

NORTH CAROLINA

WAKE COUNTY

LEASE

THIS LEASE ("Lease") is made this the day of \_\_\_\_, November 2019 by and between CONTECH PROPERTIES, LLC, a North Carolina Limited Liability Company ("Landlord"), and Wake County, a body politic and corporate ("Tenant").

- A. Landlord covenants that it is the owner of Lot # 19 as shown in the Book of Maps 1989, Page 900, of the Wake County Registry, (the "Property"), as above described, and of which the Demised Premises and Building are a part.
- B. Landlord and Tenant desire that Landlord lease the Demised Premises to the Tenant, and that Tenant lease the Demised Premises from the Landlord pursuant to the terms and conditions of this Lease as follows:

W I T N E S S E T H:

1. DEFINITIONS:

The term "Demised Premises" shall mean that 18,000 net rentable square feet, located at 5809 Departure Drive, Raleigh, N.C., Suite Numbers 104, 106 & 108 as per Exhibit A, and located at a premises known as Contech 2, with 23,867 net rentable square feet, with a physical address of 5809 Departure Drive, Raleigh, N.C. (the "Building"), as per Exhibit "B" attached hereto.

The term "Expansion Space" shall mean the approximately 5,867 additional RSF known as Suite 102 and shown on the floor plan of the Building attached hereto as Exhibit D, to become part of the Premises upon meeting conditions set forth in paragraph 2 LEASE GRANT/POSSESSION, a-d inclusive and execution of a written amendment by the parties.

The term "Net Rentable Area" shall mean areas within the plane set by the outside surface of the outer glass and exterior walls enclosing Tenant's occupied portion of the floor and measured to the mid-point of the walls separating areas leased by or held for leases to other tenants. No deductions from net rentable area are made for columns or projections necessary to the Building.

The term "Effective Date" shall mean the date upon which both parties have fully executed the Lease and Landlord has authority to commence Tenant Improvements under the Lease.

The term "Commencement Date" shall mean the later of July 1, 2020, or if the Landlord has not yet delivered Premises to Tenant with interior fit up completed and ready for Tenant to commence business operations by such date, then on such later date as Landlord delivers the Premises substantially completed in accordance with the intended Landlord Work, including Tenant improvements, as described in Exhibit E, in a state of readiness that will permit Tenant to commence business operations, including meeting conditions set forth in paragraph 2 LEASE GRANT/POSSESSION, a-d inclusive. Tenant shall acknowledge Commencement Date in writing or electronically. Tenant does not waive Landlord's duty to complete Landlord's Work, inclusive of Tenant Improvements, by agreeing to an earlier Commencement Date. Upon Commencement Date,

Tenant may enter the Premises and commence occupancy and Tenant's obligation for Rent as hereinafter defined, shall commence.

No later than October 31, 2019, Tenant shall provide Landlord with a desired layout for the Demised Premises sufficient for the Landlord to prepare construction drawings. This layout shall be in the nature of a schematic and not an engineered plan, as described in Exhibit E.

## **2. LEASE GRANT/POSSESSION:**

Landlord leases to Tenant and Tenant leases from Landlord the Demised Premises, to have and to hold said Demised Premises together with all privileges and appurtenances thereunto belonging or in anywise appertaining unto Tenant, its heirs, successors and assigns, for the term and upon the conditions set forth in this Lease. Landlord shall deliver the Demised Premises in "As-Is condition, subject to the completion of Tenant Improvements set forth in Exhibit "E", which shall become property of Landlord unless otherwise stated. Landlord shall be responsible for up to the amount of \$504,000.00, or \$28.00/square foot of the demised Premises, towards the Tenant improvements set forth as part of Landlord's Work in Exhibit "E". Any additional costs of construction required to make the Premises compliant with code or federal and/or state regulations attributable specifically to Tenant use shall be paid by Tenant, provided that any additional costs of construction required to make the areas of the Premises under the control of the Landlord (ex) parking lots and sidewalks for the Premises) compliant with code or federal and/or state regulations shall be paid by Landlord. Landlord and Tenant acknowledge that the allocation of responsibility herein does not release either party from responsibility to comply with code and/or state and federal regulations. Landlord's contribution towards the Tenant Improvements in the Demised Premises, exclusive of code compliance attributable to Landlord's common areas, parking lots, sidewalks, ingress and egress to Premises shall not exceed \$504,000.00.

Prior to the Tenant taking possession, and as a condition of Commencement Date:

- a. Landlord and Tenant shall conduct a walk through (the "Walk Through") of the Demised Premises for the purpose of assuring that all interior fit-up construction as described in Exhibit E has been performed in a workmanlike manner and in accordance with plans and specifications, that all utilities are functional, and that the Demised Premises are in good condition. Any deficiencies observed in the walk through shall be noted in writing on a punch list, and shall be cured by Landlord within thirty (30) days of the walk through. but shall not extend the Commencement Date so long as Landlord has substantially completed the upfits in accordance with Exhibit "E" and the conditions of these subparts.
- b. The City of Raleigh shall have issued a temporary Certificate of Occupancy for the Demised Premises.
- c. Landlord shall inspect the HVAC system to assure that the installed system is in good working condition, and Landlord shall provide GSA with a copy of an inspection performed within the last 60 days, and any warranties (if any) for the system. Landlord shall at its sole expense repair any system defects or malfunctions not under warranty.
- d. All public access doors from the sidewalk in front of the Building permitting ingress and egress to or from the Premises must be ADA compliant.

## **3. INITIAL TERM:**

The Initial Term of the Lease shall mean the period of time starting at 12:00 p.m. on the Commencement Date and ending at 12:00 p.m. on the date which is one-hundred and forty-four months from the Commencement Date (hereinafter referred to as the "Initial Lease Term.") or June 30, 2032.

On condition that Tenant has fully complied with all the terms and conditions of this lease and not then be in default under any of the terms hereof, and on further condition that Tenant give Landlord at least one-hundred eighty (180) days written notice of exercise of each option to extend (failure to give

notice being an absolute bar to any right on the part of the Tenant to so extend), Landlord hereby gives to Tenant the right to extend this Lease for two (2) five (5) year periods (“Extension Terms”) at Fair Market Value. The Fair Market Value for each Extension Term shall be communicated by Landlord to Tenant within ten (10) days of Tenant giving written, non-binding notice of intent to renew an Extension Term. Landlord shall give Tenant an additional 30 days to determine if it will accept the new Fair Market Value, or decline to renew the Lease. The rental rate for the Renewal Term will be 100% of the then current market rental rate for comparable office/flex buildings in the Cary market. Any extension of this Lease shall be in writing.

**4. USE:** Tenant may use the Demised Premises to conduct the business of Wake County Human Services. The use of the space shall include business occupancy for Public Health Functions, and Social Services functions, including the Special Supplemental Nutrition Program for Women, Infants, and Children. This may include seasonal programs for limited food distribution. The Tenant shall not make any other use of the Premises without Landlord's prior written consent, and in no event shall Tenant make any use of the property which is in violation of any lawful governmental laws, rules or regulation whether now existing or hereafter enacted insofar as they might relate to Tenant's use and occupancy of the Demised Premises, nor may Tenant make any use of the Demised Premises which is or might constitute a nuisance, or which increases the fire insurance premiums (or make such insurance unavailable to Landlord) on the Building. In the event of an increase in Landlord’s fire insurance premiums which results solely from Tenant’s use or occupancy of the Demised Premises, Tenant shall pay Landlord the amount of such increase upon being provided with reasonable proof that Tenant’s Use has directly resulted in the increase. In the event that Landlord’s fire insurance premiums increase for a reason not directly attributable to Tenant, then the increase shall be included in Additional Rent defined below with no separate payment due from Tenant.

**5. RENT:**

For the initial term of this Lease the Rent shall be as follows:

Month(s)	Dates	Rental Rate/SF	Monthly	Annual
1-12	7/1/20-6/30/21	\$14.00	\$21,000.00	\$252,000.00
13-24	7/1/21-6/30/22	\$14.35	\$21,525.00	\$258,300.00
25-36	7/1/22-6/30/23	\$14.71	\$22,063.13	\$264,757.50
37-48	7/1/23-6/30/24	\$15.08	\$22,614.70	\$271,376.44
49-60	7/1/24-6/30/25	\$15.45	\$23,180.07	\$278,160.85
61-72	7/1/25-6/30/26	\$15.84	\$23,759.57	\$285,114.87
73-84	7/1/26-6/30/27	\$16.24	\$24,353.56	\$292,242.74
85-96	7/1/27-6/30/28	\$16.64	\$24,962.40	\$299,548.81
97-108	7/1/28-6/30/29	\$17.06	\$25,586.46	\$307,037.53
109-120	7/1/29-6/30/30	\$17.48	\$26,226.12	\$314,713.47
121-132	7/1/30-6/30/31	\$17.72	\$26,881.78	\$322,581.31
133-144	7/1/31-6/30/32	\$18.37	\$27,553.82	\$330,645.84

This Rent as calculated above includes all fees and costs, except for Additional Rent as defined below and personal property taxes, that Tenant shall be responsible for paying to Landlord, unless otherwise stated within this Lease.

Each monthly Rent payment shall be made payable to:

Contech Properties, LLC

and mailed to:

PO BOX 12491,  
Raleigh, NC 27605  
Attn. Alison Uthe

Or by ACH as directed in writing by Landlord.

Month 1 of Rent shall be the month in which the Commencement Date occurs, and thereafter, Rent shall be paid on the 10th day of each calendar month during the applicable period of this Lease; provided, however, if any such applicable period of this Lease shall commence or end on a day other than the first day of a calendar month, the Rent for that month shall be prorated based upon the number of days of occupancy by Tenant during such month. No rent is due or shall accrue until the Commencement Date.

In addition to such remedies as may be provided under the Default provisions of this Lease, Landlord shall be entitled to a late charge of five percent (5%) of the amount of the monthly Rent if not received by the tenth (10<sup>th</sup>) calendar day of such month, an additional ten percent (10%) of the amount of the monthly Rent if not received within thirty (30) days of the due date, provided that Landlord gives the Tenant electronic or written notice that payment has not been received at least 5 business days prior to late fee accruing, and a charge of five percent (5%) of the amount of any check or draft made to Landlord and not paid at the time of presentation to the appropriate banking facility.

#### **6. ADDITIONAL RENT-TAXES INSURANCE & COMMON AREA MAINTENANCE (TICAM):**

Tenant shall pay to the Landlord as Additional Rent for the use of the Demised Premises the following costs as hereinafter more fully defined the "Landlord Costs". Tenant's share of the Landlord costs and expenses shall be in the proportion which the total gross leasable area of the Demised Premises eighteen thousand (18,000) square feet bears to the total gross leasable area of the Building. The prorated share of the Landlord's Costs for the purpose of this paragraph as of the date of this Lease are estimated to be Two Dollars and Seventy-five cents (\$2.75) per rentable square foot; and shall mean and include the following:

- a. All reasonable costs and expenses of every kind and nature whatsoever paid or incurred by Landlord in the management and operation of the Premises to include, but not limited to, maintaining the roof, common areas, exterior walls of the building and utility lines leading to the building, landscaping, gardening, parking lot repair and maintenance, exterior lighting, painting, provision of exterior trash receptacles, removal of trash, ice, snow and refuse, all to such extent as the Landlord shall deem reasonable necessary:
- b. All ad valorem taxes, assessments and other charges levied against the Demised Premises by any governmental authority, payments for all utilities including water and sewer charges, and premiums for insurance of any kind which the Landlord shall reasonably deem necessary including fire and extended coverage on the building at its full replacement value: and

Provided, however, notwithstanding anything in this Lease to the contrary, Landlord's Costs shall not include: any costs properly classifiable as capital costs, or any amortization thereof, : costs incurred in connection with the original construction or expansion of the Building, including any interest or payments on any financing; cost of correcting defects in the initial design or construction of the building or expansion; costs relating to the restoration and/or repair obligations of Landlord with respect to the Property, Building or the Demised Premises as a result of condemnation or casualty; reserves for anticipated future expenses; leasing commissions; advertising expenses; any items for which Landlord is reimbursed by insurance; any bad debt loss, or reserves for bad debts or rent loss; the cost of providing improvements for any other tenants; all interest or penalties incurred as a result of Landlord's failure to pay any bill as it shall become due; the cost of leasing anything other than items whose purchase price would be included in reimbursable expenses hereunder; any cost related to the

operation of Landlord as an entity rather than the operation of the Building including the cost and formation of the entity, internal accounting, legal matters, preparation of tax returns, etc.:

The Additional Rent payable by Tenant here under shall be determined on a calendar year basis for each full calendar year of the Lease term with appropriate adjustments for partial calendar years at the commencements and at the end of the Lease term. All annual charges such as taxes and insurance premiums shall be prorated on a monthly basis for such parts of calendar years.

Prior to the commencement of the Lease term herein before described, and each year during said term, the Landlord shall provide to the Tenant an estimate of the Additional Rent payable hereunder by the Tenant for the remainder of the first calendar year, for the following calendar year or for that proportion of the remaining calendar year under the term of this Lease. Such estimated Additional Rent shall be paid by the Tenant in equal monthly installments determined by dividing the estimated Additional Rent by the number of months in the applicable period.

Each monthly installment so determined shall be paid in advance on the first day of each calendar month, or part thereof, with each payment of Fixed Minimum Rents as hereinbefore set forth. Annually and following the termination of this Lease, the Landlord shall account to the Tenant for the actual amount of all Landlord costs incurred or accrued hereunder and any adjustments shall be made between the parties based upon any difference between the estimated and actual Additional Rent payable hereunder. Any adjustments so determined shall be paid in cash within thirty (30) days after the date of such determination. The detail accounting of the Additional Rent shall be made available anytime to the Tenant with Ten (10) days written notice to the Landlord.

Tenant shall procure for its own account and shall pay the cost of all gas, electric power and fuel consumed or used in or at said Demised Premises, including appropriate deposits as required. Landlord shall not be liable to Tenant in damages or otherwise for any interruptions, curtailment, or suspension of utility service.

During the term of this Lease and any renewal thereof, the Landlord shall maintain and keep in good repair the parking areas, exterior monument signage, exterior lighting and landscaping, "Common Areas" the roof, exterior and supporting walls, the electrical wiring from the utility company's distribution lines to the Demised Premises herein Leased, and the water and sewer lines outside of said Leased Demised Premises. All of such costs incurred by Landlord shall be included in the determination of Additional Rent under the provisions of paragraph 6 hereof; provided, however, Tenant at its sole cost and expense, shall make any repairs to the Building required by or as a result of gross negligence or willful act of Tenant, its customers, licenses, agents, servants or employees.

Tenant shall be responsible for maintenance and janitorial services for the Demised Premises, including supplies, lightbulbs, and ballasts. Tenant shall maintain and keep in good order and repair at its own expense, whether the same shall be the property of Tenant and Landlord, the interior of said Demised Premises, including walls, ceilings, floors, store fixtures and equipment, electrical fixtures and equipment (including light bulbs and ballasts), plumbing fixtures and equipment, all hardware, interior painting and decorations, all doors, locks and grilles, all window glass including the glass in exterior walls, reasonable wear and tear excluded. Tenant shall not make, or suffer to be made, any alternations, additions or improvements to the Demised Premises by the Tenant, the same shall be made at the Tenant's sole cost and expense and the Tenant shall hold the Landlord harmless for any loss, cost and or expense whatsoever arising out of the same. Tenant shall not be authorized to make any contract for any repair, alteration, addition or improvements to the Demised Premises which shall obligate the Landlord in any manner for the cost thereof or which shall in any manner permit the other party to such contract to acquire any type of lien against the Premises.

If required by the Landlord, or if the Tenant be not in default under any of the terms hereof, upon the termination of this Lease for any cause whatsoever, the Tenant shall at its own expense, within fifteen (15) days after such termination, remove any trade fixtures and other equipment installed by Tenant. Any other floor coverings, electric wiring, etc, may be removed only if requested by Landlord. The Tenant shall repair, or reimburse the Landlord for the costs of repairing, any and all damages resulting

to the Demised Premises from the removal of such fixtures and additions. Upon the termination of this Lease, the Tenant shall surrender and yield up the Demised Premises and all additions thereto, except as herein above limited, in as good and tenant able condition as the same are at the beginning of Tenant's occupancy, reasonable wear and tear expected. Should the Tenant fail to comply with its responsibilities under the terms of this paragraph, the Landlord shall have the right to enter the Demised Premises and make necessary repairs and perform any maintenance require. Any costs incurred by the Landlord in such repairs and maintenance, plus fifteen (15) percent as an administrative charge, shall be paid to the Landlord by the Tenant within ten (10) days after written notice of the same shall be given to the Tenant by the Landlord.

## **7. SERVICES BY LANDLORD:**

Landlord shall cause to be furnished to the Demised Premises during reasonable business hours, which shall be Monday through Friday 8:00 a.m. to 7:00 p.m. and Saturday 8:00 a.m. to 2:00 p.m.(excluding National or State holidays), the following services: trash removal from common area dumpster in accordance with city schedules, and heating and air conditioning for comfortable use and occupancy of the Demised Premises. Landlord is responsible for maintaining heating and air condition equipment (HVAC) for the building at its sole expense, provided that Tenant shall not install equipment with unusual demands for any of the foregoing without Landlord's prior written consent, which Landlord may withhold if it determines that in its opinion such equipment may not be safely used in the Demised Premises or that electrical service is not adequate. any additional costs resulting solely from Tenant's usage of heating, air conditioning or electricity on Saturday outside of business hours shall be paid by Tenant. Landlord shall repair and restore the Building or any part or appurtenance thereof being improperly constructed or being or becoming out of repair, or arising from the leaking of gas, water, sewer, or from electricity to the extent casualty insurance is available or required by this Lease for such repair and restoration; provided that Tenant shall be responsible for insuring its personal property against casualty, except for any damage caused to Tenant or its property due to Landlord's negligence or willful misconduct. Tenant shall report immediately (within 24 hours of the business day in which the condition was observed) to Landlord any defective condition on or about the Demised Premises known to Tenant, and, if such defect is not so reported, then Tenant shall be liable for any damages resulting from the delay of reporting the condition. So long as Landlord acts promptly (taking into consideration the seriousness of the repair and the possible damage from the disrepair) and reasonably and in good faith, there shall be no abatement or reduction of Rent by reason of any of the foregoing services not being continuously provided to Tenant. Tenant shall be responsible for ad valorem personal property taxes for Tenant owned furniture and equipment. Landlord shall further provide a reasonable amount of free undesignated parking in common with other tenants for Tenant's employees and visitors. Tenant shall provide Landlord with written emailed service request through Tenant's work order system, which will identify scope of request, caller, location, time and date stamp. These requests do not replace the Landlord's maintenance tracking system and provide recourse for Landlord to the County managing representative (Wake County GSA) if services requested are outside the Lease requirements. Landlord shall notify tenant if the request is outside of services covered by the lease and fees are required.

## **8. TENANT'S ACCEPTANCE AND MAINTENANCE OF PREMISES:**

Upon the Commencement Date, Tenant shall be deemed to have represented to Landlord that Tenant has examined and inspected the Demised Premises, finds it to be as represented by Landlord and satisfactory for Tenant's intended use, and accepts the Demised Premises "as is" subject to the conditions of Commencement Date. Landlord makes no representation or warranty as to the condition of the Demised Premises. At the expiration or earlier termination of this Lease, Tenant shall deliver each and every part of the Demised Premises (excluding exterior drives, walks, and parking areas, grounds, exterior walls, roof, and Common Areas in the Building which are to be maintained by Landlord) in the state of repair and condition existing at move in, wear and tear excepted, and shall make, at Tenant's sole cost and expense, such replacements, restoration, renewals or repairs, in

quality equivalent or better than the original work replaced, as may be required to so maintain the same, ordinary wear and tear only excepted.

## **9. ALTERATIONS:**

Tenant shall make no structural or interior alterations of the Demised Premises without Landlord's prior written consent. Any work performed by Tenant shall be done in a good and workmanlike manner and so as not to disturb or inconvenience other tenants. Tenant shall not at any time permit any work to be performed on the Demised Premises except by duly licensed contractors or artisans, each of whom must carry general public liability insurance, certificates of which shall be furnished to Landlord. At no time may Tenant do any work that results in a claim or lien against Landlord, and, if requested by Landlord on termination of the Lease or vacation of the Demised Premises by Tenant, Tenant shall restore, at Tenant's sole cost and expense, the Demised Premises to the same condition as existed upon the Commencement Date, ordinary wear and tear only excepted. Beyond the initial Landlord Improvements, if Tenant requests special systems installation that must meet the Tenant's corporate standard, Tenant shall provide approved subcontractor to Landlord with pricing, Tenant and Landlord shall sign a Lease Amendment identifying the subcontractor, work, specification with cost, plus Landlord's markup not to exceed five (5%) percent construction management fee. Tenant may elect to provide quality control. Tenant may certify invoices when payment is due to subcontractor. Landlord shall invoice the Tenant, Tenant shall pay the Landlord, Landlord shall pay the subcontractor.

Landlord shall allow Tenant to provide and install systems or modular furniture and data wiring, on initial occupancy per EXHIBIT E, but all electrical connections shall be provided by the Landlord using the Landlord's licensed electrician. Power poles will be furnished by systems furniture contractor. Landlord's obligations in the section are specifically limited to the specifications set forth in Exhibit E.

Data and Security Systems: Tenant shall have the right to install, use and service, at Tenant's sole cost, Tenant's own telephone/data systems utilizing furnished telecommunication rooms. Tenant shall have the right to install, use and service Tenant's sole cost a security system on premises to include access control on each elevator and interior stair door providing access to the Tenant's demised property.

Tenant shall provide Landlord with access codes and Landlord shall have an ongoing right of entry. Tenant shall not change Landlord's keyway.

Tenant Appliances and Vending Machines shall have electrical outlets provided by Landlord. Landlord's obligations in the section are specifically limited to the specifications set forth in Exhibit E.

Tenant will direct any problems with the HVAC temperature setting directly to Landlord or its representative. Landlord shall determine the setting of all zones as nearly as possible within a range of 68 to 74 degrees and Tenant agrees to abide by that setting. Tenant will not adjust, tamper with, or otherwise handle the thermostat or any other part of the air-conditioning and heating system; however if the climate control in Tenant's premises falls below or above the range of 68-74 degrees for an extended period of time, provided that the outside temperature does not exceed 94 degrees and less than 48 degrees and occupancy for a single room does not exceed five (5) people, then Landlord shall be responsible for adjusting climate controls serving Tenant Premises. Any disagreement with regard to temperature set as nearly as possible within the above range will not entitle Tenant to withhold rent or to void or terminate the Lease.

## **10. DESTRUCTION OF PREMISES:**

If the Demised Premises are destroyed by fire or other casualty to the extent that Tenant cannot

reasonably carry out its normal operations, not resulting from the wrongful or negligent act of Tenant, either Landlord or Tenant may by written notice given not later than thirty (30) days after the date of such destruction, terminate this Lease, in which event Rent paid for the period beyond the date of destruction shall be promptly refunded to Tenant. If there is not total destruction and Tenant reasonably is required to close its operations during repairs, Rent shall abate while so closed, but if Tenant is able to continue its normal operations during repairs, Rent shall be adjusted and prorated in the proportion which the area of unusable leased space bears to the total Demised Premises, provided that Landlord shall not in such case have any liability for losses claimed by Tenant. However, if the damages are such that Landlord concludes that restoration cannot be completed within one hundred fifty (150) days, either Landlord or Tenant may terminate this Lease effective immediately upon written notice. If the Demised Premises are damaged by cause due to fault or neglect of Tenant, its agents, employees, invitees, or licensees, Landlord may repair such damage without prejudice to subrogation rights of Landlord's insurer, and there shall be no apportionment or abatement of rent as long as Tenant is able to continue its normal operations during repairs.

#### **11. ASSIGNMENT – SUBLEASE:**

Tenant may not assign or encumber this Lease, and may not sublet any part or all of the Demised Premises without the written consent of Landlord first had and obtained, such consent not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Tenant, upon written notice to Landlord, may assign this Lease or sublet the Demised Premises to a subcontractor of Tenant performing substantially the same operations of Tenant so long as Tenant remains liable under this Lease. Any assignment or sublease to which Landlord may consent (one consent not being any basis to contend that Landlord should consent to a further change) or that is permissible under this Lease shall not relieve Tenant of all of its obligations hereunder. In no event shall this Lease be assignable by operation of any law, and Tenant's rights hereunder may not become, and shall not be listed by Tenant as, an asset under any bankruptcy, insolvency or reorganization proceedings. Tenant is not, may not become, and shall never represent itself to be an agent of Landlord, and Tenant expressly recognizes that Landlord's title is paramount, and that it can do nothing to affect or impair Landlord's title.

#### **12. INSURANCE AND DUTY TO COMPLY:**

Tenant shall comply with all applicable laws, ordinances and regulations affecting the Premises, including general rules for tenants as may be developed from time to time by Landlord and delivered to Tenant or posted on the Premises (a copy of the present rules are attached as Exhibit C). Tenant shall maintain and care for its personal property on the Premises, insure the same to such extent as it deems appropriate, and shall neither have nor make any claim against Landlord for any loss or damage to the same, regardless of the cause therefore, unless caused by the negligence or willful misconduct of Landlord or its employees or agents.

Landlord shall comply with all applicable laws, ordinances and regulations affecting the Building. Landlord shall keep the Building, including all improvements located therein, insured against damage and destruction by fire, earthquake, vandalism or other perils in the amount of the full replacement thereof, as such value may be prudently redetermined from time to time. Such insurance shall include such endorsements normally maintained for commercial office buildings and shall permit insurance proceeds to be used by Landlord for the repair and restoration of the Building and improvements. Landlord shall maintain policies of public liability insurance in minimum amounts of One Million and No/100 Dollars (\$1,000,000.00) per occurrence and Two Million and No/100 Dollars (\$2,000,000.00) in the aggregate and shall furnish Tenant with copies of such policies upon request.

Tenant is a public entity. Tenant shall not be required to carry general public liability and property damage insurance required by this section and may "self-insure" against such risks provided that (i) Tenant has in effect for the benefit of its offices a program of "self-insurance" against such risks, (ii) Tenant has and maintains a Moody's Investors Service bond rating of "AAA", and (iii) the failure to

carry such insurance does not violate any law, statute, code, act, ordinance, order, judgment, decree, injunction, rule, regulation, permit, license, authorization or other requirement which is issued by any government or governmental agency with jurisdiction over the Premises or which is applicable to Tenant in the conduct of its business.

### **13. SUBORDINATION – ATTORNMENT:**

This Lease shall be deemed subject and subordinate to any mortgage which may heretofore or hereafter be executed by Landlord covering the Building and Property. In the event any proceedings are brought for foreclosure of any mortgage on the Property, Building or Demised Premises, Tenant will attorn to the purchaser at a foreclosure sale and recognize such purchaser as Landlord, as long as such purchaser shall agree not to disturb Tenant's possession so long as Tenant is not in default under the terms of this Lease. Tenant shall execute, at Landlord's request, and within five (5) days following receipt thereof, instruments evidencing the subordinate position of this Lease and/or estoppel certificates setting forth the date Tenant accepted possession of the Demised Premises, that Tenant then currently occupies the Demised Premises, the termination date of the Lease (with reference to any remaining Renewal Terms), the date to which Rent has been paid and the amount of such monthly Rent in effect as of such certification, whether or not Tenant has any defense of offset to the enforcement of the Lease, any knowledge Tenant has of any default or breach by Landlord, and that the Lease is in full force and effect except as to modifications, agreements or amendments thereto, copies of each of which shall be attached to the certificate.

### **14. SIGNS:**

Tenant shall provide a sign for the Premises containing the Wake County logo as approved by Tenant. Tenant may not erect, install or display any sign or advertising material upon the Demised Premises, the walls thereof, or in any window therein, without the prior written consent of Landlord, which shall not be unreasonably withheld. All signage must comply with all local ordinances, restrictive covenants and governmental regulations.

### **15. ACCESS TO PREMISES:**

Landlord shall have the right, either itself or through its authorized agents, to enter the Demised Premises at all reasonable times to examine the same, to show them to prospective tenants for other spaces in the Building, to allow inspection by mortgagees, and to make such repairs, alterations or changes as Landlord deems necessary. Tenant, its agents, employees, invites, and guests, shall have the right of ingress and to Common Areas and public areas of the Building, provided Landlord by reasonable regulation may control such access for the comfort, convenience and protection of all tenants in the building. Landlord acknowledges that the right to access Premises as set forth in this section and is subject to any restrictions necessitated by Tenant's confidentiality obligations arising out of HIPAA and/or other federal or state law.

### **16. RELOCATION:**

Landlord shall not have the right to relocate Tenant Premises to comparable space within the Property.

### **17. DEFAULT:**

If Tenant fails to pay all rent as provided in the Lease when due, breaches any other agreement or obligation herein set forth, files (or has filed against it) any petition of action for relief under any creditor's law (including bankruptcy, reorganization, or similar actions), either in State or Federal Court, becomes insolvent, makes any transfer in fraud of creditors or makes an assignment for the benefit of creditors, then, in addition to any other lawful right or remedy which Landlord may have,

then Landlord may terminate the Lease, provided that the condition is not cured within thirty (30) days of Landlord giving written notice to the Tenant for default other than failure to pay rent which shall be cured within fifteen (15) days of Landlord giving written notice to Tenant. All expenses of Landlord in repairing, restoring or altering the Demised Premises for reletting, together with leasing fees and all other expenses in seeking a new tenant, shall be charged to and a liability of Tenant. All rights and remedies of Landlord are cumulative, and the exercise of any one shall not be an election excluding Landlord at any other time from exercising a different or inconsistent remedy. No waiver by Landlord of any covenant or condition shall be deemed to imply or constitute a further waiver of the same at a later time.

If Landlord fails to perform or observe any material condition of the Lease to be performed by Landlord, files (or has filed against it) any petition of action for relief under any creditor's law (including bankruptcy, reorganization, or similar actions), either in State or Federal Court, becomes insolvent, makes any transfer in fraud of creditors or makes an assignment for the benefit of creditors, then, in addition to any other lawful right or remedy which Tenant may have, then provided that the condition is not cured within thirty (30) days of Tenant giving written notice to the Landlord, then Tenant may terminate the Lease. For the purposes of this section, a material condition is a condition that would deprive the Tenant of the Use of the Premises as defined herein.

**18. PROPERTY OF TENANT:**

Tenant shall timely pay any and all taxes levied or assessed against or upon Tenant's equipment, fixtures, furniture, leasehold improvements and personal property located in the Demised Premises. Tenant (if not in default hereunder), prior to the expiration date of this Lease, may remove all fixtures and equipment which Tenant has placed in the Demised Premises, provided Tenant repairs all damages caused by such removal, wear and tear excepted. If Tenant does not remove its property from the Demised Premises within five (5) business days following expiration or termination (for whatever cause) of this Lease, such property shall be deemed abandoned by Tenant and Landlord may dispose of the same in whatever manner Landlord may elect.

**19. QUIET ENJOYMENT:**

If Tenant promptly and punctually complies with each of its obligations hereunder, it shall peacefully have and enjoy the possession of the Demised Premises during the Initial Lease Term and any applicable Renewal Terms, provided that no action of Landlord in working in other space in the Building, or in repairing or restoring the Demised Premises, shall be deemed a breach of this covenant, giving Tenant any right to modify this Lease either as to its term, rent payable, or other obligation to be performed.

**20. SECURITY DEPOSIT:**

Intentionally Deleted.

**21. NOTICES:**

Any notice which Landlord or Tenant is required or desires to give the other shall be deemed sufficiently given or rendered if, in writing, it is delivered personally, or sent by certified or registered mail, returned receipt requested and postage prepaid, or by receipted overnight courier service, to the following addresses. Any notices given herein shall be deemed delivered when the return receipt therefore is signed, or refusal to accept the mailing by the addressee is noted thereon by the delivering authorities.

If to Tenant:

Wake County  
P. O. Box 550  
Raleigh, NC 27602  
Attention: Wake County GSA - Kelli Braunbach  
[kbraunbach@wakegov.com](mailto:kbraunbach@wakegov.com)

with copy to:

Wake County Attorney  
P.O. Box 550  
Raleigh, N.C. 27602  
Attn: Mr. Scott W. Warren

Wake County  
P. O. Box 550  
Raleigh, NC 27602  
Attn: Wake County FDC Mr. Mark Edmondson  
[Mark.edmondson@wakegov.com](mailto:Mark.edmondson@wakegov.com)

If to Landlord:

CONTECH PROPERTIES, LLC.  
PO Box 12491  
Raleigh, NC 27605  
Attn. Ms. Alison Uthe

## **22. HOLDING OVER:**

Should Tenant or any of its successors in interest hold over the Demised Premises, or any part thereof, after the expiration of the term of this Lease, such holding over shall constitute and be construed as tenancy from month to month only. During an adverse holding over period, Tenant shall pay to Landlord a hold over payment in monthly installments equal to one-hundred-fifty percent (150%) the last effective Rent plus any and all forms of documented additional expenses that Landlord may incur related to Tenant's holding over at the Demised Premises during such hold over period. No receipt of money by Landlord from Tenant after expiration termination of this Lease shall reinstate or extend this Lease or affect any prior notice given by Landlord to Tenant. Any period of time in which the Landlord and Tenant are engaged in good faith negotiations for an extension or renewal of lease shall not be considered an adverse holding over period. Any such extension of this Lease shall be in writing signed by Landlord and Tenant.

## **23. MISCELLANEOUS:**

Headings of paragraphs are for convenience only and shall not be considered in construing the meaning of the contents of such paragraph. The invalidity of any portion of this Lease shall not have any effect on the balance hereof. Should either party institute any legal proceeding against the other for breach of any provision herein contained, and prevail in such action, the Tenant shall in addition be liable for its costs and expenses of the Landlord, including its reasonable attorney fees. This Lease shall be binding upon the respective parties hereto, and upon their heirs, permitted sublessee, executors, successors and permitted assigns. This Lease supersedes and cancels all prior negotiations between the parties, and changes shall be in writing signed by the party affected by such change. Landlord reserves the right to promulgate (and change from time to time) regulations it deems appropriate for the common use and benefit of all Tenants, so long as it is not inconsistent with the terms of this Lease, with which regulations Tenant shall comply, as shown in Exhibit B.

Landlord may sell the building without affecting the obligations of Tenant hereunder and Landlord shall be relieved of all responsibility for the Demised Premises upon assignment of the Lease to a successor Landlord. This Lease may not be recorded without Landlord's prior consent, but either party agrees on request of the other party to execute a memorandum hereof for recording purposes. The singular shall include the plural, and the masculine or neuter includes the other. Exhibits A, B, C, D, E & F attached hereto shall be incorporated into this Lease. This Lease shall be construed in accordance with the laws of the state of North Carolina and venue shall rest in the state courts of Wake County, North Carolina.

**24. IMPROVEMENTS:**

Intentionally Deleted.

**25. HOLD HARMLESS:**

If allowed by North Carolina law, to the extent it does not operate as a waiver of sovereign immunity, and as permitted by the terms of the Tenant's "2003 Resolution Regarding Limited Waiver of Sovereign Immunity" attached hereto as Exhibit E. Tenant hereby agrees to be responsible for any and all claims, damages, losses and expenses, arising out of or resulting from any claim that is based upon (a) Tenant's breach of this Lease, (b) the conduct or actions of Tenant within or outside the scope of this Lease, or (c) any negligent act or omission or willful misconduct of Tenant. Landlord hereby agrees to indemnify, defend and hold Tenant and its agents, contractors, employees, officers, invitees, other tenants and directors, harmless from and against any and all claims, damages, losses and expenses, including but not limited to attorneys' fees and disbursements, arising out of or resulting from any claim, action or other proceeding (including without limitation any proceeding by any of Landlord's employees, agents or contractors) that is based upon (a) Landlord's breach of this Lease, (b) the conduct or actions of Landlord within or outside the scope of this Lease, or (c) any negligent act or omission or willful misconduct of Landlord.

**26. ENVIRONMENTAL LAWS:**

Landlord represents that it has no knowledge of any substance, chemical or waste (collectively "Hazardous Substance") on the Property that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Landlord and Tenant shall not introduce or use any Hazardous Substance on the Property in violation of any applicable law.

**27. CERTIFICATE OF INSURANCE:**

Upon lease execution, Tenant is required to deliver to Landlord a letter of self insurance and Landlord is required to provide to Tenant a Certificate of Insurance as per language contained in the lease agreement.

**28. INTENTIONALLY DELETED**

**29. EXPANSION SPACE:**

Effective as of February 1, 2021\_or such later date as Landlord delivers and Tenant accepts the Expansion Space substantially completed in accordance with the intended Landlord Work, including any Tenant improvements, in a state of readiness that will permit Tenant to commence business operations in the Expansion Space, including meeting conditions set forth in paragraph 2 LEASE GRANT/POSSESSION, a-d inclusive (the "Expansion Space Commencement Date"), the Premises shall be expanded to include approximately 5,867 additional RSF, known as Suite 102 and shown on the floor plan of the Building attached hereto as **Exhibit D** (the "Expansion Space"). Tenant shall acknowledge the Expansion Space Commencement Date in writing or electronically. Tenant does

not waive Landlord's duty to complete Landlord's Work, inclusive of Tenant Improvements, by agreeing to an earlier Expansion Space Commencement Date. Upon execution of an Amendment to this Lease adding Expansion Space upon the terms and conditions set forth herein, on the Expansion Space Commencement Date, Tenant may enter the Expansion Space and commence occupancy and Tenant's obligation for Rent as hereinafter defined, shall commence.

Starting with the Expansion Space Commencement Date, all references in this Lease to the Premises shall be deemed to include the Expansion Space and the Premises shall be deemed to consist of approximately 23,867 RSF. All terms and Conditions of this LEASE, including but not limited to the rental rates/square foot set out in **5. RENT** and **3. TERM**, including the option for Extension Terms, shall apply to the Expansion Space. For the avoidance of doubt, the month of the Expansion Space Commencement Date shall be Month 1 for the Expansion Space, with the corresponding rent for Month 8 set out in **5. RENT** due, progressing in this manner throughout the Term such that the schedules of rent payable for the original Premises and the Expansion Space shall be different. The term of this Lease for the Expansion Space shall be one-hundred and thirty-seven (137) months beginning on the Expansion Space Commencement Date. The Term for the original Premises end date is coterminous with the end date for the Term of the Lease for the Expansion Premises. No later than July 31, 2020, Tenant shall provide Landlord with a desired layout for the Expansion Space sufficient for the Landlord to prepare construction drawings. This layout shall be in the nature of a schematic and not an engineered plan.

Except as provided below, the terms and conditions applicable to the Expansion Space shall be the same as the then applicable terms and conditions for the initial Premises including the Term and Rent, and Landlord shall provide Tenant with an Allowance for Landlord's Work in the amount of \$164,276.00, or \$28.00/square foot. In addition to the square footage allowance for the Expansion Space, Landlord shall at its own expense restore any portion of the original Demised Premises requiring upfit or repair due to Landlord's renovation of Expansion Space per the specifications of this Lease. From and after the Expansion Space Commencement Date, Tenant's Additional Rent as defined in section 6 of this Lease Agreement for the Premises shall be based upon a Premises of 23,867 RSF in a Building of 23,867 RSF and all calculations that are based upon the RSF of the Premises shall be adjusted to include the RSF of the Expansion Space, including, without limitation, Base Rent. In the event that the total Rentable Square Feet of the Building increases, then the calculation of Tenant's Percentage Share shall be recalculated taking the new total of Rentable Square Feet into account. As of the Expansion Space Commencement Date, Landlord shall take into account the addition of the Expansion Space to the Premises in determining the reasonable amount of free undesignated parking available to Tenant. Tenant shall be deemed to have accepted the Expansion Space in its "AS-IS" condition as of the Expansion Commencement Date, subject to the conditions of the Expansion Commencement Date, it being understood and agreed that Landlord shall have no additional obligation to renovate or remodel Expansion Space. Tenant shall be entitled to exclusive possession of the Expansion Space as of the Expansion Space Commencement Date and Landlord shall use commercially reasonable efforts to deliver possession of the Expansion Space to Tenant on such date. Landlord shall not enter into any lease of the Expansion Space the term of which will extend beyond the Expansion Commencement Date or which will permit the tenant to use to space for any purposes other than general office uses or which will permit the tenant to make any alterations inconsistent with the current condition of the Expansion Space, unless the Expansion Space is returned to substantially the same condition as of the Effective Date. In the event that any tenant of the Expansion Space holds over beyond the Expansion Commencement Date, Landlord will use commercially reasonable efforts to deliver possession of the Expansion Space to Tenant and Tenant's Rent shall be abated one day for each day Landlord does not deliver to Tenant of exclusive possession of the Expansion Space.

### **30. AMERICANS WITH DISABILITIES ACT:**

Landlord shall comply with the Americans with Disabilities Act of 1990 ("ADA") and the regulations promulgated thereunder with respect to the Building and, prior to the Commencement Date with

respect to the Premises. Tenant shall comply with the ADA and the regulations thereunder that are promulgated after the Commencement Date with respect to the Premises. Subject to the foregoing, Tenant hereby expressly assumes all responsibility for the compliance of activities conducted by Tenant within the Premises with the ADA relating to the Premises and Landlord hereby expressly assumes all responsibility for the compliance with the ADA relating to the areas under Landlord's control outside of the Premises. Any Alterations to the Premises made by Tenant for the purpose of complying with the ADA or which otherwise require compliance with the ADA shall be done in accordance with this Lease; provided, that Landlord's consent to such Alterations shall not constitute either Landlord's assumption, in whole or in part, of Tenant's responsibility for compliance with the ADA, or representation or confirmation by Landlord that such Alterations comply with the provisions of the ADA. Landlord, at Landlord's expense, shall be responsible for ADA compliance of all public access doors permitting ingress and egress to or from the Premises.

**31. NON-APPROPRIATION:**

Landlord acknowledges that since Tenant is a governmental entity, the Premises are leased contingent upon the availability of public funding. Tenant and Landlord hereby acknowledge and agree that the Wake County Board of Commissioners (upon its approval of this Lease, as specified below) have the duty to appropriate funds for the fulfillment of Tenant's obligations under this Lease throughout the Lease Term. In the event that public funds are unavailable and not appropriated for the performance of Tenant's obligations under this Lease, then this Lease shall automatically expire without penalty to Tenant thirty (30) days after written notice to Landlord of the unavailability and non-appropriation of public funds. It is expressly agreed that Tenant shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this Lease but only as an emergency fiscal measure during a substantial fiscal crisis which affects generally all governmental operations. Non-appropriation shall include the reduction or elimination of third-party funding appropriated as revenue for the payment of funds due under this Lease.

This space left blank intentionally.

IN WITNESS WHEREOF, and intending to be legally bound thereby, Landlord and Tenant have set forth their hands and seals and executed this Lease, all as of the day and year first above written.

LANDLORD

SUNSPEC PROPERTIES, LLC, a North Carolina Limited Liability Company

By: \_\_\_\_\_  
Alison Uthe, Manager

Date: \_\_\_\_\_

TENANT

WAKE COUNTY, a body politic and corporate

By: \_\_\_\_\_(SEAL)  
David Ellis  
Title: Manager

Date: \_\_\_\_\_

EXHIBIT A  
DEMISED PREMISES

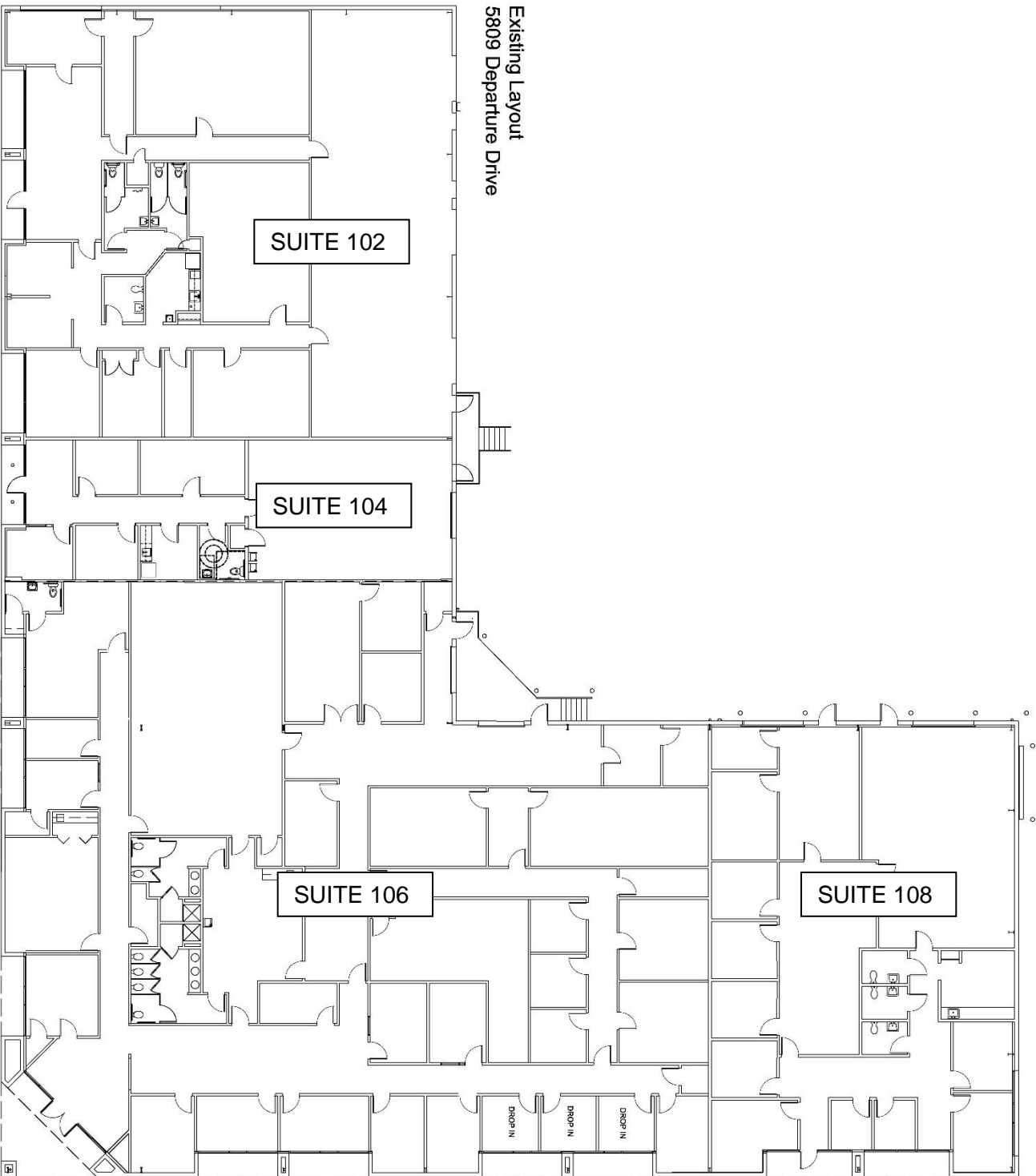
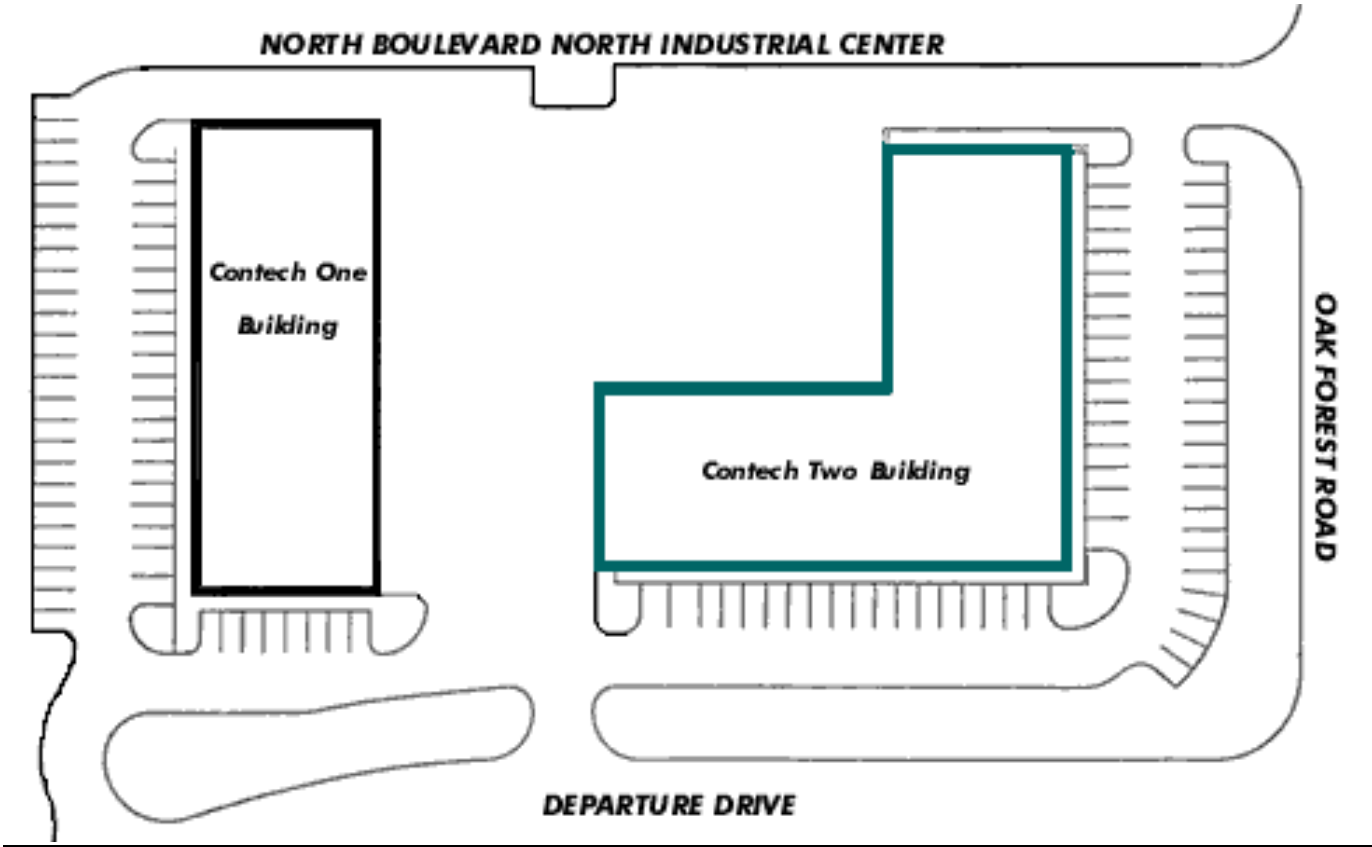


EXHIBIT B

BUILDING AND PROPERTY

(Legal description from deed and sketch drawing of property, including the building, parking lots and nearest public right of way)



## EXHIBIT C RULES AND REGULATIONS

(a) The entrances, corridors, passages, stairways and elevators shall be under exclusive control of the Landlord and shall not be obstructed, nor used by the Tenant for any purpose other than ingress and egress to and from the Demised Premises.

(b) The Tenant shall neither place nor permit to be placed any signs, advertisements, notices in or upon any part of the building unless otherwise provided in the lease except on the doors of the Demised Premises, or as approved in writing by Landlord, and all such doorway signs shall be approved by the Landlord. All signs not approved in writing by the Landlord shall be subject to removal without notice.

(c) The Tenant shall not put up, nor operate, any engine, boiler, dynamo or machinery of any kind nor carry on any mechanical business in said Demised Premises, nor place any explosive therein, nor use any kerosene or oils, or burning fluids in said Demised Premises without first obtaining the written consent of the Landlord.

(d) If any Tenant shall desire an iron safe for depositing valuables and securities the Landlord shall have the right to prescribe its weight, size and proper position.

(e) No nails are to be driven in walls for hanging items weighing over 35 pounds and premises are not to be defaced in any way, and no boring or cutting for wires or other purposes is to be done, and no change in electric fixtures or other appurtenances of Demised Premises is to be made, without the written consent of the Landlord.

(f) If the Tenant desires telephonic or telegraphic connections, the Landlord will direct the electricians as to where and how the wires are to be introduced, and without such written directions no boring for wires will be permitted.

(g) The Demised Premises shall not be used in any way to damage the reputation of the building; and the Tenant shall not disturb, nor permit the disturbance of, other tenants by the use of musical instruments, or any seemly noises, nor by any interference whatsoever; and nothing shall be placed or permitted upon the outside window sills.

(h) Tenant shall be responsible for cleaning the Demised Premises. Landlord shall be responsible for cleaning all common areas.

(i) The Landlord shall have the right to exclude or eject from the building animals of every kind, birds, bicycles, and all canvassers and other persons who conduct themselves in such a manner as to be, in the judgment of the Landlord, an annoyance to the tenants or a detriment to the building.

(j) No additional locks shall be placed upon any doors of said Demised Premises, without first obtaining the written consent of the Landlord. Upon termination of this lease the Tenant shall surrender all keys to said Demised Premises and said building subject to the provisions of Section 7

(k) Tenant shall have non-exclusive right to use all driveways and parking areas for Tenant and Tenant's employees, and clients.

(l) If additional drapes or windows decorations are desired by Tenant, they shall be approved by Landlord and installed at Tenant's expense.

(m) The toilet rooms, water-closets and other water apparatus shall not be used for any purpose other than those for which they were constructed, and no sweepings, rubbish, rags, or other injurious substances, shall be thrown therein. The cost of repair of any damage resulting from such misuse or abuse shall be borne by the Tenant by whom or by whose employees it shall be caused.

(n) The Landlord shall have the right to make such other and further reasonable rules and regulations as, in the judgment of the Landlord, so long as they are consistent with the terms of this lease, may from time to time be needful for the safety, care and cleanliness of the Demised Premises, and for the preservation of good order therein.

(o) Construction will not commence until both Tenant and Landlord have approved in writing the construction drawings. Any changes or additions to the plans caused by the Tenant will be deemed to be "Nonstandard" and the cost to construct these changes or additions will be borne by the Tenant. Said costs of Nonstandard work will be paid by Tenant to Landlord before Nonstandard work is started and shall be in the form of a cash payment to be held in escrow by the Landlord's Attorney or by an irrevocable letter of credit, the wording of which is to be approved by the Landlord.

(p) This is a smoke free building. No person or persons shall smoke in the demised premises common areas, access areas, or restrooms. This property does not have a designated smoking area.

EXHIBIT D  
EXPANSION SPACE  
SUITE 102

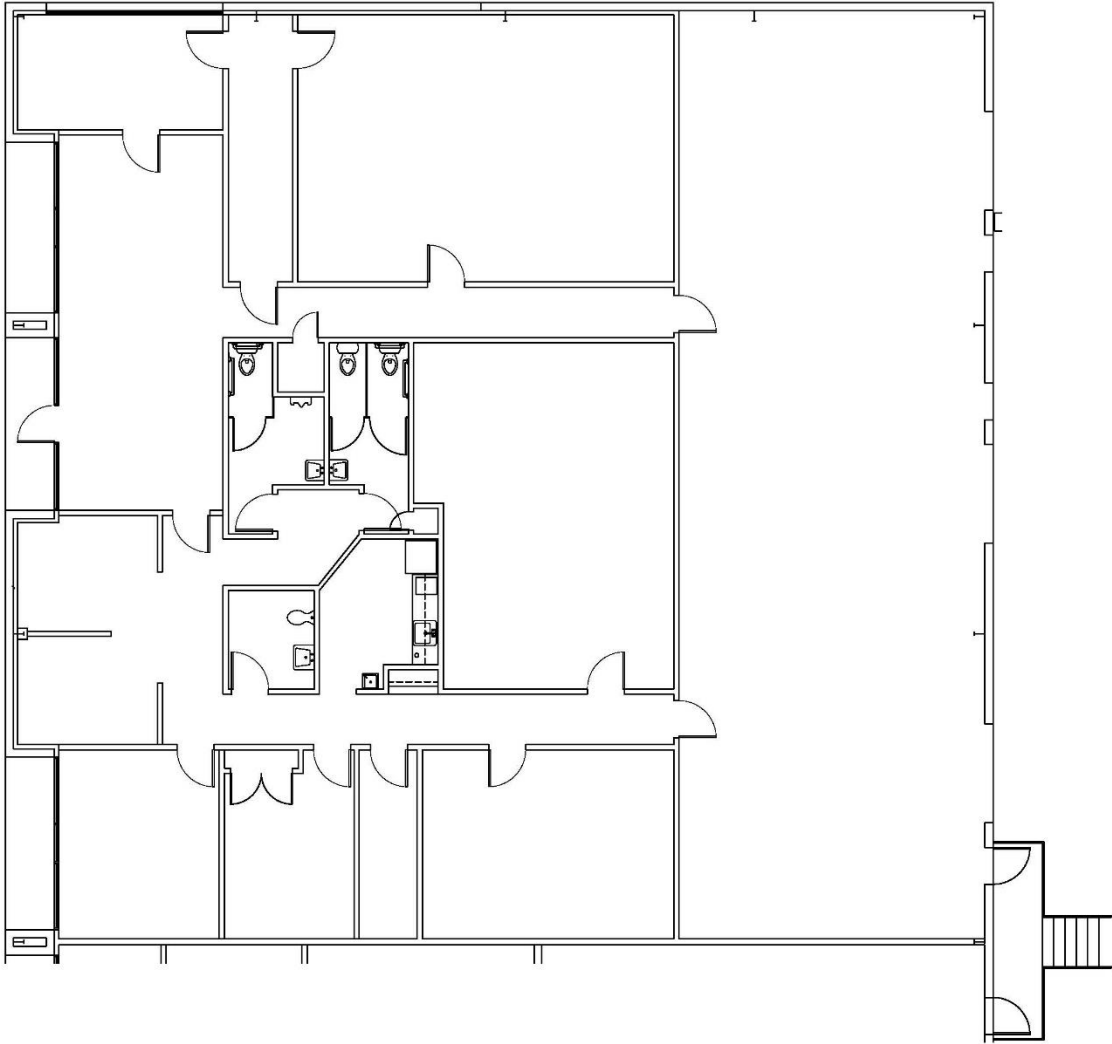


EXHIBIT E  
TENANT IMPROVEMENTS

EXHIBIT F  
LIMITED WAIVER OF SOVERVEIGN IMMUNITY

RESOLUTION REGARDING LIMITED WAIVER  
OF SOVEREIGN IMMUNITY

WHEREAS, SL 2003-175, amending N.C. Gen. Stat. §153A-435(a), provides that a county may use a funded reserve instead of purchasing insurance against liability claims and may adopt a resolution that deems such a funded reserve to be treated as the purchase of insurance for purposes of N.C. Gen. Stat. §153A-435; and,

WHEREAS, Wake County has created such a funded reserve and desires to waive the County's governmental immunity to the limited extent provided in this resolution.

NOW THEREFORE BE IT RESOLVED BY THE WAKE COUNTY BOARD OF COMMISSIONERS:

1. The County will waive sovereign immunity and immunity for public officials acting in their official capacity only, and only to the extent set forth herein.
2. This resolution applies only to claims arising on or after July 1, 2003.
3. This resolution is intended only to waive the County's immunity in the limited circumstances described herein. It is not intended to alter or expand the County's liability, to limit or waive available defenses, to waive immunity from certain types of damages, or to affect any principle of law other than waiver of sovereign immunity and immunity for public officials acting in their official capacities. The County retains the right to assert any affirmative or other defense to a claim. Notwithstanding the foregoing, for purposes of this Resolution only and only to the extent provided in this Resolution, the County waives the "public duty" defense for the County and for its officials acting in their official capacity.
4. The County will waive immunity only for those claims proximately caused by the negligence of the County or a County employee or official covered by R-85-99, "Resolution Establishing Uniform Standards Under Which Claims or Civil Judgments Sought or Entered Against County Officers and Employees Shall be Paid," as it is from time to time amended.
5. The County will pay only the following damages if proven to be proximately caused by the incident:
  - A. Property damage
  - B. Medical expenses
  - C. Chiropractic expenses or physical therapy expenses for not more than three consecutive months
  - D. Lost wages for time authorized out of work by physicians licensed to practice medicine in North Carolina when compensation for all or part of those wages is not available from other sources
  - E. Demonstrable out of pocket expenses, excluding attorney's fees

6. The County specifically does not waive immunity for claims or damages for pain and suffering or for any other element of damage not listed herein. The County will make no payment for diminution in value of motor vehicles.

7. In no event shall claims paid in any fiscal year pursuant to this Resolution exceed the amount budgeted in that fiscal year to the self insured funded reserve or any account established for that purpose. The Board of County Commissioners reserves the right to fund or not to fund such account annually in its sole discretion. The County Manager is directed to establish procedures governing the making of payments from this fund. Said procedures may include procedures regarding the timing and method of such payments and may include provisions requiring the pro-ratio of claims in order to assure that payments in a fiscal year do not exceed available funds.

8. As a condition for the payment of any claims under this Resolution the Claimant must execute a complete release of the County and its employees, officials and/or agents in both their individual and official capacities for all elements of the claim.

9. Waiver of immunity pursuant to this Resolution is limited to the voluntary settlement of claims. Settlements are not available under this Resolution after the institution by Claimant of any legal proceeding regarding the claim against the County, its officials, employees, or agents.

*Enacted October 6, 2003.*