iv) workers' compensation insurance covering Tenant's employment of workers and anyone for whom Tenant may be liable for workers' compensation claims (workers' compensation insurance is required and no alternative forms of insurance are permitted) and employer's liability insurance in an amount not less than \$1,000,000.00 each accident, \$1,000,000.00 disease-each employee and policy limit, with the insurance policies required under this clause, (v) if tenant handles, stores or utilizes materials, substances, or wastes regulated by local, state, or federal laws, pollution legal liability insurance (with limits reasonably acceptable to Landlord), (vi) during any period of construction which any alterations are being made, builder's risk of installation floater coverage in an amount equal to or greater than the cost of such alterations or other work or improvements performed on the Premises by Tenant or Tenant's contractor; provided, however, that in the event that such builder's risk coverage is required, such coverage may be provided through the so-called "course of construction" coverage provided in the property insurance policy described above, and Tenant shall cause such "course of construction" coverage to provide coverage in an amount equal to or greater than \$5,000,000.00, (vii) to be endorsed to waive the insurance carriers' right of subrogation. Tenant shall maintain the foregoing insurance coverages in effect commencing on the earlier to occur of the Commencement Date and the date Tenant takes possession of the Premises, and continuing to the end of the Lease Term.

B. The insurance requirements set forth in this Section 11 are independent of the waiver, indemnification, and other obligations under this Lease and will not be construed or interpreted in any way to restrict, limit or modify the waiver, indemnification and other obligations or to in any way limit any party's liability under this Lease. In addition to the requirements set forth in Sections 11 and 12, the insurance required of Tenant under this Lease must be issued by an insurance company with a rating of no less than A or A- in the current Best's Insurance Guide or that is otherwise acceptable to Landlord, and admitted to engage in the business of insurance in the state in which the Building is located; be primary insurance for all claims under it and provide that any insurance carried by Landlord, Landlord's Project manager, and Landlord's lenders is strictly excess, secondary and noncontributing with any insurance carried by Tenant; and provide that insurance may not be cancelled, nonrenewed or the subject of change in coverage of available limits of coverage, except upon thirty (30) days' prior written notice to Landlord and Landlord's lenders. Tenant will deliver to Landlord a legally enforceable certificate of insurance on all policies procured by Tenant in compliance with Tenant's obligations under this Lease on or before the date Tenant first occupies any portion of the Premises, at least ten (10) days before the expiration date of any policy and upon the renewal of any policy. Landlord shall have the right to approve all deductibles and self-

insured retentions under Tenant's policies, which approval shall not be unreasonably withheld, conditioned or delayed.

C. If Tenant's business operations, conduct or use of the Premises or any other part of the Project causes an increase in the premium for any insurance policy carried by Landlord, Tenant will, within ten (10) days after receipt of written notice from Landlord, reimburse Landlord for the entire increase.

D. Notwithstanding anything to the contrary set forth herein, neither Landlord nor Tenant shall be liable (by way of subrogation or otherwise) to the other party (or to any insurance company insuring the other party) for any loss or damage to any of the property of Landlord or Tenant, as the case may be, with respect to their respective property, the Building, the Project or the Premises or any addition or improvements thereto, or any contents therein, to the extent covered by insurance carried or required to be carried by a party hereto even though such loss might have been occasioned by the negligence or willful acts or omissions of the Landlord or Tenant or their respective contractors, agents, servants, employees, customers, licensees and invitees. Landlord and Tenant shall give each insurance company which issues policies of insurance, with respect to the items covered by this waiver, written notice of the terms of this mutual waiver, and shall have such insurance policies properly endorsed, if necessary, to prevent the invalidation of any of the coverage provided by such insurance policies by reason of such mutual waiver. For the purpose of the foregoing waiver, the amount of any deductible applicable to any loss or damage shall be deemed covered by, and recoverable by the insured under the insurance policy to which such deductible relates.

12. **Indemnity**

To the extent not expressly prohibited by law, and except to the extent caused by Landlord's gross negligence, neither Landlord nor Landlord's Project manager nor any of their respective officers, directors, employees, members, managers, contractors, agents, servants, customers, licensees, invitees or direct or indirect owners shall be liable to Tenant, or to Tenant's contractors, agents, servants, employees, customers, licensees and invitees for any injury to person or damage to property caused by any act, omission, or neglect of Tenant, its contractors, agents, servants, employees, customers, licensees and invitees or by any other person entering the Building or upon the Project under the invitation of Tenant or arising out of the use of the Project, Building or Premises by Tenant and the conduct of its business or out of a default by Tenant in the performance of its obligations hereunder. Tenant hereby indemnifies and holds Landlord and Landlord's Project manager and their respective officers, directors, employees, members, managers, contractors, agents, servants, customers, licensees, invitees, direct or indirect owners of Landlord and any lender holding a mortgage or deed of trust encumbering the Land ("**Indemnities**"), harmless from all liability and claims for any property damage, or bodily injury or death of, or personal injury to, a person in or on the Premises, or at any other place, including the Project or the Building and this indemnity shall be enforceable to the full extent, whether or not such liability and claims are the result of the joint or concurrent acts, negligent or intentional (but not the gross negligence or willful misconduct) of the Indemnitees. Notwithstanding the terms of

this Lease to the contrary, the terms of this Section shall survive the expiration or earlier termination of this Lease.

13. **Damages from Certain Causes**

To the extent not expressly prohibited by law, Landlord shall not be liable to Tenant or Tenant's contractors, agents, servants, employees, customers, licensees and invitees for any injury to person or damage to property sustained by Tenant or any such party or any other person claiming through Tenant resulting from any accident or occurrence in the Premises or any other portion of the Building caused by the Premises or any other portion of the Building becoming out of repair or by defect in or failure of equipment, pipes, or wiring, or by broken glass, or by the backing up of drains, or by gas, water, steam, electricity, or oil leaking, escaping or flowing into the Premises (except where due to Landlord's grossly negligent or willful failure to make repairs required to be made pursuant to other provisions of this Lease, after the expiration of a reasonable time after written notice to Landlord of the need for such repairs), even if such damage results from the negligence of Landlord or its partners or their respective partners, members, contractors, agents, servants, employees, customers, licensees and invitees, nor shall Landlord be liable to Tenant for any loss or damage that may be occasioned by or through the acts or omissions of other tenants of the Building or of any other persons whomsoever, including, but not limited to riot, strike, insurrection, war, court order, requisition, order of any governmental body or authority, acts of God, fire or theft.

14. **Casualty Damage**

If the Premises or any part thereof shall be damaged by fire or other casualty, Tenant shall give prompt written notice thereof to Landlord. In case the Building shall be so damaged that substantial alteration or reconstruction of the Building shall, in Landlord's sole opinion, be required (whether or not the Premises shall have been damaged by such casualty) or in the event there is less than two (2) years of the Lease Term remaining or in the event Landlord's mortgagee should require that the insurance proceeds payable as a result of a casualty be applied to the payment of the mortgage debt or in the event of any material uninsured loss to the Building, Landlord may, at its option, terminate this Lease by notifying Tenant in writing of such termination within ninety (90) days after the date of such casualty. If Landlord does not thus elect to terminate this Lease, Landlord shall commence and proceed with reasonable diligence to restore the Building to substantially the same condition in which it was immediately prior to the happening of the casualty. Notwithstanding the foregoing, Landlord's obligation to restore the Building shall not require Landlord to expend for such repair and restoration work more than the insurance proceeds actually received by Landlord as a result of the casualty. Tenant shall promptly repair the damage to or destruction of its improvements to substantially the condition existing immediately prior to such damage or destruction and shall pay all costs not covered by its insurance. Landlord shall not be liable for any inconvenience or annoyance to Tenant or injury to the business of Tenant resulting in any way from such damage or the repair thereof.

15. **Condemnation**

If the whole or any substantial part of the Premises or if the Building or any portion thereof which would leave the remainder of the Building unsuitable for use comparable to its use on the Commencement Date, or if the land on which the Building is located or any material portion thereof, shall be taken or condemned for any public or quasi-public use under governmental law, ordinance or regulation, or by right of eminent domain, or by private purchase in lieu thereof, then Landlord may, at its option, terminate this Lease and Rent shall be abated during the unexpired portion of this Lease, effective when the physical taking of said Premises or said portion of the Building or land shall occur. If this Lease is not terminated, the rent for any portion of the Premises so taken or condemned shall be abated during the unexpired Lease Term effective when the physical taking of said portion of the Premises shall occur. All compensation awarded for any taking or condemnation, or sale proceeds in lieu thereof, shall be the property of Landlord, and Tenant shall have no claim thereto, the same being hereby expressly waived by Tenant, except for any portions of such award or proceeds which are specifically allocated by the condemning or purchasing party for the taking of or damage to trade fixtures of Tenant and moving costs, which Tenant specifically reserves to itself.

16. **Events of Default**

The following events shall be deemed to be "**Events of Default**" under this Lease: (i) Tenant fails to pay any Rent when due; provided that the first (1st) such failure during any calendar year during the Term shall not be an Event of Default if Tenant pays the amount due within five (5) days after Tenant's receipt of written notice from Landlord such payment was not made when due, (ii) Tenant fails to perform any other provision of this Lease not described in this Section 16, and such failure is not cured within thirty (30) days (or immediately if the failure involves a hazardous condition) after notice from Landlord, however, other than with respect to a hazardous condition, if Tenant's failure to comply cannot reasonably be cured within thirty (30) days, Tenant shall be allowed additional time (not to exceed thirty (30) additional days) as is reasonably necessary to cure the failure so long as Tenant begins the cure within thirty (30) days and diligently pursues the cure to completion; (iii) Tenant fails to observe or perform any of the covenants with respect to (a) assignment and subletting as set forth in Section 9, (b) mechanic's liens as set forth in Section 10, (c) insurance as set forth in Section 11 or (d) delivering subordination agreements or estoppel certificates as set forth in Section 22, (iv) the leasehold interest of Tenant is levied upon or attached under process of law; (v) Tenant or any guarantor of this Lease dies or dissolves; (vi) Tenant abandons or vacates the Premises; or (vii) any voluntary or involuntary proceedings are filed by or against Tenant or any guarantor of this Lease under any bankruptcy, insolvency or similar laws and, in the case of any involuntary proceedings, are not dismissed within sixty (60) days after filing.

17. **Remedies**

A. Upon the occurrence of any Event of Default, Landlord shall have the following rights and remedies, in addition to those allowed by law or equity, any one or more of which may be exercised without further notice to or demand upon Tenant and which may be pursued successively or cumulatively as Landlord may elect:

- (1) Landlord may re-enter the Premises and attempt to cure any default of Tenant, in which event Tenant shall, upon demand, reimburse Landlord as Additional Rent for all reasonable costs and expenses which Landlord incurs to cure such default;
- (2) Landlord may terminate this Lease by giving to Tenant notice of Landlord's election to do so, in which event the Lease Term shall end, and all right, title and interest of Tenant hereunder shall expire, on the date stated in such notice;
- (3) Landlord may terminate the right of Tenant to possession of the Premises without terminating this Lease by giving notice to Tenant that Tenant's right to possession shall end on the date stated in such notice, whereupon the right of Tenant to possession of the Premises or any part thereof shall cease on the date stated in such notice; and
- (4) Landlord may enforce the provisions of this Lease by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy, including recovery of all moneys due or to become due from Tenant under any of the provisions of this Lease.

Landlord shall not be required to serve Tenant with any notices or demands as a prerequisite to its exercise of any of its rights or remedies under this Lease, other than those notices and demands specifically required under this Lease or by applicable law. Landlord may, without notice, remove and either dispose of or store, at Tenant's expense, any property belonging to Tenant that remains in the Premises after Landlord has regained possession thereof. **TENANT EXPRESSLY WAIVES THE SERVICE OF ANY STATUTORY DEMAND OR NOTICE WHICH IS A PREREQUISITE TO LANDLORD'S COMMENCEMENT OF EVICTION PROCEEDINGS AGAINST TENANT, INCLUDING THE DEMANDS AND NOTICES SPECIFIED IN ANY APPLICABLE STATE STATUTE OR CASE LAW. TENANT KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY LAWSUIT BROUGHT BY LANDLORD TO RECOVER POSSESSION OF THE PREMISES FOLLOWING LANDLORD'S TERMINATION OF THIS LEASE OR THE RIGHT OF TENANT TO POSSESSION OF THE PREMISES PURSUANT TO THE TERMS OF THIS LEASE AND ON ANY CLAIM FOR DELINQUENT RENT WHETHER OR NOT LANDLORD JOINS SUCH CLAIM IN ITS LAWSUIT TO RECOVER POSSESSION. LANDLORD IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THE FOREGOING WAIVER.**

B. If Landlord exercises either of the remedies provided in Sections 17A(2) or 17A(3), Tenant shall surrender possession and vacate the Premises and immediately deliver possession thereof to Landlord, and Landlord may re-enter and take complete and peaceful possession of the Premises, with process of law, and Landlord may remove all

occupants and property therefrom, using such force as may be necessary to the extent allowed by law, without being deemed guilty in any manner of trespass, eviction or forcible entry and detainer and without relinquishing Landlord's right to Rent or any other right given to Landlord hereunder or by operation of law.

C. If Landlord terminates the right of Tenant to possession of the Premises without terminating this Lease, Landlord shall have the right to immediate recovery of all amounts then due hereunder. Such termination of possession shall not release Tenant, in whole or in part, from Tenant's obligation to pay Rent hereunder for the full Lease Term, and Landlord shall have the right, from time to time, to recover from Tenant, and Tenant shall remain liable for, all Rent accruing as it becomes due under this Lease during the period from the date of such notice of termination of possession to the stated end of the Lease Term. In any such case, Landlord shall make reasonable efforts, in accordance with Section 17E hereof, to relet the Premises. In attempting to relet the Premises, Landlord may make repairs, alterations and additions in or to the Premises and redecorate the same to the extent reasonably deemed by Landlord necessary or desirable, and Tenant upon demand shall pay the reasonable cost of all of the foregoing together with Landlord's reasonable expenses of reletting. The rents from any such reletting shall be applied first to the payment of the expenses of reentry, redecoration, repair and alterations and the expenses of reletting (including reasonable attorneys' fees and brokers' fees and commissions) and second to the payment of Rent herein provided to be paid by Tenant. Any excess or residue shall operate only as an offsetting credit against the amount of Rent due and owing as the same thereafter becomes due and payable hereunder.

D. If this Lease is terminated by Landlord, Landlord shall be entitled to recover from Tenant all Rent accrued and unpaid for the period up to and including such termination date, as well as all other additional sums payable by Tenant, or for which Tenant is liable or for which Tenant has agreed to indemnify Landlord, which may be then owing and unpaid, and all reasonable costs and expenses, including court costs and reasonable attorneys' fees incurred by Landlord in the enforcement of its rights and remedies hereunder. In addition, Landlord shall be entitled to recover as damages for loss of the bargain and not as a penalty (1) the unamortized portion of any concessions offered by Landlord to Tenant in connection with this Lease, including without limitation Landlord's contribution to the cost of tenant improvements, if any, installed by either Landlord or Tenant pursuant to this Lease or any work letter in connection with this Lease, (2) the aggregate sum which at the time of such termination represents the excess, if any, of the present value of the aggregate Rent which would have been payable after the termination date had this Lease not been terminated, including, without limitation, the amount projected by Landlord to represent Additional Rent for the remainder of the Lease Term, over the then present value of the then aggregate fair rent value of the Premises for the balance of the Lease Term, such present worth to be computed in each case on the basis of a ten percent (10%) per annum discount from the respective dates upon which such Rent would have been payable hereunder had this Lease not been terminated, and (3) any damages in addition thereto, including without limitation reasonable attorneys' fees and court costs, which Landlord sustains as a result of the breach of any of the covenants of this Lease other than for the payment of Rent.

E. Landlord shall use commercially reasonable efforts to mitigate any damages resulting from an Event of Default by Tenant under this Lease. Landlord's obligation to mitigate damages after an Event of Default by Tenant under this Lease shall be satisfied in full if Landlord undertakes to lease the Premises to another tenant (a "**Substitute Tenant**") in accordance with the following criteria: (1) Landlord shall have no obligation to solicit or entertain negotiations with any other prospective tenants 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; (2) Landlord shall not be obligated to lease or show the Premises, on a priority basis, or offer the Premises to a prospective tenant when other premises in the Project suitable for that prospective tenant's use are (or soon will be) available; (3) Landlord shall not be obligated to lease the Premises to a Substitute Tenant for a rent less than the current fair market rent then prevailing for similar uses in comparable buildings in the same market area as the Building, 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 in the Project; (4) Landlord shall not be obligated to enter into a lease with a Substitute Tenant whose use would: (i) violate any restriction, covenant, or requirement contained in the lease of another tenant of the Project; (ii) adversely affect the reputation of the Project; or (iii) be incompatible with the operation of the Project; and (5) Landlord shall not be obligated to enter into a lease with any proposed Substitute Tenant which does not have, in Landlord's reasonable opinion, sufficient financial resources to operate the Premises in a first class manner and to fulfill all of the obligations in connection with the lease thereof as and when the same become due.

F. The receipt by Landlord of less than the full Rent due shall not be construed to be other than a payment on account of Rent then due, nor shall any statement on Tenant's check or any letter accompanying Tenant's check be deemed an accord and satisfaction, and Landlord may accept such payment without prejudice to Landlord's right to recover the balance of the Rent due or to pursue any other remedies provided in this Lease. The acceptance by Landlord of Rent hereunder shall not be construed to be a waiver of any breach by Tenant of any term, covenant or condition of this Lease. No act or omission by Landlord or its employees, contractors, agents, servants, employees, customers, licensees and invitees during the term of this Lease shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept such a surrender shall be valid unless in writing and signed by Landlord.

G. In the event of any litigation between Tenant and Landlord to enforce or interpret any provision of this Lease or to enforce any right of either party hereto, the unsuccessful party to such litigation shall pay to the successful party all costs and expenses, including reasonable attorney's fees, incurred therein.

H. All property of Tenant removed from the Premises by Landlord pursuant to any provision of this Lease or applicable law may be handled, removed or stored by Landlord at the cost and expense of Tenant, and Landlord shall not be responsible in any event for the value, preservation or safekeeping thereof. Tenant shall pay Landlord for

all expenses incurred by Landlord with respect to such removal and storage so long as the same is in Landlord's possession or under Landlord's control. All such property not removed from the Premises or retaken from storage by Tenant within thirty (30) days after the end of the Lease Term or termination of Tenant's right to possession of the Premises, however terminated, at Landlord's option, shall be conclusively deemed to have been conveyed by Tenant to Landlord by bill of sale with general warranty of title without further payment or credit by Landlord to Tenant.

18. **No Waiver**

Failure of either party to declare any default immediately upon its occurrence, or delay in taking any action in connection with an event of default, shall not constitute a waiver of such default, nor shall it constitute an estoppel against the non-defaulting party, but the non-defaulting party shall have the right to declare the default at any time and take such action as is lawful or authorized under this Lease. Failure by non-defaulting party to enforce its rights with respect to any one default shall not constitute a waiver of its rights with respect to any subsequent default.

19. **Peaceful Enjoyment**

Tenant shall, and may peacefully have, hold, and enjoy the Premises, subject to the other terms hereof, provided that Tenant pays the Rent and other sums herein recited to be paid by Tenant and timely performs all of Tenant's covenants and agreements herein contained.

20. **INTENTIONALLY OMITTED**

21. **Holding Over**

If Tenant continues to occupy the Premises after the expiration or other termination of this Lease or the termination of Tenant's right of possession, such occupancy shall be that of a tenancy at sufferance. Tenant shall, throughout the entire holdover period, be subject to all the terms and provisions of this Lease and shall pay for its use and occupancy an amount (on a per month basis without reduction for any partial months during any such holdover) equal to two hundred percent (200%) of such Base Rent and Additional Rent thereafter during such holdover; provided, however, in the event Tenant provides written notice to Landlord of its holdover at least ninety (90) days prior to the expiration of the Lease Term, then Tenant shall pay one hundred fifty percent (150%) of the Base Rent and Additional Rent due under this Lease during the first ninety (90) days of such holdover period. No holding over by Tenant or payments of money by Tenant to Landlord after the expiration of the Lease Term shall be construed to extend the Lease Term or prevent Landlord from recovery of immediate possession of the Premises by summary proceedings or otherwise Tenant shall also be liable to Landlord for all direct and consequential damages which Landlord may suffer by reason of any holding over by Tenant.

22. **Subordination to Mortgage; Estoppel Certificate**

A. Tenant accepts this Lease subject and subordinate to any ground lease, mortgage, deed of trust or other lien presently existing or hereafter arising upon the Premises, or upon the Building or the Project and to any renewals, modifications,

replacements, refinancings and extensions thereof, but Tenant agrees that any such mortgagee shall have the right at any time to subordinate such mortgage, deed of trust or other lien to this Lease on such terms and subject to such conditions as such mortgagee may deem appropriate in its discretion. Notwithstanding anything to the contrary contained herein, the provisions of the foregoing sentence shall be self-operative and no further instrument of subordination shall be required. If Landlord's interest in the Premises, Building, Land and/or Project is acquired by any ground lessor, beneficiary under a deed of trust, mortgagee, or purchaser at a foreclosure sale, or pursuant to a transfer in lieu of foreclosure, then at such person's or entity's election, Tenant shall attorn to the transferee of or successor to Landlord's interest in such Premises, Building and Project and recognize such transferee or successor as Landlord under this Lease, provided that said transferee shall not be liable for any act or omission of any prior landlord or be subject to any offsets or defenses which Tenant may have against any prior landlord. Tenant waives the protection of any applicable law which gives or purports to give Tenant any right to terminate this Lease or surrender possession of the Premises upon the transfer of Landlord's interest. Tenant agrees within ten (10) days after written demand to execute such further instruments subordinating this Lease or attorning to the holder of any such liens as Landlord may request. If Tenant fails to execute any subordination or other agreement or certificate required by this Section promptly as requested, Tenant hereby irrevocably constitutes Landlord as its attorney-in-fact to execute such instrument in Tenant's name, place and stead, it being agreed that such power is coupled with an interest in Landlord and is accordingly irrevocable. Tenant agrees that it shall from time-to-time furnish within ten (10) days after so requested by Landlord, a certificate signed by Tenant certifying as to such matters as may be reasonably requested by Landlord. Any such certificate may be relied upon by any ground lessor, prospective purchaser, secured party, mortgagee or any beneficiary under any mortgage, deed of trust on the Building or the Project or any part thereof or interest of Landlord therein.

B. Tenant shall give written notice of any failure by Landlord to perform any of its obligations under this Lease to Landlord and to any ground lessor, mortgagee or beneficiary under any deed of trust encumbering the Premises, Building or Project whose name and address have been furnished to Tenant in writing. Upon such notice, such party receiving the notice shall be permitted and shall have the option, in its sole and absolute discretion, to cure any such default during the period of time during which the Landlord would be permitted to cure such default, but in any event such ground lessor, mortgagee or beneficiary, as applicable, shall have a period of thirty (30) days after the receipt of such notification to cure such default; provided, however, that in the event such ground lessor, mortgagee or beneficiary is unable to cure the default by exercise of reasonable diligence within such 30-day period, such party shall have such additional period of time as may be reasonably required to remedy such default with reasonable dispatch.

23. Notice

Any notice required or permitted to be given under this Lease or by law shall be deemed to have been given if it is written and delivered in person or mailed by Registered or Certified mail, postage prepaid, or sent by a nationally recognized overnight delivery service to the party who is to

receive such notice at the address specified in Section 1 of this Lease (and, if no address is listed for Tenant, notices to Tenant shall be delivered to the Premises). When so mailed, the notice shall be deemed to have been given two (2) Business Days after the date it was mailed. When sent by overnight delivery service, the notice shall be deemed to have been given on the next Business Day after deposit with such overnight delivery service. The address specified in Section 1 of this Lease may be changed from time to time by giving written notice thereof to the other party.

24. **Surrender of Premises**

Upon the termination of the Lease Term, or upon any termination of Tenant's right to possession of the Premises, Tenant will at once surrender possession of the Premises to Landlord in good condition and repair, ordinary wear and tear excepted. Tenant shall surrender to Landlord all keys to the Premises and make known to Landlord the combination of all combination locks which Tenant is required to leave on the Premises.

25. **Rights Reserved to Landlord**

Landlord reserves the following rights, exercisable without notice, except as provided herein, and without liability to Tenant for damage or injury to property, person or business and without affecting an eviction or disturbance of Tenant's use or possession or giving rise to any claim for setoff or abatement of rent or affecting any of Tenant's obligations under this Lease: (1) upon thirty (30) days' prior notice to change the name or street address of the Building; (2) to install and maintain signs on the exterior and interior of the Building; (3) to designate and approve window coverings to present a uniform exterior appearance; (4) to retain at all times and to use in appropriate instances, pass keys to all locks within and to the Premises; (5) to approve the weight, size, or location of heavy equipment, or articles within the Premises; (6) to change the arrangement and location of public parts of the Project; (7) to regulate access to telephone, electrical and other utility closets in the Building and to require use of designated contractors for any work involving access to the same; (8) if Tenant has vacated the Premises during the last six (6) months of the Lease Term, to perform additions, alterations and improvements to the Premises in connection with a reletting or anticipated reletting thereof without being responsible or liable for the value or preservation of any then existing improvements to the Premises and without effectuating a surrender or entitling Tenant to any abatement of Rent; (9) to grant to anyone the exclusive right to conduct any business or undertaking in the Building provided Landlord's exercise of its rights under this clause (9), shall not be deemed to prohibit Tenant from the operation of its business in the Premises; (10) to enter the Premises to inspect the same or to show the Premises to prospective purchasers, mortgagees, tenants (during the last twelve months of the Lease Term) or insurers, or to clean or make repairs, alterations or additions thereto, provided that, except for any entry in an emergency situation, Landlord shall provide Tenant with reasonable prior notice of any entry into the Premises; and (11) to temporarily close the Premises or the Building to perform repairs, alterations or additions in the Premises or the Building. In exercising its rights under this Section 25, Landlord shall make commercially reasonable efforts to avoid unreasonably interfering with Tenant's business operations in the Premises.

26. **Miscellaneous**

A. If any term or provision of this Lease, or the application thereof, shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

B. Tenant agrees not to record this Lease or any short form or memorandum hereof.

C. This Lease and the rights and obligations of the parties hereto shall be interpreted, construed, and enforced in accordance with the laws of the state in which the Building is located.

D. The term "**Force Majeure**" shall mean strikes, riots, acts of God, shortages of labor or materials, war, acts of terrorism, governmental laws, regulations or restrictions, or any other cause whatsoever beyond the control of Landlord or Tenant, as the case may be. Whenever a period of time is herein prescribed for the taking of any action by Landlord or Tenant (other than the payment of Rent and all other such sums of money as shall become due hereunder), such party shall not be liable or responsible for, and there shall be excluded from the computation of such period of time, any delays due to events of Force Majeure.

E. Except as expressly otherwise herein provided, with respect to all required acts of Tenant, time is of the essence of this Lease.

F. Landlord shall have the right to transfer and assign, in whole or in part, all of its rights and obligations hereunder and in the Building and Project referred to herein, and in such event and upon such transfer Landlord shall be released from any further obligations hereunder, and Tenant agrees to look solely to such successor in interest of Landlord for the performance of such obligations.

G. Tenant hereby represents to Landlord that it has dealt directly with and only with the Broker as a broker in connection with this Lease. Landlord and Tenant hereby indemnify and hold each other harmless against any loss, claim, expense or liability with respect to any commissions or brokerage fees claimed by any broker or finder other than the Broker on account of the execution and/or extension of this Lease due to any action of the indemnifying party.

H. If there is more than one Tenant, or if Tenant as such is comprised of more than one person or entity, the obligations hereunder imposed upon Tenant shall be joint and several obligations of all such parties. All notices, payments, and agreements given or made by, with or to any one of such persons or entities shall be deemed to have been given or made by, with or to all of them.

I. Tenant acknowledges that the financial capability of Tenant to perform its obligations hereunder is material to Landlord and that Landlord would not enter into this

Lease but for its belief, based on its review of Tenant's financial statements, that Tenant is capable of performing such financial obligations. Tenant hereby represents, warrants and certifies to Landlord that its financial statements previously furnished to Landlord were at the time given true and correct in all material respects and that there have been no material subsequent changes thereto as of the date of this Lease. Tenant, within 90 days after the end of Tenant's fiscal year, shall provide Landlord with an audited financial statement and such other information as Landlord may reasonably request in order to create a "business profile" of Tenant and determine Tenant's ability to fulfill its obligations under this Lease.

J. Notwithstanding anything to the contrary contained in this Lease, the expiration of the Lease Term, whether by lapse of time or otherwise, shall not relieve Tenant from Tenant's obligations accruing prior to the expiration of the Lease Term, and such obligations shall survive any such expiration or other termination of the Lease Term.

K. Landlord and Tenant understand, agree and acknowledge that (i) this Lease has been freely negotiated by both parties; and (ii) in any controversy, dispute or contest over the meaning, interpretation, validity, or enforceability of this Lease or any of its terms or conditions, there shall be no inference, presumption, or conclusion drawn whatsoever against either party by virtue of that party having drafted this Lease or any portion thereof.

L. The headings and titles to the paragraphs of this Lease are for convenience only and shall have no affect upon the construction or interpretation of any part hereof. The term "including" shall be deemed to mean "including without limitation".

M. Tenant and its principals, agents, employees and attorneys agree to keep the financial terms of this lease strictly confidential and shall not disclose directly or indirectly those terms to any other person or entity without first obtaining prior written consent of Landlord.

27. **No Offer**

Landlord has delivered a copy of this Lease to Tenant for Tenant's review only, and the delivery hereof does not constitute an offer to Tenant or an option. This Lease shall not be effective until an original of this Lease executed by both Landlord and Tenant is delivered to and accepted by Landlord, and this Lease has been approved by Landlord's mortgagee, if required.

28. **Entire Agreement**

This Lease, including the Exhibits attached hereto, which Exhibits A through F are made a part hereof as if fully set forth herein, constitutes the entire agreement between the parties hereto with respect to the subject matter of this Lease and supersedes all prior agreements and understandings between the parties related to the Premises, including all lease proposals, letters of intent and similar documents. Tenant expressly acknowledges and agrees that Landlord has not made and is not making, and Tenant, in executing and delivering this Lease, is not relying upon, any warranties, representations, promises or statements, except to the extent that the same are expressly set forth in this Lease. This Lease may be modified only by a written agreement signed

by Landlord and Tenant. LANDLORD AND TENANT EXPRESSLY AGREE THAT THERE ARE AND SHALL BE NO IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, ALL OF WHICH ARE HEREBY WAIVED BY TENANT, AND THAT THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THOSE EXPRESSLY SET FORTH IN THIS LEASE.

29. **Limitation of Liability**

Any liability of Landlord under this Lease shall be limited solely to its interest in the Project, and in no event shall any personal liability be asserted against Landlord, its members, or their respective members, partners, shareholders, officers, directors, agents or employees, in connection with this Lease nor shall any recourse be had to any other property or assets of Landlord, its members, or their respective members, partners, shareholders, officers, directors, agents or employees. In no event shall Landlord be liable for consequential or special damages as a result of a breach or default under this Lease.

30. **Hazardous Substances**

A. Tenant hereby represents and covenants to Landlord the following: No toxic or hazardous substances, materials or wastes, pollutants or contaminants, (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, radon, and any hazardous substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601-9657, as amended ("**CERCLA**") (collectively, "**Environmental Pollutants**") other than customary office supplies and cleaning supplies stored and handled within the Premises in accordance with all applicable laws, will be generated, treated, stored, released or disposed of, or otherwise placed, deposited in or located on the Project, and no activity shall be taken on the Project, by Tenant, its contractors, agents, servants, employees, customers, licensees and invitees, that would cause or contribute to (i) the Project or any part thereof to become a generation, treatment, storage or disposal facility within the meaning of or otherwise bring the Project within the ambit of the Resource Conservation and Recovery Act of 1976 ("**RCRA**"), 42 U.S.C. 5901 et. seq., or any similar state law or local ordinance, (ii) a release or threatened release of toxic or hazardous wastes or substances, pollutants or contaminants, from the Project or any part thereof within the meaning of, or otherwise result in liability in connection with the Project within the ambit of CERCLA, or any similar state law or local laws or ordinances, or (iii) the discharge of pollutants or effluents into any water source or system, the dredging or filling of any waters, or the discharge into the air of any emissions, that would require a permit under the Federal Water Pollution Control Act, 33 U.S.C. 1251 et. seq., or the Clean Air Act, 42 U.S.C. 7401 et. seq., or any similar state law or local ordinance, or (iv) the violation of any environmental law, regulation, ordinance or order now existing or hereafter enacted, (v) any matter giving rise to liability under any common law theory based in nuisance or strict liability.

B. Tenant expressly waives, to the extent allowed by law, any claims under federal, state or other law that Tenant might otherwise have against Landlord relating to the condition of such Project or the Premises or the Alterations or personal property located thereon or the presence in or contamination of the Project or the Premises by hazardous materials. Tenant agrees to indemnify and hold Indemnitees (as defined in Section 12) harmless from and against and to reimburse Indemnitees with respect to, any and all claims, demands, causes of action, loss, damage, liabilities, costs and expenses (including attorneys' fees and court costs) of any and every kind or character, known or unknown, fixed or contingent, asserted against or incurred by Landlord at any time and from time-to-time by reason of or arising out of the breach of any representation or covenant contained in Section 30.A above.

C. Tenant shall immediately notify Landlord in writing of any release or threatened release of toxic or hazardous wastes or substances, pollutants or contaminants of which Tenant has knowledge whether or not the release is in quantities that would require under law the reporting of such release to a governmental or regulatory agency.

D. Tenant shall also immediately notify Landlord in writing of, and shall contemporaneously provide Landlord with a copy of:

(1) Any written notice of release of hazardous wastes or substances, pollutants or contaminants on the Project that is provided by Tenant or any subtenant or other occupant of the Premises to a governmental or regulatory agency;

(2) Any notice of a violation, or a potential or alleged violation, of any Environmental Law (hereinafter defined) that is received by Tenant or any subtenant or other occupant of the Premises from any governmental or regulatory agency;

(3) Any inquiry, investigation, enforcement, cleanup, removal, or other action that is instituted or threatened by a governmental or regulatory agency against Tenant or any subtenant or other occupant of the Premises and that relates to the release or discharge of hazardous wastes or substances, pollutants or contaminants on or from the Project;

(4) Any claim that is instituted or threatened by any third-party against Tenant or any subtenant or other occupant of the Premises and that relates to any release or discharge of hazardous wastes or substances, pollutants or contaminants on or from the Project; and

(5) Any notice of the loss of any environmental operating permit by Tenant or any subtenant or other occupant of the Premises.

E. As used herein "Environmental Laws" mean all present and future federal, state and municipal laws, ordinances, rules and regulations applicable to environmental and

ecological conditions, and the rules and regulations of the U.S. Environmental Protection Agency, and any other federal, state or municipal agency, or governmental board or entity relating to environmental matters.

31. Declaration

Tenant shall comply with the terms of the Declaration. Tenant acknowledges that the Project is subject to certain easements, restrictions and covenants set forth in the Declaration.

32. Anti-Terrorism Certification

Landlord and Tenant each represents and warrants to each other as to itself and any beneficial owner of it that; (i) it is not listed on the Special Designated Nationals and Blocked Persons list as maintained and updated by the United States Treasury Department Office of Foreign Asset Control, (ii) it is not an entity with whom Anti-Terrorism Laws (as hereinafter defined) would prohibit one from doing business, (iii) it will not violate Anti-Terrorism Laws, and (iv) it is not and will not do business with any person or entity that would violate Anti-Terrorism Laws. Landlord and Tenant each covenants that it shall indemnify, hold harmless and defend the other party from and against any and all claims, losses, damages, costs and expenses arising out of or in any way relating to the violation of any Anti-Terrorism Laws regardless of whether such violation constitutes a breach of the representations, warranties, covenants and agreements set forth in this paragraph including, but not limited to: (a) claims of third parties (including governmental agencies) for damages, penalties, response costs, or other relief; and (b) any and all expenses or obligations incurred at, before and after any trial or appeal therefrom, including without limitation, reasonable attorneys' fees and other expenses. Anti-Terrorism Laws for purposes hereof, shall mean, collectively, (a) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56) (the "USA Patriot Act"), (b) Executive Order No. 13224: Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective September 24, 2001, (c) the International Emergency Economic Power Act, 50 U.S.C. § 1701 *et. seq.*, and (d) any other legal requirements relating to money laundering or terrorism.

33. Consequential Damages.

Notwithstanding anything in this Lease to the contrary, except as otherwise provided in **Section 21** (Holdover) Section 30 (Hazardous Substances), **Section 32** (Anti-Terrorism) hereinabove or in this **Section 33**, without affecting the rights or remedies of Tenant or Landlord to recovery of actual, direct and proximate damages, neither Tenant nor Landlord shall be liable to the other or its contractors, agents, servants, employees, customers, licensees and invitees for any consequential, incidental, indirect, punitive, exemplary or special damages (collectively, "Consequential Damages") related to or arising out of the obligations under this Lease or any breach or default thereof. The provisions of this Section shall expressly survive the termination of this Lease

34. **Additional Provisions.** The additional provisions set forth on **Exhibit E** are attached hereto and made a part hereof.

35. **Intentionally Omitted.**

36. **Construction Work.**

Landlord and Tenant shall comply with the provision of **Exhibit D** attached hereto and made a part hereof in connection with the construction obligations of Landlord and Tenant related to the **improvements to be constructed on the Property.**

37. **Special Stipulations.** The special stipulations set forth on Exhibit F are attached hereto and made a part hereof.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the day and year first above written.

LANDLORD:

221 ROGERS, LLC, an Indiana
limited liability company

By: _____ (seal)

Name: James C. Carlino

Title: Manager

TENANT:

WAKE COUNTY, a _____

By: _____ (seal)

Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: James C. Carlino, Manager of 221 Rogers, LLC.

Date: _____

Official Signature of Notary

Notary's printed or typed name, Notary Public
My commission expires: _____

STATE OF _____

COUNTY OF _____

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: _____, _____.

Date: _____

Official Signature of Notary

Notary's printed or typed name, Notary Public
My commission expires: _____

EXHIBIT A

OUTLINE AND LOCATION OF PREMISES

EXHIBIT A-1

LEGAL DESCRIPTION OF LAND

EXHIBIT B

RULES AND REGULATIONS

The following rules and regulations shall apply, where applicable, to the Premises, the Building, Common Areas, the parking areas associated therewith (if any), the Project and the appurtenances thereto:

1. Sidewalks, entrances, passageways and courts in and about the Project shall not be obstructed nor shall objects be placed against glass partitions, doors or windows which would be unsightly from the exterior of the Building.

2. Plumbing, fixtures and appliances shall be used for only the purpose for which they were designed and no foreign substance of any kind whatsoever shall be thrown or placed therein. Damage resulting to any such fixtures or appliances from misuse by Tenant or its contractors, agents, servants, employees, customers, licensees and invitees, shall be paid for by Tenant and Landlord shall not in any case be responsible therefor.

3. Any sign, lettering, picture, notice or advertisement installed within the Premises which is visible from the public corridors within the Building shall be installed in such manner, and be of such character and style, as Landlord shall approve, in writing in its reasonable discretion. No sign, lettering, picture, notice or advertisement shall be placed on any outside window or door or in a position to be visible from outside the Building.

4. Tenant shall not place any additional lock or locks on any door in the Premises or Building without Landlord's prior written consent. A reasonable number of keys to the locks on the doors in the Premises shall be furnished by Landlord to Tenant at the cost of Tenant, and Tenant shall not have any duplicate keys made. All keys and passes shall be returned to Landlord at the expiration or earlier termination of this Lease. Tenant shall have access to the Premises and the Common Areas of the Building 24 hours a day, 7 days a week.

5. Tenant shall refer all contractors, contractors' representatives and installation technicians to Landlord for Landlord's supervision, approval and control before the performance of any contractual services. This provision shall apply to all work performed in the Building including, but not limited to installation of telephones, electrical devices and attachments, doors, entranceways, and any and all installations of every nature affecting floors, walls, window trim, ceilings, equipment and any other physical portion of the Building.

6. Tenant shall cause all doors to the Premises to be closed and securely locked before leaving the Building at the end of the day.

7. Tenant shall keep all electrical and mechanical apparatus owned by Tenant free of vibration, noise and airwaves which may be transmitted beyond the Premises.

8. Canvassing, soliciting and peddling in or about the Building or Project is prohibited. Tenant shall cooperate and use its best efforts to prevent the same.

9. Tenant shall not use the Premises in any manner which would overload the heating, ventilating or air conditioning systems.

10. Tenant shall not utilize any equipment or apparatus in such manner as to create any magnetic fields or waves which adversely affect or interfere with the operation of any systems or equipment in the Building or Project.

11. Tenant shall not operate or permit to be operated on the Premises any coin or token operated vending machine or similar device (including, without limitation, telephones, lockers, toilets, scales, amusements devices and machines for sale of beverages, foods, candy, cigarettes or other goods), except for those vending machines or similar devices which are for the sole and exclusive use of Tenant's employees.

12. To the extent permitted by law, Tenant shall not permit picketing or other union activity involving its employees or agents in the Building or on the Project, except in those locations and subject to time and other constraints as to which Landlord may give its prior written consent, which consent may be withheld in Landlord' sole discretion.

13. Tenant shall comply with all applicable laws, ordinances, governmental orders or regulations and applicable orders or directions from any public office or body having jurisdiction, with respect to the Premises, the Building, the Project and their respective use or occupancy thereof. Tenant shall not make or permit any use of the Premises, the Building or the Project, respectively, which is directly or indirectly forbidden by law, ordinance, governmental regulation or order, or direction of applicable public authority, or which may be dangerous to person or property.

14. Tenant shall not use or occupy the Premises in any manner or for any purpose which would injure the reputation or impair the present or future value of the Premises, the Building or the Project; without limiting the foregoing, Tenant shall not use or permit the Premises or any portion thereof to be used for lodging, sleeping or for any illegal purpose.

15. Tenant shall carry out Tenant's permitted repair, maintenance, alterations, and improvements in the Premises in a manner which will not interfere with the rights of other tenants in the Building.

16. Landlord may from time to time adopt appropriate systems and procedures for the security or safety of the Building, its occupants, entry and use, or its contents. Tenant, Tenant's contractors, agents, servants, employees, customers, licensees and invitees shall comply with Landlord's reasonable requirements thereto.

17. Landlord shall have the right to prohibit the use of the name of the Building or any other publicity by Tenant that in Landlord's opinion may tend to impair the reputation of the Building or its desirability for Landlord or its other tenants. Upon written notice from Landlord, Tenant will refrain from and/or discontinue such publicity immediately.

18. Neither Tenant nor any of its contractors, agents, servants, employees, customers, licensees and invitees shall smoke in any area designated by Landlord (whether through the

posting of a "no smoking" sign or otherwise) as a "no smoking" area. In no event shall Tenant or any of its contractors, agents, servants, employees, customers, licensees and invitees smoke at the entrances to the Building. Landlord reserves the right to designate, from time to time, additional areas of the Building and the Project as "no smoking" areas and to designate the entire Building and the Project as a "no smoking" area.

19. Tenant, its officers, contractors, agents, servants, employees, customers, licensees and invitees shall not bring into the Premises or keep on Premises any fish, fowl, reptile, insect or animal without the prior written consent of the Landlord.

20. Neither Tenant nor any officer, agent, employee, servant, patron, customer, visitor, licensee or invitee of any Tenant shall go upon the roof of the Building, without the written consent of the Landlord.

21. Tenant shall not maintain armed security in or about the Premises.

22. Upon expiration or earlier termination of this Lease, in addition to the requirements under the terms the Lease, Tenant shall ensure that:

- a. All interior and exterior lights and bulbs are operational.
- b. All exhaust, ceiling and overhead fans are operational.
- c. Warehouse floor areas are broom swept and clean of all trash and materials.
- d. Warehouse floor areas are cleaned of oils, fluids and other foreign materials.
- e. All electrical, plumbing and other utilities which are terminated are disconnected, capped and/or terminated according to applicable building codes and all other governmental requirements.
- f. All electrical and telecommunications conduit and wiring installed by or for Tenant specifically for Tenant's equipment is removed to the originating panel if Landlord so requires.
- g. Overhead interior and exterior doors are operational and in good condition.
- h. Any bolts secured to the floor are cut off flush and sealed with epoxy.
- i. Warehouse fencing or partitions are removed if Landlord so requires.
- j. All furniture, trash and debris are removed.
- k. All signs and pictures, posters, signage, stickers and all similar items of Tenant and any other occupant of the Premises are removed from all walls, windows, doors and all other interior and exterior surfaces of the Premises and other locations of the Project.

- l. All carpet areas are vacuumed.
- m. All uncarpeted office floors are swept, and any excess wax build-up on tile and vinyl floors is properly removed.
- n. All computer cable and conduit installed by or for Tenant is removed to point of origin.
- o. All windows and miscellaneous hardware are operational and in good condition.
- p. All HVAC and mechanical systems and equipment are operational and in good condition.
- q. Ceiling tiles, grid, light lenses, air grills and diffusers are in place with no holes or stains.
- r. There are no broken windows or other glass items.
- s. Bathroom walls, floors, and fixtures are clean and in good condition.
- t. All plumbing fixtures are intact, operational free of leaks and in good condition.
- u. All gutters and downspouts are undamaged and operational.
- v. Walls (internal and external) are clean and any holes are properly and permanently patched.

[END OF EXHIBIT B]

EXHIBIT C

PAYMENT OF BASIC COSTS

A. During each calendar year, or portion thereof, falling within the Lease Term (including without limitation during the period of the Delivery Date through December 31, 2016). Tenant shall pay to Landlord as Additional Rent hereunder Tenant's Pro Rata Share of Basic Costs (as defined below) for the applicable calendar year. Notwithstanding the foregoing, for purposes of computing Tenant's Pro Rata Share of Basic Costs, commencing with the first full calendar year of the Lease Term, the Controllable Basic Costs (hereinafter defined) shall not increase by more than 5% per calendar year on a compounding and cumulative basis over the course of the Lease Term. In other words, Controllable Basic Costs for the second full calendar year of the Lease Term shall not exceed 105% of the Controllable Basic Costs for the first full calendar year of the Lease Term. Controllable Basic Costs for the third full calendar year of the Lease Term shall not exceed 105% of the limit on Controllable Basic Costs for the second full calendar year of the Lease Term, etc. By way of illustration, if Controllable Basic Costs were \$1.00 per square foot for the first full calendar year of the Lease Term, then Controllable Basic Costs for the second full calendar year of the Lease Term shall not exceed \$1.05 per square foot, and Controllable Basic Costs for the third full calendar year of the Lease Term shall not exceed \$1.1025 per square foot. "Controllable Basic Costs" are those Basic Costs exclusive of the cost of Taxes, utilities, management fees, insurance, taxes, employment costs based upon the minimum wage (including benefits), any costs Landlord is required to incur to comply with any rule, code, law, regulation, or ordinance adopted or promulgated after the date hereof (or new or different interpretations of any of the foregoing adopted or promulgated after the date hereof) of any governmental authority or agency with jurisdiction over the Project, or any expense increase arising from the unionization of any service rendered to the Project. Prior to the Commencement Date, or as soon as practical thereafter, and prior to January 1 of each calendar year during the Lease Term, or as soon as practical thereafter, Landlord shall make a good faith estimate of Basic Costs for the applicable full or partial calendar year and Tenant's Pro Rata Share thereof. On or before the first day of each month during such calendar year, Tenant shall pay Landlord, as Additional Rent, a monthly installment equal to one-twelfth of Tenant's Pro Rata Share of Landlord's estimate of Basic Costs. Landlord shall have the right from time to time during any such calendar year to reasonably revise the estimate of Basic Costs for such year and provide Tenant with a revised statement therefor (provided, however, Landlord agrees that Landlord shall not issue a revised statement more than twice in any calendar year), and thereafter the amount Tenant shall pay each month shall be based upon such revised estimate. If Landlord does not provide Tenant with an estimate of the Basic Costs by January 1 of any calendar year, Tenant shall continue to pay a monthly installment based on the previous year's estimate until such time as Landlord provides Tenant with an estimate of Basic Costs for the current year. Upon receipt of such current year's estimate, an adjustment shall be made for any month during the current year with respect to which Tenant paid monthly installments of Additional Rent based on the previous year's estimate. Tenant shall pay Landlord for any underpayment within thirty (30) days after Landlord's written demand. Any overpayment of Additional Rent shall, at Landlord's option, be refunded to Tenant or credited against the installment(s) of Additional Rent next

coming due under the Lease. Any amount paid by Tenant based on any estimate shall be subject to adjustment pursuant to Paragraph B below.

B. As soon as is practical following the end of each calendar year during the Lease Term, Landlord shall furnish to Tenant a statement of Landlord's actual Basic Costs for the previous calendar year. If for any calendar year the Additional Rent collected for the prior year, as a result of Landlord's estimate of Basic Costs, is in excess of Tenant's actual Pro Rata Share of Basic Costs for such prior year, then Landlord shall refund to Tenant any overpayment (or at Landlord's option apply such amount against Additional Rent due or to become due hereunder). Likewise, Tenant shall pay to Landlord, within thirty (30) days after Landlord's written demand, any underpayment with respect to the prior year whether or not the Lease has terminated prior to receipt by Tenant of a statement for such underpayment, it being understood that this clause shall survive the expiration of the Lease.

C. "**Basic Costs**" shall mean all direct and indirect costs, expenses paid and disbursements of every kind (subject to the limitations set forth below), which Landlord incurs, pays or becomes obligated to pay in each calendar year in connection with operating, maintaining, repairing, owning and managing the Building and the Project, including a management fee to an affiliate of Landlord in the amount of three percent (3%) of gross revenues received from the Building. Basic Costs shall include, without limitation, insurance premiums and deductibles, Taxes and the amortized cost of capital improvements made to the Building or the Project which are (i) primarily for the purpose of reducing operating expense costs or otherwise improving the operating efficiency of the Project or Building; or (ii) required to comply with any laws, rules or regulations of any governmental authority or a requirement of Landlord's insurance carrier; or (iii) primarily for the purpose of improving security at the Project or the Building. The cost of such capital improvements shall be amortized over the useful life thereof, as reasonably determined by Landlord, and shall, at Landlord's option, include interest at a rate that is reasonably equivalent to the interest rate that Landlord would be required to pay to finance the cost of the capital improvement in question as of the date such capital improvement is performed. With respect to Basic Costs which Landlord allocates to the entire Project, Tenant's Pro Rata Share shall be the percentage set forth in Section 1 as Tenant's Pro Rata Share of the Project, and with respect to Basic Costs which Landlord allocates only to the Building, Tenant's Pro Rata Share shall be the percentage set forth in Section 1 as Tenant's Pro Rata Share of the Building.

D. Basic Costs shall not include the following: (i) costs of alterations of tenant spaces (including all tenant improvements to such spaces); (ii) costs of capital improvements, except as provided in Paragraph C above; (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 marketing expenses; (v) costs or other services or work performed for the singular benefit of another tenant or occupant (other than for Common Areas); (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; (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; and (x) rental under any ground or underlying lease or leases.

E. "**Taxes**" shall mean (i) all real estate taxes and assessments on the Project, the Building or the Premises, and taxes and assessments levied in substitution or supplementation in whole or in part of such taxes, (ii) all personal property taxes for the Building's personal property, including license expenses, (iii) all taxes imposed on services of Landlord's agents and employees, (iv) all sales, use or other tax, excluding state and/or federal income tax now or hereafter imposed by any governmental authority upon rent received by Landlord, (v) all other taxes, fees or assessments now or hereafter levied by any governmental authority on the Project, the Building or its contents or on the operation and use thereof (except as relate to specific tenants), and (vi) all reasonable costs and fees incurred in connection with seeking reductions in or refunds in Taxes including, without limitation, any costs incurred by Landlord to challenge the tax valuation of the Building or Project, but excluding income taxes. Estimates of real estate taxes and assessments for any calendar year during the Lease Term shall be determined based on Landlord's good faith estimate of the real estate taxes and assessments. Taxes and assessments hereunder are those accrued with respect to such calendar year, as opposed to the real estate taxes and assessments paid or payable for such calendar year.

F. If the Building and the other buildings in the Project are not at least ninety-five percent (95%) occupied, in the aggregate, during any calendar year of the Lease Term, actual Basic Costs for purposes hereof shall, at Landlord's option, be determined as if the Building and such other buildings in the Project had been ninety-five percent (95%) occupied during such year.

G. Tenant shall have the right to inspect, at reasonable times and in a reasonable manner, during the thirty (30) day period following the delivery of Landlord's statement of the actual amount of Basic Costs, such of Landlord's books of account and records as pertain to and contain information concerning such costs and expenses in order to verify the amounts thereof. Tenant agrees that any information obtained during an inspection by Tenant of Landlord's books of account and records shall be kept in confidence by Tenant and its agents and employees and shall not be disclosed to any other parties, except to Tenant's attorneys, accountants and other consultants. Any parties retained by Tenant to inspect Landlord's books of account and records shall not be compensated on a contingency fee basis. If Tenant shall not dispute any item or items included in the determination of Basic Costs for a particular calendar year by delivering a written notice to Landlord generally describing in reasonable detail the basis of such dispute within sixty (60) days after the statement for such year was delivered to it, Tenant shall be deemed to have approved such statement. During the pendency of any dispute over Basic Costs, Tenant shall pay, under protest and without prejudice, Tenant's Pro Rata Share of Basic Costs as calculated by Landlord.

[END OF EXHIBIT C]

EXHIBIT D

LANDLORD'S WORK, PLANS AND SPECIFICATIONS

Landlord, at Landlord's expense, shall, using Building Standard materials and finishes, construct or cause the construction of the improvements in accordance with the building space plan described in the attached exhibit attached hereto and made a part hereof as Exhibit D-1 which shall be further detailed in the Approved Plans described below (the "Scope of Work") and to be described in the plans and specifications prepared by Landlord and approved by Tenant and based on the construction budget (collectively, the "**Construction Plans**") to be attached hereto as Exhibit D-2 and incorporated herein by this reference (the "**Landlord's Work**"). All preliminary space planning, architectural, engineering and permitting costs for the development of the plans and specifications and Approved Plans are part of Landlord's Work; provided, however, that Landlord's Work shall not exceed the construction allowance in the amount of Twenty-Eight and 85/100 Dollars per square foot (\$28.85/SF).

All work necessary to prepare the Property for initial occupancy by Tenant that is not expressly included in Landlord's Work shall be referred to herein as "**Tenant's Work**". Landlord shall have no obligation to perform the Tenant's Work, if any. Tenant's Work shall include and Tenant shall be responsible, at its cost and expense, for the installation, repair and maintenance of all information technology systems serving the Premises and for any security and access control systems serving the Premises.

Landlord shall prepare the initial plans and specifications in accordance with the Scope of Work and Tenant shall cooperate with Landlord in meeting the milestone dates set forth in the schedule outlined by Landlord. Following the review of the plans and specifications, Landlord and Tenant shall initial two (2) sets of the approved Construction Plans (the "**Approved Plans**"). The Approved Plans shall be incorporated into the construction contract for the completion of Landlord's Work. Landlord shall be under no obligation to commence Landlord's Work (or cause its contractor to commence such work) until Landlord and Tenant have agreed upon the Approved Plans. Once the Approved Plans are incorporated into the construction contract (the "Construction Contract"), Landlord shall not amend or modify the Construction Contract or enter into any change orders if such amendment, modification or change order would modify or amend the Approved Plans in any material respect or increase the cost to the Tenant. Landlord shall cause the Tenant's Work to be performed substantially in accordance with the Approved Plans and otherwise in accordance with the Construction Contract.

The "**Delivery Date**" shall be the date upon which Landlord's Work is substantially complete in accordance with the Construction Plans and the Construction Contract, a Certificate of Substantial Completion has been issued by Landlord's project architect on the appropriate AIA form, and any and all certificates, releases, permits or other approvals for occupancy of the Property have been received from all applicable government bodies and agencies, subject to delineated "punch-list" items that do not prevent Tenant from occupying and using the Property for the Permitted Use. On the Delivery Date, Tenant shall have full occupancy of the Property, subject to all of the terms and conditions of this Lease. Landlord shall correct any "punch-list" items within sixty (60) days after receipt of notice from Tenant during the six (6) month period following the Delivery Date. Landlord shall give Tenant a written notice on or about one

hundred eighty (180) days prior to the date that Landlord reasonably estimates that the Delivery Date shall occur. Thereafter, Landlord shall give Tenant a written notice setting forth the anticipated Delivery Date at least sixty (60) days prior to the Delivery Date (the "**Delivery Notice**"). Subject to Force Majeure and Tenant Delays, Landlord shall use commercially reasonable efforts to complete Landlord's Work and deliver the Property as provided for above on or before the Target Delivery Date.

Tenant may have access to the Property four (4) weeks prior to the Delivery Date in order to measure and program space or prepare the Property for occupancy, install furniture, fixtures and equipment; provided, however: (x) such early access by Tenant shall not unreasonably interfere with or delay the performance of Landlord's Work in any way and shall be subject to Landlord's prior written consent which shall not be unreasonably withheld, delayed or conditioned; (y) Tenant shall indemnify Landlord from any damage or liability to the extent caused by such early access by Tenant or Tenant's contractors, contractors, agents, servants, employees, customers, licensees and invitees; and (z) Tenant shall provide Landlord proof that all insurance Tenant is required to carry under this Lease is in full force and effect on or before the date of such early access by Tenant or Tenant's contractors, contractors, agents, servants, employees, customers, licensees and invitees. In the event that any damage is caused to the Project by or as a result of Tenant's access to the Property, Tenant shall indemnify Landlord from any liability resulting from such damage and shall reimburse Landlord immediately for all reasonable costs incurred by Landlord to repair same. Landlord and Tenant shall cooperate in good faith with regard to early access.

_[END OF EXHIBIT D]

EXHIBIT D-1

SCOPE OF WORK

EXHIBIT D-2

CONSTRUCTION PLANS

EXHIBIT E

ADDITIONAL PROVISIONS

I. **Parking.**

A. During the Lease Term, Tenant shall have the right to use, in common with other tenants of the Project one hundred and seventy (170) parking spaces in the parking area and certain loading areas for the Building as shown in Exhibit E-1 attached hereto and made a part hereof. If in the reasonable opinion of Landlord, Tenant and/or its contractors, agents, servants, employees, customers, licensees and invitees are using more parking spaces than Tenant is entitled, Tenant shall immediately upon written notice from Landlord cause its employees, contractors, agents, servants, employees, customers, licensees and invitees to use only the number of parking spaces allocated to Tenant, and in the event Tenant or its contractors, agents, servants, employees, customers, licensees and invitees continue to use more parking spaces than Tenant is entitled to use after Tenant's receipt of such written notice, an Event of Default shall be deemed to have occurred under the Lease. Tenant agrees to be subject to parking restrictions that Landlord may impose from time to time and to cooperate with Landlord in Landlord's management of the surface parking at the Project, including without limitation, providing the license plate numbers of Tenant's employees parking on the Project and/or the use of parking stickers.

B. Landlord shall not be responsible for any loss, theft or damage to any articles left in any vehicle while in or being driven to or from the parking area however caused unless due to gross negligence of Landlord, its agents, servants or employees.

C. Landlord may designate the area in the parking area within which each vehicle may be parked and may make, modify and enforce reasonable rules and regulations relating to the parking of vehicles in the parking area, and Tenant agrees to abide by such rules and regulations. Overnight parking shall be restricted to Tenant's business vehicles parked in Tenant's designated loading spaces in the truck court or loading area, unless otherwise approved by Landlord. To the extent permitted by applicable law, vehicles parking in violation of this Exhibit or the rules and regulations applicable to parking may be towed at the vehicle owner's sole cost and expense.

II. **Extension Option.**

A. Tenant shall have the right to extend the Lease Term with respect to the entire Premises (the "**Extension Option**") for one (1) additional period of five (5) years (the "**Extension Term**") commencing on the day following the Expiration Date, provided that each of the following occurs:

- (i) Landlord receives notice of exercise of the Extension Option ("**Initial Extension Notice**") not less than six (6) full calendar months and not more than twelve (12) full calendar months prior to the Expiration Date; and

- (ii) Tenant is not in default under the Lease beyond any applicable cure periods at the time that Tenant delivers its Initial Extension Notice or at the time Tenant delivers its Binding Extension Notice (hereinafter defined); and
- (iii) No part of the Premises is sublet (except pursuant to a Permitted Transfer) at the time that Tenant delivers its Initial Extension Notice or at the time Tenant delivers its Binding Extension Notice; and
- (iv) The terms of the Lease shall remain the same except as set forth in this Section addressing the extended term and the Base Rate; and
- (v) The Lease has not been assigned (except pursuant to a Permitted Transfer) prior to the date that Tenant delivers its Initial Extension Notice or prior to the date Tenant delivers its Binding Extension Notice.

B. The initial Base Rent rate per square foot of the Premises during the Extension Term shall equal the Prevailing Market (hereinafter defined) rate per square foot of the Premises.

C. Tenant shall pay Additional Rent for the Premises during the Extension Term in accordance with the terms of the Lease.

D. Within thirty (30) days after receipt of Tenant's Initial Extension Notice, Landlord shall advise Tenant of the applicable Base Rent rate for the Premises for the Extension Term. Tenant, within fifteen (15) days after the date on which Landlord advises Tenant of the applicable Base Rent rate for the Extension Term, shall either (i) give Landlord final binding written notice ("**Binding Extension Notice**") of Tenant's exercise of its option, or (ii) if Tenant disagrees with Landlord's determination, provide Landlord with written notice of rejection (the "**Rejection Notice**"). If Tenant fails to provide Landlord with either a Binding Extension Notice or Rejection Notice within such fifteen (15) day period, Tenant's Extension Option shall be null and void and of no further force or effect. If Tenant provides Landlord with a Binding Extension Notice, Landlord and Tenant shall enter into the Extension Amendment (hereinafter defined) upon the terms and conditions set forth herein. If Tenant provides Landlord with a Rejection Notice, Landlord and Tenant shall work together in good faith to agree upon the Base Rent rate for the Premises during the Extension Term. Upon agreement Tenant shall provide Landlord with Binding Extension Notice and Landlord and Tenant shall enter into the Extension Amendment in accordance with the terms and conditions hereof. Notwithstanding the foregoing, if Landlord and Tenant are unable to agree upon the Base Rent rate for the Premises within thirty (30) days after the date on which Tenant provides Landlord with a Rejection Notice, Tenant's Extension Option shall be null and void and of no force or effect.

E. If Tenant is entitled to and properly exercises its Extension Option, Landlord and Tenant shall execute an amendment (the "**Extension Amendment**") to reflect changes in the Base Rent, Lease Term, Expiration Date and other appropriate terms; provided that an otherwise valid exercise of the Extension Option shall be fully effective whether or not the Extension Amendment is executed.

F. For purpose hereof, "**Prevailing Market**" rate shall mean the arm's length fair market annual rental rate per square foot under renewal leases and amendments entered into on or about the date on which the Prevailing Market is being determined hereunder for space

comparable to the Premises in the Building and in buildings comparable to the Building (i.e., construction type, clear height, parking area) with similar improvements (i.e., office percentage, 100% HVAC, electrical power) located within the Northeast Wake County Industrial submarket of the Raleigh/Durham region, and the Base Rent rate shall increase Two and 50/100 percent (2.5%) each 12-month of the Extension Term. The determination of Prevailing Market rate shall also take into consideration any reasonably anticipated changes in the Prevailing Market rate from the time such Prevailing Market rate is being determined and the time such Prevailing Market rate will become effective under this Lease.

G. The extension rights of Tenant hereunder shall not be severable from the Lease, nor may such rights be assigned or otherwise conveyed in connection with any permitted assignment of the Lease (except pursuant to a Permitted Transfer). Landlord's consent to any assignment of the Lease shall not be construed as allowing an assignment of such rights to any assignee.

[END OF EXHIBIT E]

EXHIBIT F

SPECIAL STIPULATIONS

I. **Expansion Option.** Tenant shall have an opportunity to expand the Premises by the addition of space contiguous to the Premises (ie. which shares a common demising wall with the Premises) (the "Expansion Space"). If Landlord received a bona fide written offer or proposal from a prospective tenant for a lease of all or part of the Expansion Space (which may be in the form of a non-binding letter of intent or similar document), prior to entering into any lease with such prospective tenant, Landlord shall notify Tenant of the prospective lease (and of Landlord's receipt from the prospective tenant of a written offer or proposal relating thereto which is acceptable to Landlord) and such notification from Landlord to Tenant shall identify the space to be leased, the effective rent commencement date, the term of the proposed lease, the rental rate, the terms of any options to renew or expansion rights and all other material economic terms and conditions provided for in the third party's offer or proposal; provided, however, Landlord shall not be required to notify Tenant of the identity of the prospective tenant. Tenant shall have ten (10) days after such notification is delivered to Tenant by Landlord to elect (by so notifying Landlord in writing) to lease all (but not less than all) of the space encompassing the prospective tenant's offer or proposal on all of the same terms and conditions (including, without limitation, rental rate, tenant improvements allowance and term of lease) as set forth in the prospective tenant's offer or proposal. If Tenant elects to lease from Landlord all of the space encompassed by the prospective tenant's offer or proposal, Tenant and Landlord shall proceed diligently and in good faith to finalize and execute an amendment to this Lease for such purpose within ten (10) days after the expiration of the foregoing ten (10) day period. If Tenant elects not to lease from Landlord the space encompassed by a prospective tenant's offer or proposal (as evidenced by either Tenant's written notice to Landlord to that effect, or by Tenant's failure to respond to Landlord within the ten (10) day period referenced above, or if an amendment to this Lease is not executed by Tenant within the ten (10) day period referenced above, then, in such event, Tenant's right of first refusal right relative to such prospective tenant's offer or proposal (but not relative to any future prospective tenant's offer or proposal) under this Section shall be rendered null and void and of no further force and effect. Notwithstanding anything to the contrary set forth herein, in no event shall Tenant be entitled to exercise its right of first refusal pursuant to this Section if Tenant is then in default under the terms of this Lease beyond any applicable grace or cure period (if any). Further, in the event Landlord is unable to deliver possession of the Expansion Space to Tenant for any reason or condition beyond Landlord's control, including, without limitation, the failure of an existing tenant to vacate the Expansion Space, Landlord, its agents and employees, shall not be liable or responsible for any claims, damages or liabilities in connection therewith or by reason thereof. In such event, Landlord shall use reasonable efforts to make the Expansion Space available to Tenant at the earliest possible time.

II. **Purchase Option.** Tenant shall have a first right (the "First Right to Purchase") to purchase the Building prior to the Commencement Date at a price and terms mutually agreed upon between Landlord and Tenant. The First Right to Purchase shall expire on the Commencement Date or July 1, 2016, whichever date is earlier.