



Wake County Board of Education

FACILITIES

PRECIS

Subject

LEASE AGREEMENT: LEASE OF FLEX SPACE BUILDING AND LOT (DILLARD DRIVE)

Department, Board/Staff Liaison(s), and any Presenters from Outside the District

Joe Desormeaux
Betty Parker

Main Points

Terms and conditions of a Lease Agreement have been reached with Chaucer Investments, LLC, ("Landlord") to lease a building containing approximately 21,756 square feet of flex space upon a ± 3.2 acre lot with surface parking at 5651 Dillard Drive, Cary, NC. The provision of utilities and custodial services is not included therewith. The subject property includes all or a portion of the parcel having Wake County PIN #0772-79-5810. The lease term is from April 1, 2016, to June 30, 2026, at a base annual rental rate of \$16.00/square foot. The rental rate shall increase 2.5% on July 1 of each year beginning on July 1, 2017. A copy of the Lease is attached.

Fiscal Implications

The commencement date of the lease is April 1, 2016. A prorated lease payment of \$96,358.00 will become due April 1 for the period of April 1 to June 30, 2016. If Board approved, approval for an operating transfer will subsequently be requested of the Board of Commissioners to establish funds for fiscal year 2015-2016.

A single sum base annual lease payment of \$348,096.00 will become due July 1, 2016, for fiscal year 2016-2017 (July 1, 2016, to June 30, 2017). The rental rate shall increase 2.5% on July 1 of each year beginning on July 1, 2017. Funding is available from the Operating Budget.

Savings

None.

Recommendation for Action / Next Steps

Staff requests Board approval subject to Board Real Estate Counsel as to form.

LEASE AGREEMENT

BY AND BETWEEN

**CHAUCER INVESTMENTS, LLC
(AS LANDLORD)**

AND

**WAKE COUNTY BOARD OF EDUCATION
(AS TENANT)**

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made and entered into by and among Chaucer Investments, LLC, a North Carolina limited liability company ("**Landlord**") and Wake County Board of Education, a body corporate ("**Tenant**"), and is effective as of _____, 2015 (the "**Effective Date**").

BASIC LEASE PROVISIONS

1. **Tenant:** **Wake County Board of Education, North Carolina**

2. **Description of Premises:** An approximately twenty-one thousand seven hundred fifty six (21,756) square foot office building located at 5651 Dillard Drive, Cary, North Carolina (the “Building”), together with the right to use the parking spaces and other common areas located adjacent to the Building, all as shown on the building plan attached as Exhibit A (the Building, parking spaces, and the right to use all common areas for ingress and egress by Tenant, its employees, invitees, licensees and contractors being collectively referred to as the “Premises”). Landlord also hereby leases to Tenant, at no additional cost to Tenant, the storage shed located as shown on attached Exhibit A. for purposes of this Lease the “Premises” shall include the storage shed.

3. **Term:**

- A. **Term:** A period beginning on the Commencement Date and ending on the Expiration Date, unless sooner terminated according to this Lease.

- B. Renewal Options:** Two (2) option terms of five (5) years each

- C. **Commencement Date:** **Earlier receipt by Tenant of a Certificate of Occupancy for the Premises or April 1, 2016**

- D. Rent Commencement Date: See 2.1**

- E. Expiration Date: June 30, 2026**

4. **Base Rent:** The Base Rent for each Lease Year, based on an initial rate per rentable square foot of space in the Premises of \$16.00 and with 2.5% annual increases every Lease Year commencing July 1, 2017, is as follows:

Period	Monthly Minimum Rental	Annual Minimum Rental
4/1/16 - 6/30/17	\$29,008.00	\$348,096.00
7/1/17 - 6/30/18	\$29,733.20	\$356,798.40
7/1/18 - 6/30/19	\$30,476.53	\$365,718.36
7/1/19 - 6/30/20	\$31,238.44	\$374,861.32
7/1/20 - 6/30/21	\$32,019.40	\$384,232.85
7/1/21 - 6/30/22	\$32,819.89	\$393,838.67

7/1/22 - 6/30/23	\$33,640.39	\$403,684.64
7/1/23 - 6/30/24	\$34,481.40	\$413,776.76
7/1/24 - 6/30/25	\$35,343.43	\$424,121.18
7/1/25 - 6/30/26	\$36,227.02	\$434,724.20

OPTION PERIODS

7/1/26 - 6/30/27	\$37,132.69	\$445,592.31
7/1/27 - 6/30/28	\$38,061.01	\$456,732.12
7/1/28 - 6/30/29	\$39,012.54	\$468,150.42
7/1/29 - 6/30/30	\$39,987.85	\$479,854.18
7/1/30 - 6/30/31	\$40,987.54	\$491,850.54
7/1/31 - 6/30/32	\$42,012.23	\$504,146.80
7/1/32 - 6/30/33	\$43,062.54	\$516,750.47
7/1/33 - 6/30/34	\$44,139.10	\$529,669.23
7/1/34 - 6/30/35	\$45,242.58	\$542,910.96
7/1/35 - 6/30/36	\$46,373.64	\$556,483.74

5. **Base Year for Operating Expenses:** **2016**
6. **Security Deposit:** **None**
7. **Brokers:** **Avison Young, for Tenant under separate Agreement and NAI Carolantic for Landlord**

8. **Permitted Use:** The Premises shall be used solely for general office and administrative purposes, training, teaching, and educational purposes and related support services, and for no other use without the prior written consent of Landlord (the “**Permitted Use**”).

9. **Addresses for Notices:**

To Tenant:

Wake County Board of Education
c/o Betty L. Parker
Real Estate Services Senior Director
Wake County Public School System
1551 Rock Quarry Road
Raleigh, NC 27610
Telephone: (919) 664-5601

With a copy at the same time to:

Boxley, Bolton, Garber &
Haywood, L.L.P.
Attorneys at Law
227 West Martin Street
Raleigh, NC 27601
Telephone: (919) 832-3915
Attn: Kenneth C. Haywood

To Landlord:

Chaucer Investments, LLC
c/o Glenwood Asset Management,
LLC
3111 Glenwood Avenue
Raleigh, NC 27612
Telephone: (919) 781-7107
Attn: J. Cross Williams, Jr.

With a copy at the same time to:

Lynch & Eatman, LLP
4130 Parklake Avenue, Suite 100
Raleigh, NC 27612
Telephone: (919) 571-3332
Attn: Jerome R. Eatman, Jr.

For payment of Rent:

Glenwood Asset Management, LLC
3111 Glenwood Avenue
Raleigh, NC 27612
Attn: J. Cross Williams, Jr.

STANDARD LEASE PROVISIONS

ARTICLE 1 PREMISES

1.1 **Premises.** Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord for the Term according to this Lease. Except as set forth in this Lease, Landlord has not made any representation or warranty with respect to the condition of the Premises or their suitability or fitness for the conduct of the Permitted Use, and Tenant acknowledges that it has had a full opportunity to make its own determination in this regard.

ARTICLE 2 TERM

2.1 **Term.** The obligation of Tenant to lease the Premises is subject to the satisfaction and receipt by Tenant of all the following: (i) approval of the Wake County Board of Education; (ii) approval by the Wake County Board of Commissioners; and (iii) approval by the Local Government Commission. The parties anticipate final approval from each governmental body on or before February 2, 2016; provided, however, that if all of these approvals have not been obtained by the Commencement Date, this Lease shall automatically terminate and neither party shall have any further liability or obligation hereunder. Subject to the foregoing conditions, the Term will commence on the Commencement Date. The Rent Commencement Date shall be the same as the Commencement Date but no later than April 1, 2016. If all of the governmental approvals have been obtained, Landlord agrees to allow Tenant the right to access the Premises for up to four (4) weeks prior to the Commencement Date for the purposes of installing furniture, fixtures, equipment, installing Tenant's telephone and data systems equipment and conducting inspections of the Premises and designing and planning the layout of the Premises. "**Lease Year**" means each consecutive twelve (12) month period during the Term. If for any reason the Commencement Date is modified and does not occur on the first day of a calendar month, then the first Lease Year will commence on the Rent Commencement Date and end on the last day of the month in which the first anniversary of the Rent

Commencement Date occurs and the second and each succeeding Lease Year will commence on the first day of the next month.

ARTICLE 3 RENT; LATE CHARGES

3.1 **Base Rent; Additional Rent.** Tenant agrees to pay Base Rent for the Premises in consecutive, monthly installments, in advance, commencing on the Rent Commencement Date and due on the first day of each calendar month for the remainder of the Lease term. If the Rent Commencement Date is a day other than the first day of a month, the Base Rent for that month will be calculated on a per diem basis including the Rent Commencement Date and will be due and payable on the Rent Commencement Date. Landlord agrees that Tenant shall have the right to pay the Base Rent for any twelve (12) month period during the Lease Term in advance. All amounts (other than Base Rent) payable by Tenant to Landlord are called "**Additional Rent.**" Base Rent and Additional Rent are sometimes collectively called "**Rent.**" Rent will be payable to Landlord when due without any prior notice or demand in lawful money of the United States, and without abatement, offset or deduction except as expressly may be provided for in this Lease, and at Landlord's Address or to such other person or to such other place as Landlord may from time to time designate in writing to Tenant.

3.2 **Late Charge; Interest.** The late payment of Rent will cause Landlord to incur administrative costs and other damages, the exact amount of which would be impracticable or extremely difficult to ascertain. Landlord and Tenant agree that if Landlord does not receive any such payment on or before the date ten (10) days after the date the payment is due, Tenant will pay to Landlord, as Additional Rent, a late charge ("**Late Charge**") equal to three percent (3%) of the overdue amount to cover additional administrative costs.

ARTICLE 4 OPERATING EXPENSES

4.1 **Payment of Excess Operating Expenses.** Tenant shall be responsible for obtaining its own utility services at the Building and for the cost of all utility services used by Tenant at the Building. In addition, Tenant shall be responsible for all garbage removal service at the Building, including dumpster service. Tenant shall pay all of the charges for utility services directly to the utility provider. Tenant shall also be responsible for all janitorial service inside the Building at its sole cost and expense. The parties agree that "Operating Expenses," as described below, shall not include utility service inside the Building or janitorial services.

(a) In addition to Base Rent, Tenant will pay to Landlord all Operating Expenses for the Premises allocable to each calendar year (or part of one) after the Base Year (each an "**Expense Year**") in excess of the Operating Expenses for the Premises allocable to the Base Year. The first Expense Year shall commence on July 1, 2017. Landlord shall be responsible for payment of all Operating Expenses in the Base Year; and for each Expense Year, payment of all Operating Expenses up to the amount of the Operating Expenses in the Base Year.

(b) Operating Expenses. All costs and expenses paid or incurred by Landlord each calendar year for the management, operation, ownership, repair and maintenance of the Premises, including, without limitation, the following:

(1) The costs of all materials, supplies, equipment and tools (whether purchased or leased) utilized with respect to the Premises;

(2) The costs of all services rendered by third parties with respect to the Premises, including but not limited to the cost of garbage disposal service for the Building; and all costs paid or incurred by Landlord in providing any of the services to be provided by Landlord pursuant to the terms of the Lease;

(3) HVAC Repairs and quarterly maintenance.

(4) All insurance premiums and policy deductibles paid with respect to the Premises, including, without limitation, fire and extended coverage insurance, rent loss and public liability insurance coverage;

(5) Taxes, as hereinafter defined;

(6) Accounting and legal costs relating to the Premises;

(7) POA Charges, ground rents, if any, levied or assessed against or payable with respect to the Premises; and

(8) Costs of all capital improvements to the Premises which are either required under any governmental law or regulation which was not applicable to the Premises at the time the Building was constructed or which reduce Operating Expenses; provided that the costs of any such capital improvements shall be amortized over a reasonable period (as determined in accordance with generally accepted accounting principles) with interest thereon at the rate of interest per annum (the "Prime Rate") in effect at the time such capital improvements are made as publicly announced from time to time by Wells Fargo Bank, National Association at its principal office in Raleigh, North Carolina as its prime rate.

(9) Costs of the purchase, at Landlord's option, of any equipment used on the Premises for the benefit of tenants to be amortized over the life of the equipment at an appropriate interest rate in effect at such time of purchase.

(10) Snow Removal.

(c) Management fees paid to Glenwood Asset Management Company not to exceed three percent (3%) of the rent collected from Tenant.

Except as listed above, operating Expenses shall not include the following: (1) costs of improvement of the Premises and the premises of other tenants of the Building; (2) charges for depreciation of the Buildings and improvements comprising the Building; (3)

payments or principal, interest and other charges of any nature made on any indebtedness (secured or unsecured) applicable to the Building including any mortgage debt, ground rent, or other sums payable under any ground or underlying lease or leases for the Building and all costs paid or incurred to obtain, close, record, modify, combine, recast, consolidate, extend, refinance and replace in whole or in part any financing or ground or underlying lease; (4) costs incurred in connection with the actual or contemplated sales, financing, refinancing, mortgaging, syndicating, selling or change of ownership interest of the Building, including brokerage commissions, attorneys and accountants' fees, closing costs, title insurance premiums, transfer taxes and interest charges; (5) any cost or expense to the extent to which Landlord is paid or reimbursed (which reimbursement Landlord shall actively pursue) from any person (other than as a payment for Operating Costs), including but not necessarily limited to, (i) work or service performed for any tenant (including Tenant) at such tenant's cost, (ii) the cost of any item for which Landlord is paid or reimbursed by insurance proceeds, warranties, service contracts, condemnation proceeds or otherwise, and (iii) the cost of items furnished to a tenant to a materially greater extent or in a materially more favorable manner than that furnished generally to the tenants and other occupants of the Building (including Tenant); (6) capital improvements to the Building, except with respect to the costs associated with capital improvements installed by Landlord for the purpose of reducing Operating Costs and then only the annual straight line amortization of such costs over the useful life thereof; and (7) reserves for repairs, maintenance and replacements; and (8) replacements other than as a result of obsolescence; (9) wages, salaries, benefits, and compensation paid or given to (a) executives, shareholders, officers, directors or partners of Landlord; (b) any principal or partner of the entity from time to time comprising Landlord; (c) off-site employees at the Building above the level of Property Manager; (10) any fees, including attorneys' fees, costs, and commissions incurred in (a) procuring or attempting to procure other tenants (including Tenant) or other occupants of space in the Building including, but not necessarily limited to brokerage commissions, finders fees, attorneys' fees and expenses, entertainment costs, travel expenses and advertising and production costs; (b) negotiations for leases with tenants, other occupants or prospective tenants of the Building; (c) disputes or lease defaults of any nature of Tenant, other occupants, or prospective tenants or; (d) negotiations or disputes with employees, management agents, purchasers, ground lessors or mortgages of the Building; (11) any cost included in Operating Costs representing an amount paid to a person, firm, corporation, affiliate, subsidiary or other entity related to Landlord, or any employee or agent of the same, which is in excess of the amount which would have been paid on an arms length basis in the absence of such relationship; (12) lease payments for rental equipment (other than equipment for which depreciation is properly chargeable as an Operating Cost) which would constitute a capital expenditure if the equipment were purchased; (13) the cost of curing any violation of any law, ordinance or regulation, which such violation exists on the Commencement Date or of remediating any existing environmental condition as of the Commencement Date, including the removal or abatement of, or other steps taken with respect to, asbestos located in the Building; and (14) costs, fines, interest, penalties, legal fees, liens or costs of litigation incurred due to the late payments of taxes, utility bills, or other costs (including ground rents) incurred by Landlord's failure to make such payments when due.

Except for any charge associated with snow removal, property taxes and insurance, charges to Tenant for Operating Expenses within the reasonable control of Landlord paid by

Tenant after the first Expense Year shall not increase in any Expense Year by an amount greater than five percent (5%) per annum.

4.2 **Payment Procedure; Estimates.** For each Expense Year, Landlord, at least ten (10) days prior to the commencement of each Expense Year, shall give Tenant written notice of its good faith estimate of the Operating Expenses for that Expense Year. On or before the first day of each month during such Expense Year, Tenant will pay to Landlord one-twelfth (1/12th) of the estimated amounts. Landlord will endeavor to deliver to Tenant within ninety (90) days after the close of each Expense Year, a statement of that Expense Year's Operating Expenses (the "**Landlord's Statement**"). Landlord's Statement will be binding upon Landlord and Tenant, except as provided in Section 4.3. If the Operating Expenses for any Expense Year are more than the estimated payments made by Tenant, Tenant will pay the deficiency to Landlord when the next installment of Base Rent is due, or, if the Term has ended, upon receipt of Landlord's Statement. If the Operating Expenses for any Expense Year are less than the estimated payments made by Tenant, the excess payments will be credited against Rent next payable by Tenant or, if the Term has expired, will be paid to Tenant. If this Lease ends on a day other than the end of a calendar year, Tenant's Share of Operating Expenses applicable to the year will be prorated on the basis that the number of days from January 1 of the year to the end date bears to 365. The expiration or termination of this Lease will not affect the obligations of Landlord and Tenant pursuant to this Section.

4.3 **Review of Landlord's Statement.** So long as no Event of Default then exists beyond the expiration of applicable grace, notice and cure periods, Tenant may review Landlord's supporting books and records for any Operating Expenses, in accordance with the following procedure:

(a) Within sixty (60) days after any Landlord's Statement is delivered to Tenant, Tenant may deliver a written notice (a "**Dispute Notice**") to Landlord specifying the items described in the Landlord's Statement that are claimed to be incorrect, and Tenant will simultaneously pay to Landlord all amounts due from Tenant to Landlord as specified in the Landlord's Statement. Tenant will not be entitled to withhold, deduct, or offset any monetary obligation of Tenant to Landlord under this Lease pending the completion of and regardless of the results of any review of records under this Section. The right of Tenant under this Section may only be exercised once for each Expense Year. If Tenant does not deliver a Dispute Notice within the sixty (60) day period or fails to meet any of the other conditions of exercise of such right, the right of Tenant to review a particular Landlord's Statement (and all of Tenant's rights to make any claim relating to it) under this Section will automatically be waived by Tenant.

(b) Landlord shall maintain its records for the Premises at Landlord's manager's corporate offices and shall maintain in an orderly manner all of its books and records (collectively, the "**Records**") pertaining to each Landlord's Statement for a period of three (3) years after the completion of the Expense Year to which such Landlord's Statement exists. Upon reasonable prior notice to Landlord, the Records shall, during Landlord's regular business hours at the office of Landlord or its managing agent in the City of Raleigh, North Carolina, be made available to Tenant, Tenant's internal auditing personnel and/or an independent auditor selected by Tenant for purposes of auditing, reviewing and photocopying the Records. Tenant agrees that any review of records under

this Section will be at the sole expense of Tenant. Tenant acknowledges and agrees that any records of Landlord reviewed under this Section (and the information contained in them) constitute confidential information of Landlord, which Tenant will not disclose, nor permit to be disclosed by Tenant's accountant, to anyone other than the Tenant's accountants performing the review and the principals of Tenant who receive the results of the review.

If Landlord disagrees that an error exists with respect to Landlord's Statement, Landlord will have the right to cause another review of that portion of Landlord's Statement to be made by a firm of independent certified public accountants selected by Landlord ("**Landlord's Accountant**"). In the event Landlord's Accountant and Tenant's accountant are unable to reconcile their reviews, both accountants shall mutually agree upon a third accountant (the "**Third Party Accountant**"), whose determination shall be conclusive. In the event that the results of Landlord's Accountant's review of a particular Landlord's Statement or the determination by the independent Third Party Accountant indicates that total Operating Expenses for the period covered by the Landlord's Statement in question have been overstated by more than five (5%) percent (5%), then Landlord shall, within thirty (30) days of such determination reimburse Tenant for the reasonable cost of Tenant's accountant. In the alternative, the Tenant may deduct the amount owed from the next succeeding installment(s) of estimated Operating Expenses. Landlord, within thirty (30) days of such determination, shall reimburse Tenant for the full amount of any overpayment by Tenant of estimated excess Operating Expenses, and shall adjust future Operating Expenses for the period in accordance with the Accountant's findings .

ARTICLE 5

CONDITION PRECEDENT; PUBLIC FUNDING

This Lease is conditioned upon receipt of the governmental approvals described in Section 2.1, pursuant to and in accordance with Section 115C-530 of the North Carolina General Statutes. If approval of this Lease is not obtained on or before the Commencement Date, this Lease shall automatically terminate and neither party shall have any further liability or obligation under this Lease. Tenant agrees to provide Landlord with written evidence of the applicable approvals once obtained by Tenant.

In addition to the initial approval of the Lease, Tenant's ability to perform its obligations under the Lease is conditioned upon the continued availability of public funding. Subject to the limitations set forth in this paragraph, if at any time after the end of the first Lease Year the Wake County Board of Commissioners fails to appropriate and make available public funds which the Tenant can use to fund its obligations under this Lease, then Tenant may terminate this Lease upon thirty (30) days prior written notice to Landlord. In the event this Lease is terminated as provided above, Tenant will quit and vacate the Premises prior to the termination date and neither party will have any further liability or obligation under the Lease. Tenant agrees that its right to terminate this Lease for lack of funding may only be used as an emergency fiscal measure during a substantive fiscal crisis which is affecting generally the operations of county government.

ARTICLE 6

USE OF PREMISES

6.1 **Tenant's Permitted Use.** Tenant will use the Premises for the Permitted Use and no other purpose.

6.2 **Compliance With Laws and Other Requirements.**

(a) Tenant, at its sole cost and expense, will obtain and maintain in full force and effect all governmental licenses, approvals and permits required to allow Tenant to conduct the Permitted Use. With regard to their respective responsibilities outlined in this Lease Agreement and Attachments, Tenant and Landlord will each timely take all action required to cause the Premises to comply in all respects with all laws, ordinances, building codes, rules, regulations, orders and directives of any governmental authority (collectively, "**Laws**").

(b) Tenant will not use the Premises, or permit the Premises to be used, in any manner, or do or suffer any act in or about the Premises which: (i) violates or conflicts with any applicable Law; (ii) causes or is reasonably likely to cause damage to the Building, the Premises or the Building systems, including, without limitation, the life safety, electrical, heating, ventilation and air conditioning ("**HVAC**"), plumbing or sprinkler systems (collectively, the "**Building Systems**"); (iii) violates a requirement or condition of any policy of insurance covering the Premises, or increases the cost of such policy; or (iv) constitutes or is reasonably likely to constitute a nuisance.

6.3 **Hazardous Materials.** Landlord represents and warrants to Tenant that the Building is free of Hazardous Materials at the Commencement Date. No Hazardous Materials will be Handled (defined below) upon, about, in, above or beneath the Premises or any portion of the Building by or on behalf of Tenant, its subtenants or its assignees, or their respective contractors, clients, officers, directors, employees, agents, or invitees (collectively, a "**Tenant Party**"). Tenant will, at its sole cost and expense, promptly take all actions (or at Landlord's election, reimburse Landlord for taking all actions) required by any Law that arises in connection with Tenant's Handling of Hazardous Materials. Such actions will include, but not be limited to, the investigation of the environmental condition of the Premises or any portion of the Building, the preparation of any feasibility studies or reports and the performance of any cleanup, remediation, removal or restoration work. Tenant will take all actions (or, at Landlord's election, reimburse Landlord for taking all actions) necessary to restore the Premises or any portion of the Building to the condition existing prior to the introduction of Tenant's Hazardous Materials, despite any less stringent standards or remediation allowable under applicable Environmental Laws. "**Environmental Laws**" means all Laws regulating, relating to, or imposing liability or standards of conduct concerning public health and safety or the environment. "**Hazardous Materials**" means: (a) any material or substance: (i) that is defined or becomes defined as a "**hazardous substance**," "**hazardous waste**," "**infectious waste**," "**chemical mixture or substance**," or "**air pollutant**" under Environmental Laws; (ii) containing petroleum, crude oil or any fraction of them; (iii) containing polychlorinated biphenyls (PCB's); (iv) that constitutes asbestos or asbestos-containing material; (v) that is radioactive; (vi) that is infectious; or (b) any other material or substance displaying toxic, reactive, ignitable or corrosive characteristics, as all such terms are used in their broadest sense. "**Handle**" means any installation, handling, generation, storage, treatment, use, disposal, discharge, release, manufacture, refinement,

presence, migration, emission, abatement, removal, transportation, or any other activity of any type in connection with or involving Hazardous Materials.

6.4 **Additional Taxes.** Tenant will be responsible for any and all taxes, impositions or similar fees or charges (other than any included by Landlord in Operating Expenses with respect to the Expense Year in question) with respect to any of Tenant's fixtures, equipment or other personal property located in or about the Premises.

6.5 **Waiver of Liability and Indemnification.** Tenant shall be responsible for any damage to persons or property in any way relating to Tenant's use and occupancy of the Premises or the condition of the Premises, including any Hazardous Materials introduced on to the Premises by Tenant, to the extent permitted by applicable law. Landlord will indemnify, defend, protect and hold harmless Tenant from and against any and all Claims, Damages and Costs that arise out of (i) any default under this Lease by Landlord, and (ii) any breach of a representation or warranty made by Landlord to Tenant in this Lease.

6.6 **Landlord's Compliance with Laws.** Landlord, at its expense, shall comply with all Laws applicable to the Premises which are not the obligation of Tenant pursuant to this Lease. Landlord may defer compliance with any Laws with which it is obligated to comply hereunder, so long as Landlord shall be contesting the validity or applicability thereof in good faith by appropriate proceedings, provided that (i) Tenant shall not be subject to criminal penalty or to prosecution for a crime, or any other fine or charge (unless Landlord pays such other fine or charge), (ii) neither the Premises (nor any part thereof) nor any part of the Building which affects the Premises or Tenant's use and occupancy thereof, shall be subject to being condemned or vacated, by reason of non-compliance or otherwise by reason of such contest, (iii) such non-compliance or contest shall not prevent Tenant from lawfully occupying the Premises, or performing any alterations to the Premises, or obtaining any and all permits and licenses required to be obtained by it in connection therewith, and (iv) Landlord, after request, shall use reasonable efforts to keep Tenant advised as to the status of such proceedings.

ARTICLE 7 UTILITIES AND SERVICES

7.1 **Building Services.** Subject to the requirement that Tenant is responsible for the payment of all utilities and garbage service as stated in Section 4.1, throughout the Term, Landlord agrees to furnish or cause to be furnished to the Premises, at a level and in a manner generally consistent with office projects of similar age and design in the area, and as part of Operating Expenses:

- (a) Garbage removal service (dumpster pick-up) for the Building;
- (b) Central heat and air conditioning ("HVAC") in season;
City water from the regular Building fixtures for fire suppression systems,
drinking, lavatory and toilet purposes only;
- (c) Washing of windows in the Premises, inside and outside at reasonable intervals; and
- (d) Electricity for normal business usage

(e) Landscaping (including landscape maintenance) and snow and ice removal from the parking lots, sidewalks and walkways located on the Land, all in accordance with standards appropriate for a first-class office building and for the Permitted Use.

ARTICLE 8 MAINTENANCE AND REPAIRS

8.1 **Tenant's Obligations.** Tenant will, at its sole cost and expense, maintain the interior non-structural components of the Premises in good order and repair and in a safe, clean and neat condition. In addition, Tenant shall be responsible for (i) the maintenance, repair and replacement, of lighting including fixtures and bulbs which are located within the Premises; and (ii) floor or wall coverings in the Premises. Tenant will make all repairs to the Premises with replacements of any materials to be made by use of materials of equal or better quality. Further, and except as provided in Sections 13 and 14 below, Tenant will be responsible for, and upon demand promptly reimburse Landlord for, any damage to any portion of the Building or the Premises caused by (a) the performance or existence of any alterations, additions or improvements made by Tenant or for Tenant to the Premises; (b) the installation, use, operation or movement of Tenant's property in or about the Building or the Premises; or (c) any act or omission by Tenant or any person permitted in or invited to the Premises by Tenant.

8.2 **Landlord's Obligations.** Landlord shall maintain, repair and replace all exterior and structural portions of the Premises, including windows, the heating, ventilation and air conditioning units and systems ("HVAC"), the Common Area and all Building Systems as defined in Section 9.1 below, in good working order and repair. Except as provided in Sections 12, 13 and 14 below, Landlord shall be responsible for the costs of repairing any damage caused by the gross negligence of Landlord or its agents or employees to the Premises.

8.3 **Landlord's Rights.** Landlord and its contractors will have the right, at all reasonable times upon reasonable prior notice to Tenant (except in cases of emergency), to enter upon the Premises to make any repairs to the Premises reasonably required or deemed reasonably necessary by Landlord; provided, however, that Landlord shall use its commercially reasonable efforts to minimize the disturbance to Tenant and to protect the Premises and the property therein. In the event of any failure of Tenant to perform any of its obligations under this Article 8, or under Article 6, Article 9, or Article 12, where such failure remains uncured for thirty (30) days after delivery by Landlord to Tenant of written notice of such failure (or in the case of an emergency, after such oral or written notice, if any, as may be practical under the circumstances), Landlord may (but will not be obligated to) elect to perform such obligation of Tenant at Tenant's sole cost and expense, and in the event of such performance by Landlord, Tenant will pay to Landlord within thirty (30) days of written demand one hundred five percent (105%) of Landlord's actual direct and indirect costs (including interest, overhead, general conditions and administration) in performing obligations of Tenant.

ARTICLE 9 CONSTRUCTION OF AND IMPROVEMENTS TO THE PREMISES; ALTERATIONS

9.1 **Tenant Improvement Work; Contractor.** Landlord represents and warrants to Tenant that the Premises and all structural components thereof (including the roof), are in good

condition and repair, and that all heating, air-conditioning, ventilation, plumbing and other systems in the Building (collectively the "Building Systems"), are in working order. Landlord further warrants that the Premises will be made available for Tenant's Improvement Work (as defined below), free of all existing tenancies and in "broom clean" condition. Except as provided above, the parties agree that the Premises is being delivered to Tenant in "AS IS, WHERE IS" condition and that all work required to prepare the Premises for occupancy by Tenant shall be performed at Tenant's sole cost and expense (subject to the Tenant Allowance, as provided below), in accordance with the terms of this Lease. Upon execution of this Lease, Tenant will designate an architect to design the improvements Tenant desires to make to the Premises (the "Tenant Improvements"), and Landlord will work with the Tenant and its architect to have prepared mutually acceptable plans and specifications for the Tenant Improvements (the "Plans and Specifications"). The parties agree that the Tenant Improvement work will be performed by Williams Realty & Building Company as the general contractor (the "General Contractor"). Upon completion of the Plans and Specifications, the parties will agree on a price for the Tenant Improvement work with the General Contractor, subject to the General Contractor obtaining no fewer than two (2) bids for each trade subcontractor. Landlord will supervise the General Contractor's performance of the Tenant Improvement work and will pay the General Contractor directly from the Tenant Allowance; provided, however, that any cost of the Tenant Improvement work which exceeds the Tenant Allowance shall be the sole responsibility of Tenant.

Landlord agrees to provide a Tenant Allowance in the amount of up to Three Hundred Twenty-Four Thousand Dollars (\$324,000.00) (the "Tenant Allowance"), to be used by Tenant for the following purposes: (i) to pay for the cost of all design and construction of the Tenant Improvement, including but not limited to all permits and signage; (ii) to purchase furniture, fixtures and equipment and cabling; provided that no more than One Hundred Eight Thousand Dollars (\$108,000.00) may be used for the items described in this subsection; and (iii) the balance, if any, to pay for the cost of any renovation work performed on the Premises during the 60th month of the original lease term exercised by Tenant. All payments from the Tenant Allowance shall be made by Landlord directly to the Contractor or third-party provider upon receipt of satisfactory invoices.

Landlord shall have no obligation to disburse any of the Tenant Allowance until the governmental approval conditions set out in Section 2.1 have been satisfied. The parties agree that Landlord will disburse portions of the Tenant Allowance to pay for the cost of design services and preparations of the Plans and Specifications provided that, if this Lease is terminated prior to the Commencement Date, Tenant will reimburse Landlord for all costs incurred by Landlord in connection with preparation of the Premises for occupancy by Tenant.

9.2 **Tenant's Work.** All work required for Tenant to occupy the Premises which is not included in the Plans and Specifications shall be "Tenant's Work" and shall be performed by Tenant at its sole cost and expense.

9.3 **Landlord's Consent to Alterations; Conditions.** With the exception of the work described in the Plans and Specifications, Tenant will not make or permit to be made any alterations, additions, or improvements in or to the Premises other than purely cosmetic changes, such as carpeting, wall coverings, and the like ("Alterations") without first obtaining the prior written consent of Landlord (such consent not to be unreasonably withheld, conditioned or

delayed), which consent will be requested in writing not less than fifteen (15) business days prior to the scheduled and actual commencement of any Alterations. All Alterations (a) will comply with all applicable Laws, (b) will be compatible (as determined in good faith by Landlord) with the Building and its structure, mechanical, electrical, heating, ventilating, air-conditioning, fire protection and life safety systems; and (c) will not be visible from outside the Building. All work will be performed by Tenant at Tenant's expense and will be prosecuted to completion in a diligent, first class manner. Tenant will deliver to the Landlord, within thirty (30) days following completion of the Alterations, a reproducible copy of the "as built" drawings of the Alterations.

9.4 **Performance of Alterations Work.** All work relating to the Alterations will be performed in compliance with the plans and specifications approved by Landlord, such approval not to be unreasonably withheld, conditioned or delayed, all applicable Laws, ordinances, rules, regulations and directives of all governmental authorities having jurisdiction and the requirements of all carriers of insurance on the Premises.

9.5 **Removal of Alterations.** Any and all alterations made by Tenant in, to or upon the Premises or any portion of the Building, as well as any trade fixtures and Tenant's Property (as defined below) installed in the Premises or the Building by Tenant, shall remain the property of Tenant and may be removed from the Premises at any time during or at the end of the Term. For purposes of this Lease, the term "**Tenant's Property**" shall mean all office furniture and equipment, movable partitions, and other articles of movable personal property owned or leased by Tenant and located in the Premises.

9.6 **Renovations.** If Tenant does not use the entire Tenant Allowance for Tenant Improvement work as provided above, Tenant may elect to use the balance of the Tenant Allowance to pay a portion of the cost of renovations to the Premises undertaken by Tenant during the first renewal term. Landlord will make disbursements from the Tenant Allowance directly to the third-party contractors performing the renovation work upon receipt of satisfactory invoices and lien affidavits. To the extent the cost of the renovation work exceeds the balance in the Tenant Allowance, the excess cost will be the sole responsibility of Tenant. In addition, if Tenant does not exercise its first renewal option or does not renovate the Premises at the commencement of the first renewal term, Landlord shall have no further obligation to pay the balance of the Tenant Allowance to or for the benefit of Tenant.

ARTICLE 10 MECHANIC'S LIENS

Tenant will pay when due all costs for work performed and materials supplied to the Premises. Tenant will keep the Premises free from all liens, stop notices and violation notices relating to the Alterations or any other work performed for, materials furnished to or obligations incurred by Tenant. Tenant will indemnify, defend and hold harmless Landlord from any and all loss, cost, damage, liability and expense, including attorneys' fees, arising out of or related to any liens or notices, except as may be the result of negligent acts by the Landlord. During the progress of the Alterations, Tenant will, upon Landlord's request, furnish Landlord with sworn contractor's statements and lien waivers covering the Alterations. Tenant will satisfy or otherwise discharge all liens, stop notices or other claims or encumbrances within thirty (30) days after Landlord notifies Tenant in writing that any such lien, stop notice, claim or encumbrance has been filed. If Tenant fails to pay and remove such lien, claim or encumbrance

within the ten (10) day period, Landlord, at its election, may pay and satisfy it and the sums so paid by Landlord, with interest from the date of payment at the Interest Rate, will be deemed to be Additional Rent due and payable by Tenant without notice or demand.

ARTICLE 11 SURRENDER

At the end of this Lease, Tenant will surrender the Premises to Landlord in the same condition as when received at the inception of this Lease, subject to ordinary wear and tear. Except for Alterations that Tenant agreed to remove at the end of this Lease according to Article 9 and Alterations that Tenant chooses to remove at the end of the Lease, all Alterations will become a part of the Premises and will become the property of Landlord at the end of this Lease. In that event, Tenant will promptly remove prior to the end of this Lease the Alterations designated by Tenant and will promptly restore, patch and repair any resulting damage, all at Tenant's expense. All business and trade fixtures, machinery and equipment, furniture, movable partitions and items of personal property owned by Tenant or installed by Tenant at its expense in the Premises will be and remain the property of Tenant if Tenant elects to remove such items upon the end of this Lease. Tenant will, at its sole expense, remove all such items and repair any damage to the Premises or the Building caused by such removal. If Tenant fails to remove any such items or repair such damage promptly before the end of this Lease, Tenant will be deemed to have abandoned it; Landlord may store it at Tenant's expense or appropriate it for itself, or sell or dispense of it in its discretion, with no liability to Tenant.

ARTICLE 12 INSURANCE; WAIVER; INDEMNIFICATION

12.1 Tenant's Insurance.

(a) Tenant, at its expense, shall maintain in force during the Term each of the following:

(1) Commercial General Liability Insurance (1993 ISO form or its equivalent) in the amount of at least One Million and 00/100 Dollars (\$1,000,000.00) per occurrence, with a General Aggregate limit per location of at least Two Million and 00/100 Dollars (\$2,000,000.00), and Umbrella Liability coverage in the amount of at least Four Million and 00/100 Dollars (\$4,000,000.00). **[CONFIRM AMOUNT]** Such insurance shall be on an occurrence basis with respect to the business carried on in or from the Premises and Tenant's use and occupancy of the Premises. Tenant further agrees that such insurance shall contain fire and extended coverage legal liability insurance.

(2) The equivalent of ISO Special Form Property Insurance covering Tenant's property (including fixtures, leasehold improvements and equipment) located in the Premises, providing protection to the extent of one hundred percent (100%) of the replacement cost of such property, less a commercially reasonable deductible, not to exceed \$5,000.00 on Fire, Lightning and Extended Coverage. Tenant further agrees that such insurance shall include extra expense coverage and Business Interruption coverage in an amount of up to Two Hundred Fifty

Thousand Dollars (\$250,000) sufficient to cover the Rental and other sums payable under this Lease for a period of twelve (12) months commencing with the date of loss.

(b) Each policy of insurance required to be maintained by Tenant pursuant to this Section 12.1 shall be placed with insurance companies admitted to do business in North Carolina and carrying a current rating of at least A-IX in "Best's Insurance Guide" and shall contain an endorsement requiring thirty (30) days' written notice from the insurance company to Landlord, Landlord's lender and the Building Manager prior to any cancellation or material reduction in coverage of the policy. Each policy of insurance required by Subparagraphs (A) and (B) above shall name Landlord and Landlord's lender (with respect to the policy of insurance required by Subparagraph (A) only) and the Building manager (with respect to the policy of insurance required by Subparagraph (A) only) as additional insureds. The policy of insurance required by Subparagraph (B) above shall name Landlord's lender as mortgagee and loss payee. Prior to the commencement of the Lease Term, and annually thereafter prior to expiration, Tenant shall deliver to Landlord certificates of insurance evidencing the policies of insurance required by this Section 6.4, together with satisfactory evidence of proof of payment of premiums.

12.2 **Landlord's Insurance.** At all times during the Lease Term, Landlord shall maintain in full force and effect the following policies of insurance, with insurance companies admitted to do business in the State in which the Building is located:

(a) Commercial General Liability Insurance (2001 ISO form or its equivalent) in the amount of at least One Million and 00/100 Dollars (\$1,000,000.00) per occurrence, with a General Aggregate limit per location of at least Two Million and 00/100 Dollars (\$2,000,000.00).

(b) Umbrella Liability coverage in the amount of at least Four Million and 00/100 Dollars (\$4,000,000.00).

(c) The equivalent of ISO Special Form Property Insurance providing protection to the extent of not less than eighty percent (80%) of the replacement cost of the building in which the Premises is located (less the cost of foundations and footings), including Tenant's permanent leasehold improvements. Nothing herein shall be construed to require Landlord to insure those items that Tenant is obligated to insure pursuant to Section 12.1 above. In order to assist Landlord in deciding the amount of insurance which it will obtain for Tenant's permanent leasehold improvements in the Premises, Tenant shall furnish to Landlord, upon the completion of any its initial upfitting, and thereafter upon the completion of any alterations or further improvements, such evidence as Landlord may reasonably require as to the cost or value thereof. Landlord shall not be bound by such information. If Tenant fails to deliver such information to Landlord, and as a result, Landlord does not carry sufficient insurance on Tenant's permanent leasehold improvements to cover the full replacement cost thereof following a casualty, then Tenant shall be entitled only to the insurance coverage actually maintained by Landlord with respect to Tenant's leasehold improvements, and shall have

no claim against Landlord, or any other proceeds of Landlord's insurance policy, for the deficiency.

12.3 **Waiver of Claims; Waiver of Subrogation.** Each policy of property insurance required by this Lease shall contain an endorsement in which the insurance company waives any right of subrogation that it may acquire against Landlord or Tenant by virtue of payment of any loss under such policy. In addition, Landlord and Tenant each waives any claims it may have against the other arising out of any casualty that would be covered by the policy of property insurance required to be maintained by it under this Lease, or that actually is covered by any policy of property insurance maintained by such party, without giving effect to any deductible amounts or self-insured risks.

12.4 **Blanket Policies.** Any policy of insurance required by this Lease may be maintained under a blanket policy of insurance, covering multiple locations, provided that: (i) in all other respects, each such policy shall comply with the requirements of this Lease, as applicable; (ii) prior to the commencement of the Lease Term, and annually thereafter, the insuring party shall furnish the other party with a written certificate from the insurer specifying, (a) the maximum amount of the total insurance afforded by the blanket policy to the Premises or the Building, as the case may be, and (b) any sublimits in the blanket policy applicable to the Premises or the Building, as the case may be, which amounts shall not be less than the amounts specified in this Lease; and (iii) the protection afforded the insuring party under the blanket policy shall be no less than that which would have been afforded under a separate policy or policies relating only to the Premises or the Building, as the case may be.

12.5 **Failure to Insure.** If Tenant fails to maintain any insurance that Tenant is required to maintain, Tenant will be liable to Landlord for any loss or cost resulting from such failure to maintain. Landlord will have the right, in its sole discretion, to procure and maintain insurance that Tenant is required to maintain and the cost will be deemed Additional Rent due and payable by Tenant.

ARTICLE 13 DAMAGE OR DESTRUCTION

13.1 **Repair of the Premises.** Tenant will promptly notify Landlord in writing (a "Damage Notice") of any event, damage or condition to which this Article is or may be applicable. Landlord will, within a reasonable time after the discovery by Landlord of any damage, subject to reasonable delays for insurance adjustment or other matters beyond Landlord's reasonable control, subject to Landlord's actual receipt of insurance proceeds for such damage and subject to all other terms of this Article, begin to repair the damage to the Premises resulting from the damage and will proceed with reasonable diligence to restore the Premises to a condition substantially similar to the condition as existed immediately before the damage, except for modifications required by applicable Laws or covenants, conditions and restrictions, and modifications to the Building deemed desirable in good faith by Landlord (the "**Restoration**"). Landlord will not be required to repair or replace any of the Alterations, furniture, equipment, fixtures, and other improvements that may have been placed by, or at the request of, Tenant in the Premises. Landlord will have no liability for any inconvenience or annoyance to Tenant or injury to Tenant's business as a result of any damage, or Landlord's Restoration (defined in Section 13.2) activities hereunder, regardless of the cause therefor. Provided any damage or

destruction to the Premises is not caused by Tenant, Base Rent and Additional Rent, payable under Article 3, will abate if and to the extent that Tenant is not able to occupy the Premises as a result of the damage. In addition, Landlord agrees that, if it has space available at its Navaho Drive location in Raleigh at the time Tenant is unable to occupy the Premises, Landlord will make this space available to Tenant prior to restoration of the Premises (the "Temporary Space"). Landlord makes no representations that any Temporary Space will be available at the time Tenant vacates the Premises in the event of a casualty. To the extent Tenant is able to occupy Temporary Space, the amount of any rent abatement Tenant is entitled to under this paragraph shall be adjusted accordingly. The rent abatement will commence on the date of the damage and continue until the Restoration work is substantially completed by Landlord. If the Premises is rendered partially untenable as a result of a fire or other casualty, rent payable hereunder shall be abated in proportion to the area of the Premises that is rendered untenable for the period from the date of such damage or destruction to the date upon which the Restoration is substantially completed. Unless caused by the negligence of Tenant or a Tenant Party, if the Premises is rendered totally untenable (which shall include, without limitation, failure of Tenant's access to the Premises and failure of Tenant to reasonably conduct its business operations in the Premises even though some areas may be usable), rent payable hereunder shall abate completely for the period from the date of such damage or destruction to the date upon which the Restoration is substantially completed. In the event Tenant has elected to prepay the Base Rent for any portion of the Term during which Tenant becomes entitled to an abatement of rent under this Section 13.1, the parties agree that the amount of the prepaid rent which should have been abated will be refunded to Tenant or credited against future payment of Base Rent payable by Tenant under this Lease. Tenant will assign to Landlord (or to any party designated by Landlord) all insurance proceeds payable to Tenant under Tenant's insurance required under this Lease with respect to the leasehold improvements in the Premises provided that if the Premises are not fully restored, then all such proceeds shall be paid to Tenant.

13.2 Exceptions to Landlord's Obligations. Landlord will have no obligation to repair the Premises and will have the right to terminate this Lease if (a) any portion of the Premises is damaged and (b) (i) Landlord estimates in good faith that the Restoration cannot reasonably be completed within one hundred eighty (180) days after Landlord's actual discovery of such damage, (ii) the holder of any deed of trust on the Premises requires the application of any insurance proceeds with respect to such damage to be applied to the outstanding balance of the obligation secured by the Premises, (iii) the cost of Restoration is not fully covered by insurance proceeds available to Landlord, or (iv) such damage occurs (or Landlord discovers the Damage) at any time within the last twenty four (24) months of the Term. Its right of termination will be exercisable by delivery of written notice to Tenant until sixty (60) days following the later of (x) delivery of the Damage Notice or (y) Landlord's discovery or determination of any of the events described in clauses (i) through (v) of the preceding sentence and will be effective upon delivery of such notice of termination (or if Tenant has not vacated the Premises, upon the expiration of thirty (30) days). If the Lease is terminated under this Section 13.2 the Tenant will be entitled to a refund of any prepaid Base Rent for the period after the date of termination.

13.3 Tenant's Termination Rights.

(a) If thirty percent (30%) or more of the Premises is rendered untenable by fire or other casualty or if the Premises cannot be restored within one hundred twenty

(120) days after the date of the casualty, Tenant may, at its option, terminate this Lease by giving written notice to Landlord within thirty (30) days after the date of such fire or other casualty. Termination shall be effective on the date specified in Tenant's notice of termination, which shall be no later than one year after the date of the notice.

(b) If neither Landlord nor Tenant terminate this Lease pursuant to the foregoing provisions of this Article 13, and if Landlord shall not complete the Restoration within one hundred twenty (1200) days after the date of any fire or other casualty, Tenant may, at its option, terminate this Lease by giving written notice to Landlord any time after said one hundred twenty (120) day period and prior to the date Landlord completes the Restoration. The termination shall be effective on the date specified in Tenant's notice of termination, which shall be no later than one year after the date of the notice. If the Lease is terminated under this Section 13.3 the Tenant will be entitled to a refund of any prepaid Base Rent for the period after the effective date of termination.

ARTICLE 14 CONDEMNATION

If the whole or a material portion of the Premises is taken under the power of eminent domain, or sold or conveyed in order to prevent or in lieu of the taking (collectively, a "**Taking**"), this Lease will automatically terminate as of the day before the date of such Taking. If a Taking of such portion of the Premises, in the opinion of Landlord, substantially interferes with Landlord's operation, Landlord may terminate this Lease upon thirty (30) days' written notice to Tenant given at any time within sixty (60) days following the date of such Taking. If there occurs a Taking of a portion of the Premises such that the remainder of the Premises shall not, in Tenant's opinion, be adequate and suitable for the conduct of Tenant's business, then Tenant may, at its option, terminate this Lease on or within thirty (30) days following the date any such condemnation is effective. The date of Taking will be the earlier of the date of transfer of title resulting from such Taking or the date of transfer of possession resulting from such Taking. If a portion of the Premises is taken and this Lease is not terminated, Landlord will, with reasonable diligence, proceed to restore (to the extent permitted by Law and covenants, conditions and restrictions then applicable to the Premises) the Premises (other than Tenant's personal property and fixtures, and tenant improvements not constituting building standard installations) to a complete, functioning unit, to the extent of the condemnation award received by Landlord. In such case, the Base Rent will be reduced proportionately based on the portion of the Premises so taken. The entire award for any Taking will belong to Landlord, without deduction for any estate or interest of Tenant, except that Tenant will be entitled to pursue independently a separate award relating to the loss of, or damage to, Tenant's personal property and trade fixtures and Tenant's relocation costs directly associated with the Taking. Tenant will not assert any claim against Landlord or the condemning authority for, and hereby assigns to Landlord, any compensation in connection with any such Taking. If the Lease is terminated pursuant to this Article 14, the Tenant will be entitled to a refund of any prepaid Base Rent for the period after the effective date of the termination.

ARTICLE 15 INTENTIONALLY DELETED

ARTICLE 16

ASSIGNMENT AND SUBLETTING

16.1 **Restriction.** Without the prior written consent of Landlord, which consent shall not be unreasonably withheld, Tenant will not, either involuntarily or voluntarily or by operation of law or otherwise, assign, mortgage, pledge, hypothecate, encumber or permit any lien to attach to, or transfer this Lease or any interest in it, or sublet the Premises or any part of them, or permit the Premises to be occupied by anyone other than Tenant or Tenant's employees (each a "**Transfer**" and any person or entity to whom a Transfer is made or sought to be made, a "**Transferee**"). Any Transfer in violation of the provisions of this Article will be void and, at Landlord's option, will constitute an Event of Default. Notwithstanding the foregoing, Tenant shall have the right to assign or sublease its interest in the Lease to Wake County or any other public agency or department which controls or is controlled by what is now the Wake County Board of Education, if necessary to conduct the permissible business activities of the Tenant, provided that the other requirements of Article 16 are met.

16.2 **Notice to Landlord.** If Tenant desires to make a Transfer, Tenant will submit to Landlord a written request (a "**Transfer Notice**") for Landlord's consent, at least twenty (20) business days (but no more than one hundred eighty (180) days) prior to the effective date of the proposed Transfer. The notice will include:

(a) A statement containing (i) the name and address of the proposed Transferee; (ii) current financial statements of the proposed Transferee certified by an officer, partner or owner, and any other information and materials (including, without limitation, credit reports, business plans, operating history, bank and character references) required by Landlord to assist Landlord in reviewing the financial responsibility, character, and reputation of the proposed Transferee; (iii) the nature of such Transferee's business and proposed use of the Premises; (iv) the proposed effective date of the Transfer; (v) a description of the portion of the Premises subject to the proposed Transfer; (vi) all of the principal terms of the proposed Transfer; and (vii) such other information or materials as Landlord may reasonably request.

(b) An original of the proposed assignment or sublease or other Transfer and an original of the Landlord's consent to sublease or assignment and assumption of lease and consent executed by Tenant and the proposed Transferee.

(c) If Tenant modifies any of the terms and conditions relevant to a proposed Transfer specified in the Transfer Notice, Tenant will re-submit the Transfer Notice to Landlord for its consent pursuant to the terms of this Article 16.

16.3 **Landlord's Costs.** With respect to each proposed Transfer, whether or not Landlord consents, Tenant will pay all of Landlord's reasonable professional, attorneys', accountants', engineers' or other consultants' fees incurred by Landlord relating to such proposed Transfer (not to exceed the sum of \$1,000.00 for each request) within thirty (30) days after written request by Landlord.

16.4 **Continuing Liability of Tenant.** Despite any Transfer, Tenant will remain as fully and primarily liable for the payment of Rent and for the performance of all of its other

obligations as if the Transfer had not occurred. If an Event of Default occurs after a Transfer, Landlord may proceed directly against Tenant without the necessity of exhausting its remedies against such Transferee. Landlord may consent to subsequent Transfers of this Lease with Transferees of Tenant, upon notice to Tenant, but without obtaining consent, and such consent will not relieve Tenant of its liability under this Lease.

16.5 **Non-Waiver.** The consent to any Transfer will not relieve Tenant, or any person claiming through or by Tenant, of the obligation to obtain the consent to any further Transfer. If a Transfer occurs, Landlord may collect Rent from the Transferee without waiving any rights hereunder and collection of the Rent from a person other than Tenant will not be deemed a waiver of any of Landlord's rights, an acceptance of Transferee as Tenant, or a release of Tenant from the performance of Tenant's obligations.

ARTICLE 17 DEFAULT AND REMEDIES

17.1 **Events of Default.** "Events of Default" are:

(a) Any failure by Tenant to pay any Rent in full within ten (10) days' written notice that it is due but has not been received. Landlord agrees that any Rent payment due from Tenant on July 1 of any Lease Year shall not be required to be paid until July 31, and Landlord will not give notice of any failure by Tenant to make a Rent payment due on July 1 prior to August 1.

(b) The failure by Tenant to observe or perform any other provision of this Lease, other than those described in subsection (a) of this Section, if such failure continues for thirty (30) days (except if a different period of time is specified in this Lease, in which case such different time period will apply) after written notice; however, if the nature of the default is such that it cannot be cured within the thirty (30) day period, no default will exist if Tenant commences the curing of the default within the thirty (30) day period and diligently prosecutes the cure to completion. The thirty (30) day notice will be in lieu of, and not in addition to, any notice required under any Law now or in the future in effect requiring that notice of default be given prior to the commencement of an unlawful detainer or other legal proceeding.

17.2 **Landlord's Right to Terminate Upon Tenant Default.** If an Event of Default occurs, Landlord will have the right to terminate this Lease and recover possession of the Premises by written notice to Tenant. In that event, Landlord will be entitled to receive from Tenant:

(a) Any unpaid Rent which had been earned at the time of such termination;
plus

(b) The amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus

(c) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom; and

(d) At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law. .

17.3 **Landlord's Right to Continue Lease Upon Tenant Default.** If an Event of Default or abandonment of the Premises by Tenant occurs and Landlord does not terminate this Lease, Landlord may from time to time, without terminating this Lease, enforce all of its rights and remedies under this Lease. Landlord may continue this Lease in effect after Tenant's breach and abandonment and recover Rent as it becomes due. Landlord shall use its commercially reasonable efforts to relet the Premises during the remainder of the Term and the proceeds of any such reletting will be applied first to pay to Landlord all costs and expenses of reletting (including, without limitation, costs and expenses of retaking the Premises, removing persons and property, securing new tenants, including expenses for redecoration, alterations and other costs in connection with preparing the Premises for the new tenant, and if Landlord maintains and operates the Premises, the costs to do so) and receivers' fees incurred in connection with the appointment of and performance by a receiver to protect the Premises and Landlord's interest under this Lease and any necessary or reasonable alterations; second, to the payment of any indebtedness of Tenant to Landlord other than Rent; third, to the payment of Rent due and unpaid hereunder; and the residue, if any, will be held by Landlord and applied in payment of other or future obligations of Tenant to Landlord as the same may become due and payable, and Tenant will not be entitled to receive any portion of such revenue. No re-entry or taking of possession of the Premises by Landlord pursuant to this Section will be an election to terminate this Lease unless a written notice of such election is given to Tenant or unless the termination is decreed by a court of competent jurisdiction. Landlord may, at any time after reletting, elect to terminate this Lease. If an Event of Default occurs when the Premises or any portion thereof are sublet, Landlord may collect directly from the sublessee all rentals becoming due to the Tenant and apply such rentals against other sums due to Landlord without prejudice to any other remedies.

17.4 **Right of Landlord to Performance.** If Tenant fails to pay any money required to be paid by it other than Base Rent or fails to perform any other act to be performed by it, then, Landlord may cure the failure at the expense of Tenant (a) immediately and without notice in the case (i) of emergency, (ii) where the failure unreasonably interferes with any other tenant in the Building, or (iii) where the failure will result in the violation of Law or the cancellation of any insurance policy maintained by Landlord, and (b) in any other case if such default continues for ten (10) days from the receipt by Tenant of notice of the failure. Any sums paid by Landlord and all incidental costs, together with interest thereon at the maximum rate permitted by law from the date of payment, will be payable to Landlord as Additional Rent on demand, and Landlord will have the same rights and remedies in the event of nonpayment as in the case of the failure by Tenant in the payment of Rent.

17.5 **Subleases of Tenant.** Whether Landlord elects to terminate this Lease, Landlord may terminate any subleases, licenses, concessions, or other consensual arrangements for possession entered into by Tenant and affecting the Premises, or it may succeed to Tenant's interest in such subleases, licenses, concessions or arrangements. If Landlord elects to succeed

to Tenant's interest, Tenant will have no further right to or interest in the Rent or other consideration receivable under them as of the date of notice by Landlord of its election.

17.6 **Non-Waiver.** Landlord's and Tenant's rights to indemnification or payment for liabilities arising before termination will survive this Lease. Landlord's acceptance of a lesser sum than the Rent then due will be on account of the earliest installment of Rent due. No endorsement or statement on any check or any letter accompanying any check or payment as Rent is an accord and satisfaction, and Landlord may accept payment without prejudice to its right to recover the balance of or pursue any other remedy. The delivery of keys to any employee or agent of Landlord will not operate as a surrender of the Premises.

17.7 **Cumulative Remedies.** The remedies to this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress in case of any breach or threatened breach by Tenant. In addition to the other remedies, Landlord or Tenant will be entitled to an injunction of the breach or attempted or threatened specific performance of this Lease.

17.8 **Default by Landlord.** Landlord's failure to perform or observe any of its obligations under this Lease will constitute a default by Landlord under this Lease only if such failure will continue for a period of twenty (20) days (or the additional time, if any, that is reasonably necessary promptly and diligently to cure the failure) after Landlord receives written notice from Tenant specifying in reasonable detail the nature and extent of the failure and the Lease provision containing the obligation in question. Subject to the remaining provisions of this Lease, following the occurrence of any such default, Tenant may (but shall not be obligated) immediately or at any time thereafter and without further notice perform the obligation of Landlord (and Landlord shall reimburse Tenant all actual and reasonable sums paid or incurred by Tenant within thirty (30) days after Tenant's written demand therefore), and will have the right to pursue any remedy available under Law for such default by Landlord; however, Tenant will not have any right to terminate this Lease on account of any such default, or to setoff, abate or reduce Rent before entry of a non-appealable final judgment in Tenant's favor against Landlord. Tenant will have no claim against Landlord or defense to a claim by Landlord unless Tenant gives Landlord written notice of the circumstances giving rise to the claim or defense within one hundred eighty (180) days after the circumstances arise. Notwithstanding the foregoing, if in the event of a maintenance or repair emergency, Landlord shall fail to commence the necessary maintenance and/or repair within twenty-four (24) hours following receipt of notice from Tenant (which notice, in the event of emergency, may be written or oral), or shall fail thereafter to diligently pursue completion of such necessary maintenance and/or repair, then Tenant shall have the self-help right to cause such maintenance and/or repair to be made, and Landlord shall reimburse Tenant for the reasonable and actual cost of such maintenance and/or repair within thirty (30) days of receiving an invoice therefor.

ARTICLE 18 ATTORNEYS' FEES

If either Landlord or Tenant commences any action or other proceeding against the other arising out of this Lease or the Premises, the prevailing party will be entitled to recover from the other party, in addition to any other relief, its reasonable attorneys' fees.

ARTICLE 19 SUBORDINATION AND ATTORNMENT

19.1 **Subordination.** This Lease, and the rights of Tenant, are and will be subordinate to the interests of (a) present and future mortgages and deeds of trust encumbering the Premises and reciprocal easement agreements, and covenants, conditions and restrictions now or hereafter of record, (b) all past and future advances made under any mortgages or deeds of trust, and (c) all renewals, modifications, replacements and extensions of any mortgages and deeds of trust (collectively, "**Security Documents**") which now or in the future constitute a lien upon the Premises. This subordination provision is self-operative and shall not require execution of any additional documentation for Tenant; provided, however, if Landlord requests that Tenant execute a subordination agreement, Tenant will execute the form provided by Landlord and return the fully executed Subordination Agreement to Landlord within twenty (20) days after receipt of the form agreement from Landlord. Landlord agrees that it will use its best efforts to obtain a Non-Disturbance agreement for the benefit of Tenant from the lender holding a first lien deed of trust on the Premises. In addition, for all future subordinate requests, Landlord agrees that it will be a condition to Tenant's obligation to execute a subordination agreement that Landlord obtain, from its lender, a Non-Disturbance Agreement with Tenant. The Non-Disturbance Agreement may contain provisions that the mortgagee or beneficiary (hereafter, for the purposes of this Section, a "**Successor Landlord**") will (w) not be liable for any act or omission of Landlord or its predecessors, if any, prior to the date of such Successor Landlord's succession to Landlord's interest under this Lease, (x) not be subject to any offsets or defenses which Tenant might have been able to assert against Landlord or its predecessors, if any, prior to the date of such Successor Landlord's succession to Landlord's interest under this Lease, (y) not be liable for the return of any Security Deposit under this Lease unless it has been deposited with the Successor Landlord, and (z) be entitled to receive notice of any Landlord default under this Lease plus a reasonable opportunity to cure such default prior to Tenant having any right or ability to exercise any right to terminate this Lease as a result of such Landlord default.

19.2 **Attornment.** Tenant will attorn to and recognize as Tenant's landlord under this Lease any superior mortgagee or other purchaser or person taking title to the Premises by reason of the foreclosure of any superior mortgage or deed of trust. A holder will have the right to subordinate any Security Documents to this Lease and in that case, in the event of the termination or transfer of Landlord's estate or interest in the Building by reason of any termination or foreclosure of the Security Documents, Tenant will attorn to and become Tenant of the successor in interest to Landlord at the option of the successor in interest.

ARTICLE 20 QUIET ENJOYMENT

Landlord hereby covenants and agrees that if Tenant shall timely pay all rents when due and shall faithfully and timely perform and observe all the other terms, covenants, conditions, rules and regulations and agreements herein stipulated to be performed on Tenant's part, Tenant shall at all times during the continuance hereof, have the peaceable and quiet enjoyment and possession of the Premises without any manner of hindrance from Landlord or person or persons lawfully claiming the Premises through Landlord, subject to the conditions and terms of this Lease, mortgages and encumbrances as herein further set forth.

ARTICLE 21 PARKING

21.1 **Parking; Easements.** Tenant will have the exclusive right, at no additional cost to Tenant, to use the parking spaces in the parking lot as shown on Exhibit A. In addition, Landlord shall ensure the right of Tenant, its employees, agents and invitees and licensees to use all easements, without restriction or interruption, as well as any exits and entrances located at the Premises.

ARTICLE 22 SIGNAGE

22.1 **Building Signage.** Landlord at Tenant's expense will install one tenant identification sign for Tenant in accordance with Building standards, such sign to be located at or near the Tenant's front entrance to the Premises.

22.2 **Monument Sign.** Additionally, Tenant shall have the non-exclusive right to install, at its sole cost and expense, one (1) sign located on the monument currently located in the parking area as shown on Exhibit A (the "Tenant Sign"). The display content of the Tenant Sign, including, without limitation, the letter style, color, size and design, shall be subject to Landlord's prior written approval (not to be unreasonably withheld), provided that the Tenant Sign complies, in all respects, with all applicable laws and association guidelines. The form of the Tenant Sign shall be commensurate with the signage on other ground monuments within the business park and the overall appearance, as determined by Landlord. Tenant shall be solely responsible for all costs and expenses associated with installing the Tenant Sign, including the costs of any necessary permits or approvals that are required for such signage. Upon the termination of this Lease, Tenant shall, at its sole cost and expense, remove the Tenant Sign and upon any such removal, Tenant shall, at its cost and expense, repair any damage to the Project caused by the removal of the such signage.

In order to provide architectural control for the Building, except for the Tenant Sign, Tenant shall install no other exterior signs, marquees, billboards, outside lighting fixtures and/or other decorations within the Building except portable directions signs in the Building lobby, subject to Landlord's prior approval, not to be unreasonably withheld. Landlord shall have the right to remove any such sign or other decoration and restore fully the Building at the cost and expense of Tenant if any such exterior work is done without Landlord's prior written approval, which approval Landlord shall be entitled to withhold or deny in its sole discretion.

ARTICLE 23 INTENTIONALLY DELETED

ARTICLE 24 ESTOPPEL CERTIFICATES

Each party agrees to execute, acknowledge and deliver to the other party within ten (10) days after written notice from the other party a statement in writing certifying that (a) this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease is in full force and effect as modified and stating the modifications), (b) the dates to which the Rent

has been paid, if any, (c) whether or not to the best knowledge of the party delivering the certificate, the other party is in default in the performance of this Lease and, if so, specifying each default, and (d) such other matters as the requesting party may reasonably request. Landlord and Tenant will have the right to use other forms for such purpose.

ARTICLE 25 ENTRY BY LANDLORD

Upon reasonable prior notice (except in the case of an emergency when no such notice will be required), Landlord may enter the Premises at all reasonable times to: inspect them; exhibit them to prospective purchasers, lenders or tenants; determine whether Tenant is complying with all of its obligations; supply janitorial and other services to be provided by Landlord to Tenant; post notices of non-responsibility; and make repairs or improvements in or to the Building or the Premises; provided, however, that any such entry shall be subject to such security regulations or procedures as may reasonably be imposed by Tenant and that Landlord shall use its commercially reasonable efforts to minimize the disturbance to Tenant and to protect the Premises and the property therein. If such entry would interfere with Tenant's business, the same shall be made after business hours. Tenant shall have the right to designate one or more portions of the Premises as "security areas" and if Tenant does so designate one or more portions of the Premises as "security areas," then Landlord shall not have access to such designated security areas, unless Landlord is accompanied by a representative of Tenant. All such work will be done as promptly as reasonably possible and so as to cause as little interference to Tenant as reasonably possible. Tenant waives any claim for damages for any injury or inconvenience to, or interference with, Tenant's business, any loss of occupancy or quiet enjoyment of the Premises or any other loss occasioned by such entry unless resulting from the negligence or intentional misconduct of Landlord. Landlord will at all times have and retain a key with which to unlock all of the doors in, on or about the Premises (excluding Tenant's vaults, safes and similar areas designated by Tenant in writing in advance). Landlord will have the right to use any and all means by which Landlord may deem proper to enter the Premises. Any entry to the Premises obtained by Landlord will not be a forcible or unlawful entry into the Premises, or an eviction or a termination of Tenant's duties. If Landlord is required to obtain entry by means other than a key provided by Tenant, the cost of such entry will be payable by Tenant as Additional Rent.

ARTICLE 26 LANDLORD'S LEASE UNDERTAKINGS; TRANSFER OF LANDLORD'S INTEREST

The recourse of Tenant or its successors or assigns against Landlord (and the liability of Landlord to Tenant, its successors and assigns) with respect to (a) any actual or alleged breach by Landlord or (b) any matter relating to Tenant's occupancy of the Premises (collectively, "**Landlord's Lease Undertakings**") will be limited to Landlord's interest in the Premises. Tenant will have no recourse against any other assets of Landlord or its Members. Except to the extent of Landlord's interest in the Premises, no personal liability or personal responsibility of any sort with respect to any of Landlord's Lease Undertakings or any alleged breach thereof is assumed by, or will at any time be asserted or enforceable against, Landlord. Landlord will not be liable to Tenant for any lost profits, lost economic opportunities or any form of consequential damage as the result of any actual or alleged breach by Landlord of Landlord's Lease Undertakings. Landlord shall be released from the performance of Landlord's obligations accruing from and after the transfer of Landlord's or such successor's interest in the Premises to

a third party. Landlord will not be liable for any obligations first accruing after a transfer of its interest in the Premises.

ARTICLE 27 HOLDOVER TENANCY

If Tenant gives Landlord written notice of its need to holdover at the Premises after the Expiration Date no later than ninety (90) days prior to the Expiration Date, Tenant may occupy the Premises for up to three (3) months after the Expiration Date on the same terms, conditions, and rental rates as existed during the ninety (90) days prior to the Expiration Date. If Tenant holds over beyond the three (3) month period, or does not provide a timely notice for an initial holdover (referred to in either case as an “unauthorized holdover”), Tenant will be a tenant at sufferance upon all of the terms of this Lease, except Term and Base Rent. During the unauthorized holdover period, Tenant will pay Base Rent equal to one hundred fifty percent (150%) of the Base Rent and Additional Rent payable during the last month of the Term. The Base Rent payable for the holdover period will not be construed as a penalty or as liquidated damages. Tenant will indemnify Landlord from and against any and all claims, demands, actions, proceedings, losses, damages, liabilities, obligations, penalties, costs and expenses, including, without limitation, all lost profits and other consequential damages, attorneys' fees, consultants' fees and court costs incurred or suffered by or asserted against Landlord by reason of Tenant's failure to surrender the Premises at the end of this Lease.

ARTICLE 28 NOTICES

All notices that Landlord or Tenant may serve on the other may be served, as an alternative to personal service, by registered or certified mail, postage prepaid, or by a reputable overnight courier service, which provides evidence of delivery, addressed to Landlord's Address and identifying the provision of the Lease to which the notice relates, and to Tenant's address or addressed to such other address or addresses as either Landlord or Tenant may from time to time designate to the other in writing. Any notice will be deemed to have been served at the time the same was received.

ARTICLE 29 BROKERS

Landlord and Tenant each represents and warrants to the other that it had no conversations or negotiations with any broker or finder concerning the consummation of this Lease or the leasing of the Premises to Tenant other than Avison Young on behalf of Tenant and NAI Carolantic on behalf of Landlord. It is agreed that Landlord shall pay the Broker's fee due to Avison Young and NAI Carolantic.

ARTICLE 30 INTENTIONALLY DELETED

ARTICLE 31 MISCELLANEOUS

31.1 **Entire Agreement.** This Lease consists of the foregoing Basic Lease Provisions, all Articles and all Exhibits, all of which are incorporated by this reference. If the provisions of the Basic Lease Provisions and the Articles conflict, the Articles will control. This Lease contains all of the agreements and understandings relating to the leasing of the Premises and the obligations of Landlord and Tenant in connection with such leasing. Landlord has not made, and Tenant is not relying upon, any warranties, or representations, promises or statements made by Landlord or any agent of Landlord, except as expressly set forth. This Lease supersedes any and all prior agreements between Landlord and Tenant.

31.2 **Amendments.** This Lease will not be amended, changed, or modified in any way unless in writing executed by Landlord and Tenant. Landlord or Tenant will not have waived or released any of its rights unless in writing.

31.3 **Successors.** This Lease will bind or inure to the benefit of Landlord and Tenant and their respective successors and assigns; this provision will not permit any Transfer by Tenant contrary to the provisions of Article 16.

31.4 **Force Majeure.** Landlord will incur no liability to Tenant with respect to any of Landlord's obligations if the failure is caused by any reason beyond the control of Landlord, including, but not limited to, strike, labor trouble, governmental rule, regulations, ordinance, statute or interpretation, or by fire, earthquake, civil commotion, or failure or disruption of utility services. The amount of time for Landlord to perform any of Landlord's obligations will be extended by the amount of time Landlord is delayed in performing such obligation by any force majeure.

31.5 **Survival of Obligations.** Any obligations of Tenant accruing prior to the end of this Lease will survive this Lease, and Tenant will promptly perform all such obligations whether or not this Lease has ended.

31.6 **Intentionally Deleted.**

31.7 **Governing Law.** This Lease will be governed by, and construed in accordance with, the laws of the State of North Carolina.

31.8 **Recording.** Tenant may record a memorandum of this Lease at Tenant's sole expense if desired. A copy of the Memorandum of Lease to be executed and recorded is attached as Exhibit B.

31.9 **Severability.** If any provision of this Lease is found to be unenforceable, the remainder will not be affected. Any provision found to be invalid will be enforceable to the extent permitted by law. If two interpretations may be given to any provision, one of which will render the provision unenforceable, and one of which will render the provision enforceable, the interpretation rendering the provision enforceable will be adopted.

31.10 **Captions.** All captions, headings, titles, numerical references and computer highlighting are for convenience only and will have no effect on the interpretation of this Lease.

31.11 **Interpretation.** Tenant acknowledges that it has read and reviewed this Lease and that it has had the opportunity to confer with counsel in the negotiation of this Lease.

Accordingly, this Lease will be construed neither for nor against Landlord or Tenant, but will be given a fair and reasonable interpretation in accordance with the meaning of its terms and the intent of the parties.

31.12 **Independent Covenants.** Each covenant, agreement, obligation or other provision of this Lease to be performed by Tenant are separate and independent covenants of Tenant, and not dependent on any other provision of this Lease.

31.13 **Number and Gender.** All terms and words used in this Lease, regardless of the number or gender in which they are used, will be deemed to include the appropriate number and gender, as the context may require.

31.14 **Time is of the Essence.** Time is of the essence of this Lease and the performance of all obligations hereunder.

31.15 **No Offer to Lease.** The submission of this Lease to Tenant or its Broker or other agent, does not constitute an offer to Tenant to lease the Premises. This Lease will have no force and effect until (a) it is executed and delivered by Tenant to Landlord and (b) it is fully reviewed and executed by Landlord. Execution and delivery by Tenant will constitute an irrevocable offer for twenty (20) business days following the date of delivery.

31.16 **Choice of Laws.** Tenant submits to local jurisdiction in the State of North Carolina and agrees that any action by Tenant against Landlord will be instituted in the State of North Carolina and that Landlord will have personal jurisdiction over Tenant for any action brought by Landlord against Tenant in the State of North Carolina.

31.17 **No Partnership or Joint Venture.** This Lease does not create the relationship of principal and agent, or partnership, or joint venturer, or any other relationship between Landlord and Tenant other than landlord and tenant.

31.18 **Counterparts.** This Lease may be executed in two or more counterparts and shall be deemed to have become effective when and only when one or more of such counterparts shall have been signed by or on behalf of each of the parties hereto (although it shall not be necessary that any single counterpart be signed by or on behalf of each of the parties hereto, and all such counterparts shall be deemed to constitute but one and the same instrument) and shall have been delivered by each of the parties to the other.

[SIGNATURE PAGES FOLLOW]

***SIGNATURE PAGE FOR
LEASE AGREEMENT***

IN WITNESS WHEREOF, the parties hereto have set their Hands and Seals the day and year first above written.

LANDLORD:

Chaucer Investments, LLC,
a North Carolina limited liability company

By: _____
J. Cross Williams, Jr., Manager

TENANT:

Wake County Board of Education

By: _____ (SEAL)
Christine Kushner, Chair

ATTEST:

By: _____
James G. Merrill, Secretary

[CORPORATE SEAL]

EXHIBIT A
PREMISES

EXHIBIT B

MEMORANDUM OF LEASE