

FORSYTH COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: January 21, 2021

AGENDA ITEM NUMBER: 13

SUBJECT: RESOLUTION AUTHORIZING EXECUTION OF A SECOND LEASE AMENDMENT WITH LIBERTY PLAZA, LLC AS LANDLORD AND FORSYTH COUNTY AS TENANT FOR SPACE AT 102 WEST THIRD STREET, WINSTON-SALEM, NORTH CAROLINA FOR THE PUBLIC DEFENDER'S OFFICE

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS: Recommend Approval

SUMMARY OF INFORMATION:

Pursuant to NCGS requiring local governments to provide office space for the Public Defender and other personnel of the Office of Indigent Defense Services, Forsyth County Board of County Commissioners (BOCC) approved on November 28, 2016 to execute a lease agreement with Liberty Plaza LLC to house the Forsyth County Public Defender's Office. The BOCC approved on October 10, 2019, an amendment to extend the term of the lease agreement until February 28, 2022.

This item authorizes the execution of a second amendment to the lease agreement with Liberty Plaza LLC, for office space to house the Forsyth County Public Defender's Office. This amendment further extends the term until February 29, 2024 and reduces the monthly rental to \$10,521.33 beginning March 1, 2021. With this amendment, Forsyth County retains the option to lease month-to-month at the expiration of the second amendment.

Staff recommends the execution of the second amendment to extend the term of the lease agreement with Liberty Plaza LLC at a reduced monthly rental rate. By executing this amendment, Forsyth County avoids possible relocation of the Public Defender's Office prior to the completion of the new courthouse, also avoiding the incurrence of fees associated with office relocation.

ATTACHMENTS: YES NO

SIGNATURE: *J. Dudley Watts, Jr. /AMS* DATE: January 19, 2021
COUNTY MANAGER

**RESOLUTION AUTHORIZING EXECUTION OF A SECOND LEASE AMENDMENT
WITH LIBERTY PLAZA, LLC AS LANDLORD AND FORSYTH COUNTY AS
TENANT FOR SPACE AT 102 WEST THIRD STREET, WINSTON-SALEM, NORTH
CAROLINA FOR THE PUBLIC DEFENDER'S OFFICE**

WHEREAS on March 1, 2017, Liberty Plaza, LLC, executed a three-year Lease Agreement with Forsyth County for space located in Suite 300 at 102 West Third Street, Winston Salem, North Carolina, for space for the Public Defender's Office;

WHEREAS on March 1, 2020 Liberty Plaza LLC executed a two-year amendment to the Lease Agreement with Forsyth County for the above described space, with such amendment ending on February 28, 2022; and

WHEREAS Forsyth County is currently in the early stages of a multi-year construction project of a new courthouse, which will house the Forsyth County Public Defender's Office; and

WHEREAS staff recommends executing a second amendment to the Lease Agreement to reduce the monthly rental rate to \$10,521.33 beginning March 1, 2021 and to extend the term to February 29, 2024.

NOW, THEREFORE, BE IT RESOLVED, that the Chairman or County Manager and the Clerk to the Board are hereby authorized to execute, on behalf of Forsyth County, the above-described Lease Renewal with Liberty Plaza, LLC, in substantially similar form to the attached Second Amendment to Lease Agreement, subject to a pre-audit certificate thereon by the County Chief Financial Officer, where applicable, and approval as to form and legality by the County Attorney.

Adopted this the 21st day of January 2021.

NORTH CAROLINA)
)
FORSYTH COUNTY)

SECOND AMENDMENT TO AGREEMENT CE170305

THE AGREEMENT, made and entered into on 1st day of March, 2017 by and between Liberty Plaza LLC (the “Landlord”) and Forsyth County, North Carolina (the "Tenant"), and amended on October 16, 2019, is hereby amended, effective March 1, 2021 by the Landlord and the Tenant as follows:

Sections 2.2 and 4.1 are hereby amended and the following shall be added to Sections 2.2 and 4.1:

Section 2.2:

2.2 TERM

Landlord agrees to extend the Term to the Tenant for two additional years, with the Term ending on February 29, 2024. After the expiration on February 29, 2024, the Tenant will have the option to lease month-to-month, given the Tenant has notified Landlord of its intent within 90 days of the expiration date.

4.1 RENT

Landlord and Tenant agree to the below monthly rental schedule for the remainder of the Term:

03/01/21 - 02/28/22	\$10,521.33 per month
03/01/22 - 02/28/23	\$10,521.33 per month
03/01/23 - 02/29/24	\$10,521.33 per month

Except as herein amended, the agreement incorporated in the Amended Lease Agreement attached as Attachment A and incorporated herein by reference remains unchanged and in full force and effect.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the County and the Tenant have set their hands and seals as of the day and year first above written.

LANDLORD: LIBERTY PLAZA LLC

By: Atlantic Coast Commercial

By: _____
Emory E. Croom III

Date: _____

TENANT: FORSYTH COUNTY, NORTH
CAROLINA

By: _____
J. Dudley Watts, Jr., County Manager

Date: _____

ATTEST:

Ashleigh M. Sloop, Clerk to the Board

(SEAL)

Attachment A

FIRST AMENDMENT TO LEASE

THIS FIRST ADMENDMENT TO LEASE (the "Amendment") dated this 16 day of October, 2019 (the "Effective date") by and between LIBERTY PLAZA, LLC as successor-in interest to BDF Associates ("Landlord") and Forsyth County North Carolina (hereinafter "Tenant").

WHEREAS, Landlord and Tenant previously have entered into that certain Lease Agreement dated March 1, 2017 for 9,172 square feet at the Liberty Plaza Building and,

WHEREAS, Landlord and Tenant desire to amend the Lease as hereinafter provided:

NOW, THEREFORE, in good consideration of the mutual promises and covenants herein contained and other good and valuable consideration set forth in the Amendment, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

- 1. Premises: Tenant wishes to extend his lease for Suite 300 located on 3rd floor in the Liberty Plaza Building.
- 2. Commencement date: Lease amendment commencement date will be 03/01/2020 and will expire on February 28, 2022.
- 3. Rental payment schedule:

03/01/20 - 02/28/21	\$10,570.21 per month
03/01/21 - 02/28/22	\$10,887.32 per month

All terms and conditions of the Lease, except as amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to Lease to be executed as of the day and year first above written, all pursuant to authority duly granted.

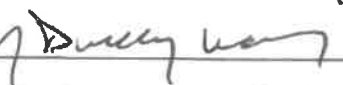
LANDLORD:

TENANT:

LIBERTY PLAZA, LLC
By: Atlantic Coast Commercial

Forsyth County, North Carolina

By: 
~~William H. Daniel~~ Emory E. Croom III
It's Agent

By:  11/19/19
Name: J. Dudley Watts, Jr.
Title: County Manager

10/16/19

Contract #2017-0305-01: Liberty Plaza, LLC - Public

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Date


Director of Finance

Approved as to Form and Legality


Assistant Forsyth County Attorney

11/18/2019

11/18/2019

LEASE AGREEMENT

By and Between

LIBERTY PLAZA, LLC,

Landlord,

- by -

ATLANTIC COAST COMMERCIAL, LLC

Managing Agent,

and

FORSYTH COUNTY

NORTH CAROLINA

Tenant

LIBERTY PLAZA LLC

102 West Third Street, Suite 470
Winston Salem, North Carolina 27101

Dated: 1/17/17

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DATE OF EXECUTION: _____

ARTICLE I - REFERENCE DATA

1.1 References. Each reference in this Lease to any of the following subjects shall be construed to incorporate the data stated for that subject in this Section 1.1:

LANDLORD: Liberty Plaza, LLC

MANAGING AGENT: Atlantic Coast Commercial

**LANDLORD'S &
MANAGING AGENT'S
ADDRESS:** 102 West Third Street
Suite 470
Winston Salem, North Carolina 27101

**LANDLORD'S
REPRESENTATIVE:** Atlantic Coast Commercial

TENANT'S SPACE: The area(s) outlined by broad lines on Exhibit B attached

Address:
102 West Third Street
Suite 300 on the 3rd Floor
Winston Salem, North Carolina 27101

BUILDING: That certain office building located at the Building Address set forth below and commonly known as Liberty Plaza Building.

BUILDING ADDRESS: 102 West Third Street
Winston Salem, North Carolina 27101

NAME & ADDRESS FOR RENTAL REMITTANCE: Liberty Plaza LLC
Atlantic Coast Commercial/Agent
102 West Third Street
Suite 470
Winston Salem, North Carolina 27101

TENANT: Forsyth County North Carolina

TENANT'S ADDRESS 102 West Third Street
Liberty Plaza
Suite 300
(for notice and billing) Winston Salem, North Carolina 27101

TENANT'S REPRESENTATIVE: Chelsea Swaim & Kirby Robinson

RENTABLE FLOOR AREA OF TENANT'S SPACE: 9,712 Rentable Square Feet
(Includes 12% increase over actual square feet for Tenant's use of the common areas)

TOTAL RENTABLE FLOOR AREA OF THE BUILDING: 198,551

SCHEDULED LEASE COMMENCEMENT DATE: March 1, 2017

RENT COMMENCEMENT DATE: March 1, 2017

SCHEDULED EXPIRATION DATE: February 28, 2020

RENT: *Base Rent: \$11.95*

<u>Months</u>	<u>\$/SF</u>	<u>Monthly</u>	<u>Annually</u>
1-12	\$11.95	\$9,671.53	\$116,058.40
13-24	\$12.31	\$9,962.89	\$119,554.72
25-36	\$12.68	\$10,262.34	\$123,148.08

SPECIAL PROVISIONS

These Special Provisions are hereby incorporated into this Lease and in the event that they conflict with any provision of this Lease, these Special Provisions shall control.

PARKING CARDS:

The Tenant will receive 30 unreserved parking cards for no additional cost. The Tenant will have the option to purchase additional parking cards/spaces per year at \$65 per month per card/space based on availability.

OPTION TO RENEW:

The Tenant will have the option to renew the Lease Agreement for two (2) additional one (1) year Terms by providing Landlord written notice 120 days in advance of the expiration of the term. The Tenant cannot be in default to exercise its option to renew.

CANCELLATION RIGHT DURING RENEWAL PERIODS:

The Landlord will allow Tenant the right to cancel the Lease Agreement during the renewal periods by providing Landlord 120 days written notice.

ADDITIONAL RENT: Operating Cost Escalation pursuant to Section 4.2 and other amounts designated in this Lease as Additional Rent.

BASE YEAR: 2017

PRE PAID RENT: First and Second Months Rent will become due at complete Lease execution. \$19,343.07

GUARANTOR(S): N/A

PERMITTED USES: General Office Use

TENANT'S PUBLIC LIABILITY INSURANCE: Commercial General Liability insurance policies or Comprehensive General Liability insurance policies with a Broad Form Comprehensive Liability Endorsement including Contractual Insurance and with a combined single limit of at least \$1,000,000.00 per occurrence on a per location basis and including:
 Bodily Injury: \$1,000,000.00
 Property Damage: \$1,000,000.00

1.2 Exhibits. The following exhibits are attached to this Lease and made a part hereof:

EXHIBIT A Legal Description of the Lot
 EXHIBIT B Plan Showing Tenant's Space
 EXHIBIT C Landlord/Tenant Work Letter
 EXHIBIT D Landlord's Services
 EXHIBIT E Rules and Regulations
 EXHIBIT F Commencement/Expiration Date Agreement
~~EXHIBIT G Architect's Certificate~~
~~EXHIBIT H Form of Lease Guaranty~~

1.3 Special Provisions. Any special terms or provisions of this Lease are attached immediately following this page as page(s) 3-A. To the extent that the Special Provisions conflict with any other terms of this Lease, the Special Provisions shall control.

ARTICLE II - PREMISES AND TERM

2.1 Premises. Landlord hereby leases to Tenant, and Tenant leases from Landlord, Tenant's Space in the Building, excluding exterior faces of exterior walls. Tenant's Space, with such exclusion, is hereinafter referred to as the "Premises". Landlord and Tenant acknowledge and agree that the rentable square footage of the Premises has been determined, and the rentable square footage of any additional space added to the Premises shall be determined, by calculating the usable square feet of space in the Premises in accordance with the "Standard Method of Measuring Floor Area in Office Buildings," provided by the Secretariat, Buildings Owners and Managers Association International (ANSI Z65.1-1996). If additional space is added to the premises then the rentable square footage of the Premises shall be determined by multiplying the usable square footage of the Premises, as determined above, by a load factor determined by Landlord.

Tenant shall have, as an appurtenance to the Premises, the nonexclusive right to use in common with others entitled thereto: (a) the common facilities included in the Building or on the real property on which the Building is located (the "Lot"), said Lot being described more particularly in Exhibit A hereto, to the extent from time to time designated by Landlord; (b) any entrance drives or other private access drives located on the Lot which are necessary for ingress and egress to and from the Building; and (c) the building service fixtures and equipment serving the Premises. Provided, however, in no event shall Tenant be entitled to use any parking spaces located on the Lot with exception of issued parking cards.

Landlord reserves the right from time to time, without unreasonable interference with Tenant's use, (a) to install, repair, replace, use, maintain and relocate for service to the Premises and to other parts of the Building, or either, building service fixtures and equipment wherever located in the Building and (b) to alter or relocate any other common facility provided that substitutions are substantially equivalent or better.

2.2 Term. To have and to hold for a period (the "Term") commencing when the Premises are deemed ready for occupancy as provided in Section 3.2 or, if no work is to be performed by Landlord pursuant to Article III, on the Scheduled Commencement Date (whichever of said dates is appropriate being hereafter referred to as the "Commencement Date") and continuing until the Scheduled Expiration Date, unless sooner terminated as provided herein below, or if the Premises are not ready for occupancy by the Scheduled Rent Commencement Date, then continuing until 36 months after the Rent Commencement Date (whichever of said expiration dates is appropriate being hereinafter referred to as the "Expiration Date"). In the event that the Commencement Date and Expiration Date are different than, respectively, the Scheduled Commencement Date and the Scheduled Expiration Date, Landlord and Tenant agree to execute an agreement in the form of the Commencement/Expiration Date Agreement which is attached hereto as Exhibit F and by this reference made a part hereof certifying the Commencement Date and the Expiration Date.

ARTICLE III - CONSTRUCTION

3.1 Tenant's Interior Construction. Unless Landlord has expressly agreed in this Lease to perform certain tenant improvement work in the Premises, Tenant shall be deemed to have accepted the Premises on the Commencement Date in their "AS IS" condition.

Tenant's interior furnishings, (*i.e.*, specification, coordination, supply and installation of furniture, furnishings, telephones and movable equipment) will be the responsibility of Tenant. All of Tenant's construction, installation of furnishings, and later changes or additions shall be coordinated with any work being performed by Landlord in such manner as to maintain harmonious labor relations and not damage the Building or Lot or interfere with Building operations. Except for installation of furnishings and the installation of telephones which must be performed by the local telephone company at Tenant's direction and expense, all such work shall be performed at Tenant's expense by a general contractor approved by Landlord. Tenant shall obtain Landlord's prior written approval of construction, alterations, or additions requiring unusual expense to readapt the Premises to normal office use on lease termination or increasing the cost of construction, insurance or taxes on the Building or of Landlord's services called for by Section 5.1. Such re-adaptation will be made by Tenant prior to such termination without expense to Landlord. Tenant shall also obtain Landlord's prior written approval of any alterations or additions requested by Tenant which will delay completion of the Premises and Landlord shall not be held accountable in any manner for the delay(s). All changes and additions affixed to the Premises shall be deemed part of the Building and the property of Landlord, except such items designated by Landlord for removal at the time of approval or otherwise designated by Landlord for removal upon termination of this Lease, which items shall be removed by Tenant, at Tenant's sole cost and expense, upon termination of this Lease.

3.2 Preparation of Premises for Occupancy. If Landlord has agreed to make any improvement to the Premises, the provisions governing the planning, construction, scope of work and terms of payment shall be set forth in Exhibit C, which, if attached hereto, is incorporated herein by this reference. If Landlord is obligated to perform construction work pursuant to Exhibit C, Landlord agrees to use reasonable efforts to have the Premises ready for occupancy on or before the Scheduled Rent Commencement Date, which shall, however, be extended for a period equal to that of any delays due to governmental regulations, unusual scarcity of, or inability to obtain, labor or materials, labor difficulties, casualty or other causes reasonably beyond Landlord's control. The Landlord will use its best effort to complete the build out and have The Premises ready for occupancy by March 1, 2017. The Premises shall be deemed ready for occupancy on the earlier of:

- (a) March 1, 2017; or the date on which Tenant occupies all or any part of the Premises; or when Tenant takes possession to start their improvements
- (b) the date on which the tenant improvements, as specified in Exhibit C, are substantially completed;

provided, however, that if Landlord is unable to complete construction due to delay in Tenant's compliance with the provisions of Section 3.1 of this Lease, then the Premises shall be deemed ready for occupancy no later than the Scheduled Rent Commencement Date. If the Premises are not deemed ready for occupancy on or before June 30, 2017 (the "Outside Delivery Date") for whatever reason, except as to and other than Tenant's default or delay in completing their improvements to the space, or causes over which Landlord has no control (e.g., *force majeure*, fire or other casualty and Acts of God or of the public enemy), Tenant may elect to cancel this Lease at any time thereafter while the Premises are not deemed ready for occupancy by giving written notice to Landlord of such cancellation which shall be effective when given, it being understood that said election shall be Tenant's sole remedy at law or in equity for Landlord's failure to have the Premises ready for occupancy.

Upon delivery of the Premises by Landlord, Tenant shall be deemed to have accepted the Premises in the then-existing condition except for any "punch list" items (as that term is used in the construction industry) noted by Tenant in writing to Landlord within the thirty (30) day period following the date the Premises are deemed ready for occupancy pursuant to any inspection of the Premises made by Tenant within such Thirty (30) day period. Landlord shall complete the punch list items within a reasonable period following the expiration of the thirty (30) day period. The existence of such punch list items shall not postpone the Commencement Date of this Lease nor the obligation of Tenant to pay Rent or any other charges due under this Lease.

Landlord shall permit Tenant access for installing equipment and furnishings in the Premises approximately thirty (30) days prior to the commencement of the Term when it can be done without material interference with remaining work by Landlord, at no charge to Tenant.

3.3 General Provisions Applicable to Construction. All construction work required or permitted by this Lease, whether by Landlord or by Tenant, shall be done in a good and workmanlike manner and in compliance with all applicable laws and all lawful ordinances, regulations and orders of governmental authorities and insurers of the Building. Either party may inspect the work of the other at reasonable times and shall promptly give written notice of observed defects.

3.4 Representatives. Each party authorizes the other to rely in connection with their respective rights and obligations under this Article III upon approval and other actions on the party's behalf by Landlord's Representative in the case of Landlord or Tenant's Representative in the case of Tenant or by any person designated in substitution thereof or addition thereto by notice to the party so relying.

ARTICLE IV - RENT

4.1 Rent. Tenant agrees to pay, without any notice, demand, offset or reduction whatsoever, to Landlord, the Rent in equal monthly installments as set out in Section 1.1 in

advance on the first day of each calendar month included in the Term; and for any portion of a calendar month at the beginning or end of the Term, at the rate payable for such portion, in advance. Rent shall consist of: (a) Base Rent (as it may increase pursuant to the Rent Schedule) and (b) any Additional Rent identified in this Lease, including but not limited to Operating Cost Escalation as set forth in Section 4.2 and charges for additional services under Section 5.1.2

4.2 Operating Cost Escalation.

4.2.1 Definition of Landlord's Operating Costs - "Landlord's Operating Costs" shall exclude the interest and amortization on mortgages for the Building and Lot and the cost of special services rendered to tenants (including Tenant) for which a special charge is made, but include, without limitation: real estate taxes on the Building and Lot; installments and interest on assessments for public betterments or public improvements; expenses of any proceedings for abatement of taxes and assessments with respect to any fiscal year or fraction of a fiscal year; premiums for insurance; compensation and all fringe benefits, worker's compensation insurance premiums and payroll taxes paid by Landlord to, for or with respect to all persons engaged in the operating, maintaining, or cleaning of the Building and Lot; steam, water, sewer, electric, gas, telephone, and other utility charges for the Building and Lot not billed directly to tenants by Landlord or the utility; costs of building and cleaning supplies and equipment (including rental); cost of maintenance, cleaning and repairs; cost of snow plowing or removal, or both, and care of landscaping; payments to independent contractors under service contracts for cleaning, operating, managing, maintaining and repairing the Building and Lot (which payments may be to affiliates of Landlord or to Landlord's representatives provided the same are at reasonable rates consistent with the type of occupancy and the services rendered); reasonable rental costs associated with providing the managing agent space for an office in the Building or in another building owned by Landlord or managed by Landlord's representative, which costs shall be prorated accordingly if such office services building(s) in addition to the Building; the cost of operating, maintaining and repairing the common areas and facilities of the Building (such as, but not limited to, snow plowing, landscaping, common area and street lighting, repaving driveway or parking areas, security and management); and all other reasonable and necessary expenses paid in connection with the operation, cleaning, maintenance and repair of the Building and Lot, or either, and properly chargeable against income, it being agreed that if Landlord installs a new or replacement capital item for the purpose of reducing Landlord's Operating Costs, the cost thereof as reasonably amortized by Landlord pursuant to generally acceptable accounting procedures, with reasonable interest on the unamortized amount shall be included in Landlord's Operating Costs.

In the event the average occupancy level of the Building for any applicable calendar year during the Term was not ninety-five (95%) or more of full occupancy, then the Landlord's Operating Costs for such year shall be adjusted and apportioned among the tenants by the Landlord to reflect those costs which would have occurred had the Building been ninety-five percent (95%) occupied during such year.

The term "real estate taxes" as used above shall mean all taxes of every kind and nature assessed by any governmental authority on the Lot, the Building and related improvements, or both, which the Landlord shall become obligated to pay because of or in

connection with the ownership, leasing and operation of the Lot, the Building and related improvements, or both, subject to the following: There shall be excluded from such taxes all income taxes, excess profits taxes, excise taxes, franchise taxes, estate, succession, inheritance and transfer taxes, provided, however, that if at any time during the Term the present system of ad valorem taxation of real property shall be changed so that in lieu of the whole or any part of the ad valorem tax on real property there shall be assessed on Landlord a capital levy or other tax on the gross rents received with respect to the Lot, Building and related improvements, or both, or a federal, state, county, municipal or other local income, franchise, excise or similar tax, assessment, levy or charge (distinct from any now in effect) measured by or based, in whole or in part, upon any such gross rents, then any and all of such taxes, assessments, levies or charges, to the extent so measured or based, shall be deemed to be included within the term "real estate taxes".

4.2.2 Statement of Landlord's Operating Costs - As soon as practicable after the end of each calendar year ending during the Term and after Lease termination, Landlord shall render a statement ("Landlord's Statement") in reasonable detail and according to generally accepted accounting principles certified by Landlord's Representative showing for the preceding calendar year or fraction thereof, as the case may be, Landlord's Operating Costs. As used herein, the term "Base Year Operating Costs" shall mean all Operating Costs incurred by the Landlord during the Base Year after application of the gross-up adjustment pursuant to Section 4.2.1.

4.2.3 Calculation of Operating Cost Escalation - "Operating Cost Escalation" shall be calculated as follows:

$$[(\text{Landlord's Operating Costs for a particular calendar year} - \text{the Base Year Operating Costs}) \times \text{Rentable Floor Area of Tenant's Space}] \div \text{Rentable Floor Area of the Building} = \text{Operating Cost Escalation}$$

The Operating Cost Escalation shall be prorated accordingly if the applicable period is a fraction of a calendar year. In no event shall the Operating Cost Escalation be less than zero.

In case of special services which are not rendered to all areas on a comparable basis, the proportion allocable to the Premises shall be the same proportion which the Rentable Floor Area of Tenant's Space bears to the total rentable floor area to which such service is so rendered (such latter area to be determined in the same manner as the Total Rentable Floor Area of the Building).

4.2.4 Payment of Operating Cost Escalation - Tenant shall pay as Additional Rent the Operating Cost Escalation, if any, for each calendar year or fraction thereof throughout the Term (following the Base Year) within thirty (30) days of receipt of Landlord's Statement reflecting the amount due. The Landlord has agreed to cap any increases in "controllable expenses" passed through to Tenant to a maximum of 5% per year for each year.

If during the Term, Landlord estimates that Tenant will be obligated to pay Operating Cost Escalation with respect to any calendar year, or fraction thereof, then Tenant

shall pay, as Additional Rent, on the first day of each month of each such calendar year and each ensuing calendar year thereafter, unless and until Landlord's Statement for an ensuing calendar year reflects that Tenant is not obligated to pay Operating Cost Escalation, monthly payments equal to 1/12th of the annualized Operating Cost Escalation for the ensuing calendar year as such cost is estimated by Landlord. Provided, however, for the first calendar year following the Base Year (the "First Year"), because Landlord will not have calculated Landlord's Operating Costs for the Base Year until after the commencement of the First Year, Tenant shall pay Landlord, if Landlord estimates there will be an Operating Cost Escalation for the First Year, as Additional Rent, on or before the first day of the month following the month of receipt of notice from Landlord that such Operating Cost Escalation is estimated for the First Year, monthly payments equal to 1/12th of the estimated annualized Operating Cost Escalation for the First Year, with the first payment equaling (i) the portion due for that particular month, plus (ii) the portions due for all months that have passed in the First Year prior to that month.

In the event Landlord, in any calendar year, except for the First Year, does not estimate the amount of Tenant's monthly Operating Cost Escalation payments until after one or more installments of such payments are due, Tenant, pending receipt of Landlord's estimates, shall pay to Landlord, on or before the first day of each month, the monthly Operating Cost Escalation payment due during the previous calendar year, and at such time as Tenant is advised in writing of Landlord's estimated Operating Cost Escalation for the then current calendar year Tenant shall pay to Landlord, or Landlord shall credit to Tenant (as the case may be), a sum equal to the difference between the total of the monthly Operating Cost Escalation payments paid based on the rate for the preceding calendar year and the estimated monthly Operating Cost Escalation payments actually due during the then current calendar year. In addition, all subsequent payments of monthly Operating Cost Escalation during the then current calendar year shall be paid using Landlord's estimate of monthly Operating Cost Escalation payments for the then current calendar year.

When Landlord's Statement for each calendar year becomes available, the Operating Cost Escalation, if any, paid for that calendar year or fraction thereof shall be adjusted retroactively such that within thirty (30) days after Landlord's Statement is received by Tenant, Tenant will pay to Landlord, or Landlord will credit to Tenant, the difference between the Operating Cost Escalation which, according to Landlord's Statement, Tenant owed to Landlord for the preceding calendar year or fraction thereof and the monthly estimated Operating Cost Escalation payments made for and during that year or fraction thereof.

Notwithstanding any other provision of this Section 4.2, if the Term expires or is terminated as of a date other than the last day of a calendar year, then for such fraction of a calendar year at the end of the Term, Tenant's last payment to Landlord under this Section 4.2 shall be made on the basis of Landlord's best estimate of the items which are includable in Landlord's Statement and shall be made on or before the later of (a) ten (10) days after Landlord delivers such estimate to Tenant or (b) the last day of the Term, with an appropriate payment or refund to be made upon submission of Landlord's Statement.

4.2.5 Accounting Period - Landlord shall have the right from time to time to change the periods of accounting under this Section 4.2 to any annual period other than a calendar year, and upon any such change all items referred to in this Section shall be appropriately apportioned. In all Landlord's Statements rendered under this Section, amounts for periods partially within and partially without the accounting periods shall be appropriately apportioned, and any items which are not determinable at the time of a Landlord's Statement shall be included therein on the basis of Landlord's reasonable estimate, and with respect thereto Landlord shall render promptly after determination a supplemental Landlord's Statement, and appropriate adjustment shall be made according thereto. All Landlords' Statements shall be prepared on an accrual basis of accounting.

4.3 Payments. All payments of Rent and other sums due hereunder shall be made to Managing Agent at its address, or to such other person as Landlord may from time to time designate. Since late payment of Rent or other sums due hereunder from Tenant to Landlord will result in administrative expense to Landlord, the extent of which would be extremely difficult and economically impractical to ascertain, Tenant agrees that if Rent or any other payment due hereunder from Tenant remains unpaid for more than Ten (10) days after said amount is due, such payment shall be increased by a late charge payable by Tenant equal to five percent (5 %) of the amount of the delinquent payment. The amount of the late charges for any month shall be computed on the aggregate amount of all delinquent payments, including all accrued late charges, then outstanding. The provisions of this Section in no way relieve Tenant of the obligation to make all required payments when due, nor do such provisions in any way affect Landlord's remedies under this Lease.

ARTICLE V - LANDLORD'S COVENANTS

5.1 Landlord's Covenants During the Term. Landlord covenants during the Term:

5.1.1 Building Services - To furnish, through Managing Agent or other independent contractors, the services listed in Exhibit D;

5.1.2 Additional Building Services - To furnish, through Managing Agent or other independent contractors, reasonable additional Building operation services upon reasonable advance written request of Tenant at equitable rates from time to time established by Landlord to be paid by Tenant;

5.1.3 Repairs and ADA Compliance - Except as otherwise provided in Article VII, to make such repairs to the roof, exterior walls, floor slabs and common facilities of the Building as may be necessary to keep them in serviceable condition; such repairs to be made by Landlord within a reasonable time from Landlord's receiving written notice from Tenant of the need for such repairs. Except as provided in Section 5.4 herein, in the event the common facilities of the Building must be modified or any other action relating to such common facilities must be undertaken in the future to comply with the Americans With Disabilities Act of 1990, as amended (the "ADA"), or any similar federal, state or local statute, law, or ordinance, Landlord covenants to, in Landlord's sole

discretion, either (i) complete the required modification or action (including paying all costs incurred in connection therewith, subject to the terms and provisions of this Lease relating to the pass-through of Landlord's Operating Costs) or (ii) indemnify Tenant against any cost that may be required to be incurred by Tenant to complete such modification or action; and

5.1.4 Quiet Enjoyment - That Landlord has the right to enter into this Lease and that Tenant on paying the Rent and performing its obligations hereunder shall peacefully and quietly have, hold and enjoy the Premises throughout the Term without any manner of hindrance or molestation from Landlord or anyone claiming under Landlord, subject however to all the terms and provisions hereof.

5.2 Interruptions. Landlord shall not be liable to Tenant for any compensation or reduction of Rent by reason of inconvenience or annoyance or for loss of business arising from power losses or shortages or from the necessity of Landlord's entering the Premises for any of the purposes authorized in this Lease, or for repairing the Premises or any portion of the Building or Lot. In case Landlord is prevented or delayed from making any repairs, alterations or improvements, or furnishing any service or performing any other covenant or duty to be performed on Landlord's part, by reason of any cause reasonably beyond Landlord's control, Landlord shall not be liable to Tenant therefore, nor, except as expressly otherwise provided in Article VII, shall Tenant be entitled to any abatement or reduction of Rent by reason thereof, nor shall the same give rise to a claim in Tenant's favor that such failure constitutes actual or constructive, or total or partial, eviction from the Premises.

Landlord reserves the right to stop any service or utility system when necessary by reason of accident or emergency or until necessary repairs have been completed. Except in case of emergency repairs, Landlord will give Tenant reasonable advance notice of any contemplated stoppage and will use reasonable efforts to avoid unnecessary inconvenience to Tenant by reason thereof.

ARTICLE VI - TENANT'S COVENANTS

6.1 Tenant's Covenants During Term. Tenant covenants during the Term and such further time as Tenant occupies any part of the Premises:

6.1.1 Tenant's Payments - To pay when due (a) all Rent, late charges and other sums due hereunder, (b) all taxes which may be imposed on Tenant's personal property in the Premises (including without limitation, Tenant's fixtures and equipment), regardless to whomever assessed, (c) all charges by public utilities for telephone and other utility services (including service inspections therefore) rendered to the Premises not otherwise required hereunder to be furnished by Landlord without charge and not consumed in connection with any services required to be furnished by Landlord without charge, and (d) as Additional Rent, all charges of Landlord for services-rendered pursuant to Section 4.2 and Section 5.1,2 hereof;

6.1.2 Repairs and Surrender of Premises - Except as otherwise provided in Article VII and Section 5.1.3, to keep the Premises in good order, repair and condition, reasonable wear and tear only excepted; and at the expiration or termination of this Lease peaceably to surrender the Premises and all changes and additions therein in as good order, repair and condition as they were when received, reasonable wear and tear only excepted, first removing all goods and effects of Tenant and any items, the removal of which is required by agreement or specified herein to be removed at Landlord's election, and repairing all damage caused by such removal and restoring the Premises and leaving them clean and neat, broom clean with all wall holes patched and smoothed, but Tenant shall not be required to repaint or re carpet the Premises;

6.1.3 Occupancy and Use - Continuously from the Commencement Date to use and occupy the Premises only for the Permitted Uses; and not to injure or deface the Premises, Building, or Lot; and not to permit in the Premises or common facilities (insofar as use of the common facilities is in control of Tenant) any auction sale, nuisance, or the emission from the Premises (or common facilities) of any objectionable noise or odor; nor any use thereof which is improper, offensive, contrary to law or ordinances, or liable to invalidate or increase the premiums for any insurance on the Building or its contents or liable to render necessary any alteration or addition to the Building. Notwithstanding the above, it shall not be a default if Tenant vacates the Premises provided Tenant continues to pay all Rent due in a timely manner and otherwise fulfills its obligations under the Lease;

6.1.4 Compliance with Laws and Rules and Regulations - To comply with all applicable statutes, laws, codes, ordinances, rules and regulations of any governmental entity or agency having jurisdiction over the Premises and the Asbestos Survey and O & M Plan (in addition to Tenant's obligations under Section 6.5 herein). Without limiting the generality of the foregoing, in the event the Premises must be modified or any other action relating to the Premises must be undertaken in the future to comply with the ADA or any similar federal, state or local statute, law, or ordinance, the responsibility for such modification or action (including the payment of all costs incurred in connection therewith) shall be the sole responsibility of Tenant. Furthermore, notwithstanding the provisions of Section 5.1.3 herein, if the common facilities of the Building must be modified or any other action relating to the such common facilities must be undertaken in the future to comply with the ADA or any similar federal, state or local statute, law, or ordinance and if such modification or action is required because of (i) any special or unique use or activity in the Premises or (ii) the performance of any alterations within the Premises, the responsibility for such modification or action (including the payment of all costs incurred in connection therewith) shall be the sole responsibility of Tenant, and Tenant shall, in Tenant's reasonable discretion, either (i) complete the required modification or action or (ii) indemnify Landlord against any and all costs and expenses that may be incurred by Landlord as a result of Tenant's failure to complete such required modification or action. Additionally, Tenant covenants to comply with the Rules and Regulations set forth in Exhibit E, as the same may be amended by Landlord from time to time, and all other reasonable Rules and Regulations hereafter made by Landlord, of which Tenant has been given notice, for the care and use of the Building and Lot and their facilities and approaches, it being understood that Landlord shall not be liable to Tenant for the failure of other tenants of the Building to conform to such Rules and Regulations;

6.1.5 *Safety Appliances* - To keep the Premises equipped with all safety appliances required by law or ordinance or any other regulation of any public or private authority having jurisdiction over the Premises (including insurance underwriters or rating bureaus) because of any use made by Tenant and to procure all licenses and permits so required because of such use and, if requested by Landlord, to do any work so required because of such use, it being understood that the foregoing provisions shall not be construed to broaden in any way Tenant's Permitted Uses;

6.1.6 *Assignment and Subletting* - Not to assign this Lease, or sublease all or any part of the Premises, or permit the use of the Premises by any party other than Tenant, without the prior written consent of Landlord. This prohibition includes, without limitation, (i) any subletting or assignment which would otherwise occur by operation of law, merger, consolidation, reorganization, transfer or other change of Tenant's corporate or proprietary structure; (ii) an assignment or subletting to or by a receiver or trustee in any Federal or State bankruptcy, insolvency, or other proceedings; (iii) the sale, assignment or transfer of all or substantially all of the assets of Tenant, with or without specific assignment of this Lease; (iv) the change in control of a partnership; or (v) conversion of Tenant to a limited liability entity. If Tenant converts to a limited liability entity without obtaining the prior written consent of Landlord: (i) the conversion shall be null and void for purposes of the Lease, including the determination of all obligations and liabilities of Tenant and its partners to Landlord; (ii) all partners of Tenant immediately prior to its conversion to a limited liability entity shall be fully liable, jointly and severally, for obligations of Tenant accruing under the Lease pre-conversion and post-conversion, and all members and other equity holders in Tenant post-conversion shall be fully liable for all obligations and liabilities of Tenant accruing under the Lease after the date such members and other equity holders are admitted to the limited liability entity as if such person or entity had become a general partner in a partnership; and (iii) Landlord shall have the option of declaring Tenant in default under the Lease. When Tenant requests Landlord's consent to an assignment or sublease, it shall notify Landlord in writing of (i) the name and address of the proposed assignee or subtenant; (ii) the nature and character of the business of the proposed assignee or subtenant; (iii) financial information including financial statements of the proposed assignee or subtenant; and (iv) a copy of the proposed sublet or assignment. Tenant shall thereafter immediately provide to Landlord any and all other information and documents reasonably requested by Landlord in order to assist Landlord with its consideration of Tenant's request hereunder. Landlord shall have the option (to be exercised within fifteen (15) days from the submission of Tenant's request and receipt of all other information requested hereunder) to cancel this Lease as it affects the portion of the Premises to be subleased or assigned as of the commencement date stated in the proposed sublease or assignment, unless within (5) days after receipt of notice from Landlord, Tenant withdraws its request to sublease or assign that portion of the Premises under consideration by Landlord.

If Landlord approves an assignment or sublease as herein provided, Tenant shall pay to Landlord, as Additional Rent due under this Lease, as applicable, (i) in the case of a sublease, an amount equal to one-half (1/2) the difference, if any, between the Rent allocable to that part of the Premises affected by such sublease pursuant to this Lease and the rent paid by the subtenant to Tenant, less any reasonable and customary expenses incurred by the Tenant in

connection with the sublease which are approved by the Landlord in its sole and absolute discretion, and (ii) in the case of an assignment, an overage amount equal to one half (1/2) the consideration, if any, received by Tenant for such assignment. Such overage amounts shall be due and payable by Tenant to Landlord within five (5) days of Tenant's receipt of payment from the subtenant or assignee. Overage amounts in the case of a sublease shall be calculated and adjusted (if necessary) on a lease year (or partial lease year) basis, and there shall be no cumulative adjustment for the Term. No consent to any assignment or sublease shall constitute a further waiver of the provisions of this Section, and all subsequent assignments or subleases may be made only with the prior written consent of Landlord. An assignee of Tenant, at the option of Landlord, shall become directly liable to Landlord for all obligations of Tenant hereunder and shall assume all such obligations in writing in a form satisfactory to Landlord in its sole and absolute discretion, but no sublease or assignment by Tenant shall relieve Tenant of any liability hereunder. Any assignment or sublease without Landlord's consent shall be void, and shall, at the option of the Landlord, constitute a default under this Lease. In the event that Tenant requests that Landlord consider a sublease or assignment hereunder, Tenant shall pay (i) Landlord's reasonable fees, not to exceed One Thousand Five Hundred and 00/100 Dollars (\$1,500.00) per transaction, incurred in connection with the consideration of such request which shall include all attorneys' fees and costs incurred by Landlord in connection with the consideration of such request or such sublease or assignment;

6.1.7 *Indemnity* - To defend, indemnify and hold harmless Landlord, its agents, employees, officers, directors, partners and shareholders from and against any and all liabilities, judgments, demands, causes of action, claims, losses, damages, costs and expenses, including reasonable attorneys' fees and costs, arising out of the use, occupancy, conduct, operation, or management of the Premises by, or the willful misconduct or negligence of Tenant, its officers, contractors, licensees, agents, servants, employees, guests, invitees, or visitors in or about the Building or Premises or arising from any breach or default under this Lease by Tenant, or arising from any accident, injury, or damage, howsoever and by whomsoever caused, to any person or property, occurring in or about the Building or Premises. This indemnification shall survive termination of this Lease. This provision shall not be construed to make Tenant responsible for loss, damage, liability or expense resulting from injuries to third parties caused by the sole negligence or willful misconduct of Landlord, or its officers, contractors, licensees, agents, employees, or invitees;

6.1.8 *Tenant's Liability, Property and Business Interruption Insurance* - To maintain with insurance companies satisfactory to Landlord:

(a) (i) Public liability insurance on the Premises in amounts which shall, at the beginning of the Term, be at least equal to the limits set forth in Section 1.1 and from time to time during the Term, shall be for such higher limits, if any, as are customarily carried in the area in which the Premises are located on property similar to the Premises and used for similar purposes and to furnish Landlord with the certificates thereof; and (ii) fire and casualty insurance with extended coverage in an amount of not less than Fifty Thousand and 00/100 Dollars (\$50,000.00).

The limit of any of such insurance shall not limit the liability of Tenant hereunder. If Tenant fails to procure and maintain such insurance, Landlord may, but shall not be required to, procure and maintain the same, at Tenant's expense to be reimbursed by Tenant as additional rent within ten (10) days of written demand. All insurance required to be obtained by Tenant hereunder shall be issued by companies reasonably acceptable to Landlord. Thirty (30) days prior to the Commencement Date, Tenant shall deliver to Landlord certificates of liability insurance required herein with loss payable clauses satisfactory to Landlord. Any deductible under such insurance policy in excess of One Thousand and 00/100 Dollars (\$1,000.00) must be approved by Landlord in writing prior to issuance of such policy. No policy shall be cancelable, allowed to lapse and/or expire and/or be subject to reduction of coverage except upon thirty (30) days prior written notice to Landlord. All such policies shall name Landlord and Landlord's Representative as additional insured's and shall be written as primary policies not contributing with and not in excess of coverage which Landlord may carry. The policy limits set forth herein shall be subject to periodic review, and Landlord reserves the right to require that Tenant increase the liability coverage limits if, in the reasonable opinion of Landlord, the coverage becomes inadequate and is less than commonly maintained by tenants making similar uses in similar buildings in the same general vicinity as the Building. Tenant shall obtain any revised or increased coverage required by Landlord within thirty (30) days of any such notification from Landlord;

(b) Property insurance on all Tenant's trade fixtures, equipment and personal property on the Premises, being a policy of all risk property insurance covering the full replacement value of such property. During the Term of this Lease, the proceeds from any such policy of insurance shall be used for the repair or replacement of the fixtures and equipment so insured. Landlord shall have no interest in the insurance upon Tenant's equipment and fixtures and will sign all documents reasonably necessary or proper in connection with the settlement of any claim or loss by Tenant. Landlord will not carry insurance on Tenant's possessions. Tenant shall furnish Landlord with a certificate of insurance evidencing that the requirements set forth herein are in full force and effect. Any deductible in excess of Two Thousand Five Hundred and 00/100 Dollars (\$2,500.00) under such insurance must be approved in writing by Landlord prior to issuance of such policy. Upon demand, Tenant shall provide Landlord, at Tenant's expense, with such increased amount of existing insurance, and such other insurance as Landlord or Landlord's lender may reasonably require, to afford Landlord and Landlord's lender adequate protection. Tenant shall provide Landlord with notice of loss or damage to property immediately after such loss or damage occurs; and

(c) Business interruption and/or loss of rental insurance in an amount equivalent to twelve (12) month's Rent, which shall not contain a deductible greater than One Thousand Dollars (\$1,000.00). Tenant shall furnish Landlord with certificates of insurance naming Landlord as an additional insured. No policy shall be cancelable, allowed to lapse and/or expire and/or be subject to reduction of coverage except upon thirty (30) days prior written notice to Landlord.

6.1.9 *Employer's Liability Insurance* - To purchase and maintain employer's liability insurance with minimum liability limits of \$100,000.00 per accident for bodily injury,

\$100,000.00 per employee for bodily injury due to disease with a \$500,000.00 policy limit. Tenant shall provide Landlord with a certificate of insurance for insurance required herein;

6.1.10 Tenant's Workers' Compensation Insurance - To keep all Tenant's employees working in the Premises covered by worker's compensation insurance in amounts required by and otherwise in accordance with all applicable legal requirements, and to furnish Landlord with the certificates thereof upon request;

6.1.11 Landlord's Right of Entry - To permit Landlord and Landlord's agents entry: to examine the Premises at reasonable times and, if Landlord shall so elect, to make repairs or replacements; to remove, at Tenant's expense, any changes, additions, signs, curtains, blinds, shades, awnings, aerials, flagpoles, or the like not consented to in writing by Landlord; and, to show the Premises to prospective tenants during the six months preceding expiration of the Term and to show the Premises to prospective purchasers and mortgagees at all reasonable times;

6.1.12 Loading - Not to place any extreme or unusual load upon the Premises without Landlord's prior written consent; and not to move any safe, vault or other heavy equipment in, about or out of the Premises except in such manner and at such times as Landlord shall in each instance approve prior to such move. Tenant's business machines and mechanical equipment which cause vibration or noise that may be transmitted to the Building structure or to any other leased space in the Building shall be placed and maintained by Tenant in settings of cork, rubber, spring, or other types of vibration and/or noise eliminators sufficient to eliminate such vibration or noise to Landlord's satisfaction;

6.1.13 Landlord's Costs - In case Landlord shall, without any fault on its part, be made party to any litigation commenced by or against Tenant or by or against any parties in possession of the Premises or any part thereof claiming under Tenant, to pay, as Additional Rent, all costs, including, without limitation, reasonable counsel fees incurred by or imposed upon Landlord, in connection with such litigation and, as Additional Rent, also to pay all such costs and reasonable counsel fees incurred by Landlord in connection with the successful enforcement by Landlord of any obligations of Tenant under this Lease;

6.1.14 Tenant's Property - That all the furnishings, fixtures, equipment, effects and property of every kind, nature and description of Tenant and of all persons claiming by, through or under Tenant which, during the continuance of this Lease or any occupancy of the Premises by Tenant or anyone claiming under Tenant, may be on the Premises or elsewhere in the Building or on the Lot, shall be at the sole risk and hazard of Tenant, and if the whole or any part thereof shall be destroyed or damaged by fire, water or otherwise, or by the leakage or bursting of water pipes, steam pipes or other pipes, by theft, or from any other cause, no part of said loss or damage is to be charged to or to be borne by Landlord unless due to the negligence or willful misconduct of Landlord;

6.1.15 Liens - To keep the Premises and the Building free from any liens arising out of any work performed, materials ordered or obligations incurred by or on behalf of Tenant, and Tenant hereby agrees to indemnify and hold Landlord, its agents, employees, independent contractors, officers, directors, partners, and shareholders harmless from any liability, cost or

expense for such liens. Tenant shall cause any such lien imposed to be released of record by payment or posting of the proper bond acceptable to Landlord within ten (10) days after the earlier of imposition of the lien or written request by Landlord. Tenant shall give Landlord written notice of Tenant's intention to perform work on the Premises which might result in any claim of lien at least ten (10) days prior to the commencement of such work to enable Landlord to post and record a Notice of Non-responsibility or other notice deemed proper before commencement of any such work. If Tenant fails to remove any lien within the prescribed ten (10) day period, then Landlord may do so at Tenant's expense and Tenant's reimbursement to Landlord for such amount, including attorneys' fees and costs, shall be deemed Additional Rent;

6.1.16 *Changes or Additions* – Subject to the provisions of Article III, not to make any changes or additions to the Premises without Landlord's prior written consent, provided that Tenant shall reimburse Landlord for all costs incurred by Landlord in reviewing Tenant's proposed changes or additions, and provided further that, in order to protect the functional integrity of the Building, all such changes and additions shall be performed by contractors selected from a list of approved contractors prepared by Landlord from time to time;

6.1.17 *Holdover* - To pay to Landlord 150% times the total of the Rent then applicable for each month or portion thereof Tenant shall retain possession of the Premises or any part thereof after the termination of this Lease, whether by lapse of time or otherwise, and also to pay all damages sustained by Landlord on account thereof. In the event the Tenant remains in possession of the Premises after the termination or expiration of this Lease, it shall be deemed to be occupying the Premises on a month-to-month basis and subject to all of the provisions, conditions and obligations of said Lease. The provisions of this subsection shall not operate as a waiver by Landlord of any rights or remedies provided in this Lease; and

6.1.18 *Environmental Matters*

(a) Landlord and Tenant agree as follows with respect to the existence of "Hazardous Material" (as defined in subparagraph (g) below) in, on, or about the Premises:

(b) Tenant acknowledges that Landlord has furnished Tenant with a copy of an asbestos survey dated March 10, 1988 entitled Asbestos Survey of NCNB Plaza Winston-Salem, North Carolina (the "Asbestos Survey") prepared by S&ME Industrial Technologies, Inc., regarding the presence of asbestos-containing materials in the Premises, and that Tenant has read and understands the report. Tenant further acknowledges that Landlord has made available to Tenant a copy of the Asbestos Operations and Maintenance Program (the "O & M Plan") prepared by U.S. HealthWorks, providing guidance on worker protection and basic practices and procedures regarding buildings containing asbestos containing materials and that Tenant has read and understands the O & M Plan. Tenant hereby approves of the operating and maintenance recommendations as set forth in the Asbestos Survey and/or the O & M Plan, and agrees to abide by any and all recommendations to the extent they relate to Tenant's use or occupancy of the Premises.

(c) Landlord's maintenance obligations as provided in Paragraph 5.1 of this Lease shall include the obligation to maintain, at Landlord's expense, the asbestos-containing material

existing in the fire resistive material applied to the Building's structural members in accordance with the recommendations set forth in the Asbestos Survey and/or the O & M Plan, except for any damage or disturbance caused by any act or omission of Tenant, Tenant's employees, suppliers, shippers, customers, invitees, sublessees, or assignees and except for any alteration to the walls, ceilings or roof of the Premises performed by Tenant. Tenant agrees that Landlord shall be deemed reasonable in withholding its consent under Paragraph 3.1 of this Lease to any proposed alteration of the structural walls, ceilings or roof of the Premises if Landlord determines that the alteration would possibly disturb the asbestos-containing material or require Landlord to remove or abate the asbestos-containing material at Landlord's expense.

(d) Notwithstanding anything to the contrary contained in this Lease, Landlord reserves the right to enter the Premises at any time and from time to time during the term of the Lease, upon not less than seven (7) days' advance notice to Tenant, to take any action with respect to asbestos or asbestos-containing material that is necessary or desirable to comply with Hazardous Material laws, or to implement any of the recommendations set forth in the Asbestos Survey and/or the O & M Plan, or in any subsequent surveys or reports prepared by Landlord's contractors or consultants (for purposes of this subparagraph, "Remedial Action"). Landlord agrees to consult with Tenant during that seven-day period prior to the taking of Remedial Action to discuss possible ways to minimize disruption to Tenant's business. Under no circumstances, however, shall the taking of any Remedial Action by Landlord be deemed or construed to be a default by Landlord under this Lease, or an actual or constructive eviction of Tenant from the Premises, and the Lease shall remain in full force and effect. Tenant hereby waives any claim for damages against Landlord, its partners, agents, and employees arising out of or related to any Remedial Work, including, without limitation, 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 any Remedial Action, and, in addition, Tenant waives any claim for injunctive relief arising out of or related to any Remedial Action. If any Remedial Action renders a portion of the Premises unusable for more than fifteen (15) consecutive business days, then Base Rent shall be abated, beginning with the sixteenth (16th) business day after such unusability began, until the period that unusability ends, based on the proportion of the Premises so rendered unusable.

(e) Landlord and Tenant shall each give written notice to the other as soon as reasonably practicable of (i) any communication received from any governmental authority concerning Hazardous Material which related to the Premises, and (ii) any contamination of the Premises by Hazardous Material that constitutes a violation of Hazardous Material Laws. Without limiting the foregoing, if Tenant causes or permits anything to be done in, on, or about the Premises or the Building, that results in the possible disturbance of the asbestos-containing material, or if Tenant discovers any possible disturbance of asbestos-containing material, however caused, Tenant shall immediately notify Landlord thereof.

(f) Tenant covenants and agrees that during the term of this Lease, neither Tenant nor any of Tenant's agents, employees, contractors, invitees, assignees, or sublessees shall cause any Hazardous Material to be brought upon, kept, or used in, on, or about the Premises, or the Building or transported to or from the Premises without the prior written consent of Landlord, which Landlord shall not unreasonably withhold so long as Tenant demonstrates to Landlord's

satisfaction that that Hazardous Material: (1) is necessary or useful to Tenant's business; (2) would be used, kept, stored, and disposed of in a manner that fully complies with all laws, rules, statutes, ordinances, orders, requirements or policies of any governmental agency or authority or any fire insurance underwriters applicable to any such Hazardous Material (collectively "Hazardous Material Laws"); and (3) would not substantially increase the risk of fire or other casualty to the Premises. Tenant covenants and agrees that to the extent Tenant or any of Tenant's agents, employees, contractors, invitees, assignees, or sublessees shall cause any Hazardous Material to be kept, used, or present in, on, or about the Premises, Tenant shall ensure that such Hazardous Material is in full compliance with Hazardous Material Laws. If Tenant breaches any of its obligations contained in this section, or if any act or omission of Tenant or any of its agents, employees, contractors, invitees, assignees, or sublessees causes any Hazardous Material to be discharged or release from, on, or in the Premises or the Building, then Tenant shall indemnify Landlord against and hold Landlord harmless from, any and all claims, judgments, damages, penalties, fines, costs, liabilities, losses, and expenses (including, without limitation, attorneys' fees, consultant fees, and expert fees) arising during or after the term of this Lease as a result of that breach or that discharge or release. This indemnification includes, without limitation, costs incurred in connection with the investigation of site conditions or any cleanup, repair, removal, or detoxification work required by any federal, state, or local governmental agency or political subdivision. Without limiting the foregoing, if the presence of any Hazardous Material in the Premises or the Building caused by Tenant or any of Tenant's agents, employees, contractors, invitees, assignees, or sublessees results in any discharge or release of Hazardous Material from, in or on the Premises or the Building, Tenant shall promptly take all actions, at its sole expense, as necessary or appropriate to return the Premises or the Building to the condition existing before that discharge or release; provided, however, Tenant shall first obtain Landlord's prior written approval, including, without limitation, approval of any contractors Tenant proposes to hire to perform the remedial work, which approval Landlord shall not unreasonably withhold, so long as Tenant demonstrates to Landlord's satisfaction that those actions would not have any significant adverse long-term or short-term effect on the Premises.

(g) As used in this Lease, the term "Hazardous Materials" shall mean and include any substance that is or contains petroleum, asbestos, polychlorinated biphenyls, lead, or any other substance, material or waste which is now or is hereafter classified or considered to be hazardous or toxic under any federal, state or local law, rule, regulation or ordinance relating to pollution or the protection or regulation of human health, natural resources or the environment (collectively "Environmental Laws") or poses or threatens to pose a hazard to the health or safety of persons on the Premises or any adjacent property.

(h) Tenant shall surrender the Premises to Landlord upon the expiration or earlier termination of this Lease free of debris, waste or Hazardous Materials placed on or about the Premises or the Building by Tenant or its agents, employees, contractors or invitees, and in a condition which complies with all Environmental Laws.

- (i) The provisions of this Section 6.1.18 shall survive the expiration or earlier termination of this Lease.
- (j) Landlord will provide Tenant with the existing Building Asbestos Report.

ARTICLE VII - CASUALTY AND TAKING

7.1 Casualty to Premises.

7.1.1 Damage Repair - If the Premises shall be destroyed or rendered untenable, either wholly or in part, by fire or other casualty, Landlord may, at its option, (i) terminate this Lease effective as of the date of such damage or destruction, or (ii) restore the Premises to their previous condition, and in the meantime from the date Landlord receives written notice from Tenant, if the damage is restricted to the Premises and Landlord would not have reason to know, or from the date of the casualty event as to any area outside of the Premises affecting Tenant's use of or access to the Premises, the Rent shall be abated in the same proportion as the untenable portion of the Premises bears to the whole thereof, and this Lease shall continue in full force and effect. If the damage is due, directly or indirectly, to the fault or neglect of Tenant, or its officers, contractors, licensees, agents, servants, employees, guests, invitees or visitors, there shall be no abatement of Rent, except to the extent Landlord receives proceeds from any applicable insurance policy of Tenant to compensate Landlord for loss of Rent.

7.1.2 Termination for Material or Uninsured Damages - If the Building shall be destroyed or damaged by fire or other casualty insured against under Landlord's fire and extended coverage insurance policy to the extent that more than fifty percent (50%) thereof is rendered untenable, or if the Building shall be materially destroyed or damaged by any other casualty other than those covered by such insurance policy, notwithstanding that the Premises may be unaffected directly by such destruction or damage, Landlord may, at its election, terminate this Lease by notice in writing to Tenant within sixty (60) days after such destruction or damage. Such notice shall be effective thirty (30) days after receipt thereof by Tenant.

7.1.3 Business Interruption - Other than rental abatement provided in Section 7.1.1, no damages, compensation or claim shall be payable by Landlord for inconvenience or loss of business arising from the interruption of business or the repair or restoration of the Building or Premises.

7.1.4 Repairs - Landlord's obligations, should it elect to repair, shall be limited to the base Building, common areas and the interior improvements (if any) initially installed by Landlord as part of Tenant Improvements (as described in Exhibit C). Anything herein to the contrary notwithstanding, if the Premises are destroyed or damaged during the last twelve (12) months of the Term of this Lease, then Landlord may, at its option, cancel and terminate this Lease as of the date of the occurrence of such damage.

7.2 Condemnation. If twenty percent (20%) or more of the Premises, or of such portions of the Building as may be required for the reasonable use of the Premises, are taken by eminent domain or sale under threat of condemnation by eminent domain, this Lease shall automatically terminate as of the date title vests in the condemning authority, and all Rent and other charges or sums shall be paid to that date. Landlord reserves all rights to damages to the Premises for any partial or entire taking by eminent domain, and Tenant hereby assigns to Landlord any right Tenant may have to such damages or award, and Tenant shall make no claim against Landlord or the condemning authority for damages for termination of the leasehold interest or interference with Tenant's business. Tenant shall have the right to claim and recover from the condemning authority compensation for any loss which Tenant may incur for Tenant's moving expenses, business interruption or taking of Tenant's personal property (not including Tenant's leasehold interest).

ARTICLE VIII - RIGHTS OF MORTGAGEE

8.1 Rights of Mortgage Holders; Limitation of Mortgagee's Liability. The word "mortgage" as used herein includes mortgages, deeds of trust or other similar instruments evidencing other voluntary liens or encumbrances, and modifications, consolidations, extensions, renewals, replacements and substitutions thereof. The word "holder" shall mean a mortgagee, and any subsequent holder or holders of a mortgage. Until the holder of a mortgage shall enter and take possession of the Premises for the purpose of foreclosure, such holder shall have only such rights of Landlord as are necessary to preserve the integrity of this Lease as security, the condition and value of the Building and Lot. Upon entry and taking possession of the Premises for the purpose of foreclosure, such holder shall have all the rights of Landlord. Notwithstanding any other provision of this Lease to the contrary, including without limitation Section 10.5, no such holder of a mortgage shall be liable, either as mortgagee or as assignee, to perform, or be liable in damages for failure to perform, any of the obligations of Landlord unless and until such holder shall enter and take possession of the Premises for the purpose of foreclosure, and such holder shall not in any event be liable to perform or for failure to perform the obligations of Landlord under Section 3.1. Upon entry for the purpose of foreclosure, such holder shall be liable to perform all of the obligations of Landlord (except for the obligations under Section 3.1), subject to and with the benefit of the provisions of Section 10.5, provided that a discontinuance of any foreclosure proceeding shall be deemed a conveyance under said provisions to the owner of the equity of redemption in the mortgaged premises.

8.2 No Prepayment or Modification. Tenant shall not pay Rent or any other charge more than thirty (30) days prior to the due dates thereof. No prepayment of Rent or other charge, no assignment of this Lease and no agreement to modify so as to reduce the Rent, change the Term, or otherwise materially change the rights of Landlord under this Lease, or to relieve Tenant of any obligations or liability under this Lease, shall be valid unless consented to in writing by Landlord's mortgagees of record, if any.

8.3 Subordination. This Lease, and all rights of Tenant hereunder, are subject and subordinate to any mortgage or mortgages, blanket or otherwise, which do now or may hereafter affect the Lot or Building, and to any and all renewals, modifications, consolidations,

replacements and extensions thereof. It is the intention of the parties that this provision be self-operative, and that no further instrument shall be required to effect such subordination of this Lease. Tenant shall, however, within five (5) days of demand, at any time or times, execute, acknowledge and deliver to Landlord, without expense to Landlord, any and all instruments that may be necessary or proper to subordinate this Lease, and all rights of Tenant hereunto, to any such mortgage or mortgages, or to confirm or evidence said subordination. Should Tenant refuse to execute the required documents hereunder, or those required under Section 10.12 hereinafter, upon demand by Landlord, then, in addition to the Tenant's being responsible for any other damages incurred as a result thereof (including interest), the Tenant's refusal shall constitute a default under Article IX herein. If any mortgagee or other party shall at any time succeed to the interest of the Landlord in the Premises, whether by foreclosure, sale, or otherwise, the Tenant, at such mortgagee's or successor's request shall attorn to and recognize such mortgagee or successor as landlord hereunder.

8.4 Mortgagee Protection. Tenant agrees to give any mortgagee(s) and/or trust deed holder(s), via a nationally recognized overnight courier service or by registered mail, a copy of any notice of default served by Tenant upon the Landlord, provided that prior to such notice Tenant has been notified in writing (by way of notice of assignment of rents and leases, or otherwise) of the addresses of such mortgagee(s) and/or trust deed holder(s). Tenant further agrees that if Landlord shall have failed to cure such default within the time provided for in this Lease, then the mortgagee(s) and/or trust deed holder(s) shall have an additional thirty (30) days within which to cure such default or if such default cannot be cured within that time, then such additional time as may be necessary if within such thirty (30) days any mortgagee and/or trust deed holder(s) has commenced and is diligently pursuing the remedies necessary to cure such default (including but not limited to commencement of foreclosure proceedings, if necessary to effect such cure), in which event this Lease shall not be terminated while such remedies are being so diligently pursued.

ARTICLE IX - DEFAULT

9.1 Events of Default. The occurrence of any of the following events if not remedied within the allotted time period, if any, hereinafter provided shall constitute an Event of Default by Tenant under this Lease: (1) Failure of Tenant to pay Rent within five days from the due date for payment or any other charge or sum to be paid to Landlord by Tenant when invoiced therefore; (2) Failure by Tenant to comply with any of the rules, regulations, agreements, covenants, terms and conditions contained or referred to herein (other than the failure to pay Rent and other sums of money), if not remedied for a period of fifteen (15) days following receipt of written notice thereof; provided, that in the event a default or breach is not susceptible of being remedied within such fifteen (15) day period, the time permitted Tenant to remedy the default or breach shall be extended for as long as shall be reasonably necessary to remedy same if Tenant commences promptly and proceeds diligently until successful to remedy such default or breach, except that the period for remedying a default or breach shall not be so extended if the extension in Landlord's reasonable judgment may jeopardize the value of the Lot or Building or the interest of the Landlord in the Lot or Building or may subject Landlord to civil or criminal liabilities; (3) Filing by or against Tenant in any court pursuant to any statute, either of the

United States or of any state, of a petition for bankruptcy or insolvency, or for reorganization, or for any arrangement or for appointment of a receiver or trustee of all or a portion of Tenant's property; provided, that if the action or proceeding be against Tenant, the same shall not become an Event of Default if the petition shall be dismissed within sixty (60) days after the commencement thereof; (4) Dissolution or liquidation of Tenant, whether voluntary or involuntary, or the taking of possession of any of Tenant's property by execution and levy or attachment; and (5) Abandonment of the Premises by Tenant combined with failure to pay all Rent due in a timely manner. As used herein, "Chronic Delinquency" shall mean failure by Tenant to pay Rent or any other charge or sum required to be paid to Landlord by Tenant under this Lease within five (5) days after written notice thereof for any three (3) months (consecutive or nonconsecutive) during any twelve (12) month period. In addition to all other remedies of Landlord set forth herein, in the event of a Chronic Delinquency, at Landlord's option, Landlord shall have the right to require that the Rent and any other charges or sums to be paid to Landlord by Tenant under this Lease be paid by Tenant quarterly, in advance.

9.2 Landlord's Rights After Default.

9.2.1 Upon the occurrence of any Event of Default, Landlord shall have all rights and remedies allowed at law, in equity, by statute and otherwise, and, in addition, the Landlord may give notice to Tenant at any time after said Event of Default stating that Tenant's right to possession of the Premises shall expire on the date specified in such notice and upon the date specified in such notice all right of Tenant to possession of the Premises hereunder shall terminate, but Tenant shall remain liable as hereinafter provided.

9.2.2 At any time after the expiration of Tenant's possessory right to the Premises, Landlord may relet the Premises or any part thereof in the name of Landlord or otherwise for such term (which may be greater or less than the period which would otherwise have constituted the balance of the term of this Lease) and on such conditions (which may include concessions or free rent) as Landlord, in its reasonable discretion, may determine, and may collect and receive the rent therefrom. Landlord shall in no way be responsible or liable to Tenant for any failure to relet the Premises or any part thereof, or for any failure to collect any rent due upon any such reletting and Tenant's liability shall not be affected or diminished in any respect by such failure. In the event Landlord relets said Premises at a rental higher than that due from Tenant under the provisions hereof, Tenant shall not be entitled to share in any excess. Landlord, at its option, may make such alterations, repairs and changes in the Premises as Landlord in its sole judgment considers advisable or necessary for the purpose of reletting the Premises, and the making of such alterations, repairs and changes shall not operate or be construed to release Tenant from any liability.

9.2.3 At any time after any expiration of Tenant's possessory right to the Premises, Landlord at its option and as an alternative and in lieu of collection of damages as set forth in Section 9.3.2, below, may demand as and for liquidated and agreed final damages for Tenant's default(s), and Tenant shall pay to Landlord, an amount equal to the difference between the Rent (including Additional Rent reasonably projected by Landlord) payable hereunder for the unexpired portion of the Term and the then fair and reasonable rental value of the Premises for the same period, discounted at the rate of four percent (4%) per annum from the date of

expiration of Tenant's possessory right to the end of the Term of the Lease. Tenant shall also pay to Landlord all of Landlord's expenses incurred in connection with any reletting, including without limitation all repossession costs, brokerage commissions, legal expenses, reasonable attorney's fees, alteration and repair costs, and expenses of preparation for reletting. If the Premises, or any part thereof, are relet by Landlord for the unexpired Term of this Lease or any part thereof, the amount of rent payable upon such reletting shall be deemed to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting.

9.2.4 If Tenant shall default in the performance of any of Tenant's covenants or agreements herein contained, Landlord may cure said default(s) on behalf of Tenant. Any amount paid, or expense or liability incurred by, Landlord in the performance of any such matter for the account of Tenant shall be deemed to be Additional Rent and the same, together with interest thereon at the rate of eighteen percent (18%) per annum, or if eighteen percent (18%) per annum exceeds the maximum interest rate allowed by law, then the maximum interest rate allowed by law, from the date upon which any such expense shall have been incurred, may be added, at the option of Landlord, to any Rent then due or thereafter falling due hereunder, or if no Rent is then or thereafter will become due, Tenant shall pay Landlord the amounts due within ten (10) days from notice from Landlord that such amount is due. Nothing contained herein shall be construed to prevent Landlord from immediately collecting from Tenant by suit or otherwise, any such sums with interest.

9.3 Tenant's Obligations After Default.

9.3.1 Upon the expiration of Tenant's possessory right pursuant to Section 9.3, above, Tenant shall quit and peacefully surrender the Premises to Landlord, and Landlord, upon or at any time after any such expiration, may re-enter the Premises without further notice and repossess Tenant by force, summary proceedings, ejectment, or otherwise and may dispossess and remove Tenant and all other persons and property from the Premises and shall have, hold and enjoy the Premises and the right to receive all rental income therefrom.

9.3.2 The expiration of Tenant's right to possession of the Premises shall not relieve Tenant of its liabilities hereunder and the obligations created hereby shall survive any such expiration. In the event of such expiration, whether or not the Premises or any part thereof shall have been relet, Tenant shall pay to Landlord the Rent required to be paid by Tenant up to the time of such expiration, and thereafter Tenant, until the end of the Term of this Lease, shall be liable to Landlord, and shall pay to Landlord, as and for liquidated and agreed current damages for Tenant's default(s): the equivalent of the amount of the Rent which would be payable under this Lease by Tenant if Tenant were still in possession, less the net proceeds of any reletting effected pursuant to the provisions of Section 9.2.2, after deducting all of Landlord's expenses in connection with such reletting, including without limitation all repossession costs, brokerage commissions, legal expenses, reasonable attorney's fees, alteration and repair costs and expenses of preparation for such reletting. Tenant shall pay such current damages, herein called "deficiency," to Landlord monthly on the days on which the Rent is payable under the terms of this Lease, and Landlord shall be entitled to recover from Tenant each monthly deficiency as such deficiency shall arise.

If Landlord shall elect to exercise the rights and remedies afforded to Landlord under the provisions of Section 9.2.3 above, Tenant shall pay to Landlord the liquidated and final damages.

9.4 General Provisions.

9.4.1 Nothing herein contained shall limit or prejudice the right of Landlord to provide and obtain as damages by reason of such default an amount equal to the maximum allowed by any statute or rule of law in effect at the time when such damages are to be proved.

9.4.2 Any suit brought to collect the amount of the deficiency for any month shall not prejudice the right of Landlord to collect the deficiency for any subsequent month by a similar action.

9.4.3 Tenant expressly waives, so far as permitted by law, the service of any notice of intention to re-enter provided in any statute, or of the institution of legal proceedings to that end. Tenant, for and on behalf of itself and all persons claiming through or under Tenant, also waives any right of redemption or re-entry or repossession or restoration of Tenant's possessory rights hereunder in the event Tenant shall be dispossessed by a judgment or by action of any court or judge or in case of re-entry or repossession by Landlord as a result of Tenant's default. Landlord and Tenant, so far as permitted by law, waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matter arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, or any claim of injury or damage.

9.4.4 Any action taken by Landlord under this Article IX shall not operate as a waiver of any right Landlord would otherwise have against Tenant for breach of this Lease, and Tenant shall remain liable to Landlord for any damages suffered by Landlord by reason of Tenant's default or breach.

9.4.5 Landlord shall be entitled to enjoin any breach or threatened breach by Tenant of any of the agreements, covenants, terms and conditions contained in this Lease, and in the event of such breach shall have all rights and remedies allowed at law, in equity, by statute, or otherwise. Any and all remedies referred to herein are considered cumulative and not exclusive. Mention of particular remedies herein shall not prevent the parties from pursuing other remedies in law or equity in the event of breach or default, except as otherwise set forth herein.

9.4.6 The Terms "enter," "re-enter," "entry," or "re-entry," as used in this Lease are not restricted to their technical legal meaning.

ARTICLE X - MISCELLANEOUS

10.1 Titles. The titles of the Articles and Sections herein are for convenience and are not to be considered in construing this Lease.

10.2 Notice of Lease. Upon request of Landlord, Tenant shall execute and deliver, after the Term begins, a short form of this Lease in form appropriate for recording or registration, and if this Lease is terminated before the Term expires, an instrument in such form acknowledging the fact and date of termination. This Lease shall not be recorded.

10.3 Relocation. Landlord shall have the right at any time upon giving Tenant not less than One Hundred and Twenty (120) days' notice in writing, to provide and furnish Tenant with comparable space elsewhere in the Building of approximately the same size as the Premises and to place Tenant in such space. If the total rentable square footage of the new space should exceed the total of the original Premises, Tenant's Rent shall NOT be increased proportionately. If, however, such total rentable square footage shall be less, Tenant's Rent shall be decreased proportionately. In the event of any such relocation of Tenant, Landlord shall pay for Tenant's reasonable moving costs; however, Tenant shall not be entitled to any compensation for damages for any interference with or interruption of its business during or resulting from such relocation. However, Landlord shall make reasonable efforts to minimize such interference. If Tenant shall notify Landlord within ten (10) days of receipt of notice from Landlord required above that Tenant does not want to relocate to the new space, Landlord may, at its option, terminate this Lease by sending written notice thereof to Tenant, and upon the date specified in Landlord's notice, the Term of this Lease shall expire as fully and completely as if such date were the date set forth above for the termination of this Lease, and there shall be no liability between the parties except such liability accruing up to the date of termination of the Lease. If Landlord relocates Tenant to such new space, this Lease and each and all of its terms, covenants and conditions shall remain in full force and effect and be deemed applicable to such new space, with the exception of any right(s) of first refusal, right(s) of first offer, or expansion right(s) or option(s), which shall be deemed void, and such new space shall thereafter be deemed to be the "Premises".

10.4 Notice. No notice, approval, consent requested or election required or permitted to be given or made pursuant to this Lease shall be effective unless the same is in writing. Communications shall be addressed, if to Landlord, at Landlord's Address or at such other address as may have been specified by prior notice to Tenant and, if to Tenant, at Tenant's Address or at such other place as may have been specified by prior notice to Landlord. Any communication so addressed shall be deemed duly served if mailed by registered or certified mail, return receipt requested, or delivered by nationally recognized overnight courier service, or if hand delivered.

10.5 Bind and Inure. The obligations of this Lease shall run with the land, and this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Whenever the Premises are owned by a trustee or trustees, the obligations of Landlord shall be binding upon Landlord's trust estate, but not upon any trustee, beneficiary or shareholder of the trust individually or corporately.

10.6 No Surrender. The delivery of keys or other such tender of possession of the Premises to Managing Agent, or to an employee of Managing Agent or to Landlord's agent or any employee thereof, shall not operate as a termination of this Lease or a surrender of the Premises.

10.7 No Waiver, Etc. The failure of Landlord or of Tenant to seek redress for violation of, or to insist upon the strict performance of any covenant or condition of this Lease or, with respect to such failure of Landlord, any of the Rules and Regulations referred to in Section 6.1.4, whether heretofore or hereafter adopted by Landlord, shall not be deemed a waiver of such violation nor prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation, nor shall the failure of Landlord to enforce any of said Rules and Regulations against any other tenant in the Building be deemed a waiver of any such Rules or Regulations. The receipt by Landlord of Rent or any other sums with knowledge of the breach of any covenant of this Lease shall not be deemed a waiver of such breach by Landlord, unless such waiver be in writing signed by Landlord or an executive officer of Landlord. No consent or waiver, express or implied, by Landlord or Tenant to or of any breach of any agreement or duty shall be construed as a waiver or consent to or of any other breach of the same or any other agreement or duty.

10.8 No Accord and Satisfaction. No acceptance by Landlord of a lesser sum than the Rent, late charges and other sums then due shall be deemed to be other than on account of the earliest installment of such payments due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed as accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or to pursue any other remedy in this Lease provided.

10.9 Cumulative Remedies. The specific remedies to which Landlord may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which it may be lawfully entitled in case of any breach or threatened breach by Tenant of any provisions of this Lease. In addition to the other remedies provided in this Lease, Landlord shall be entitled to the restraint by injunction of the violation or attempted or threatened violation of any of the covenants, conditions or provisions of this Lease or to a decree compelling specific performance of any such covenants, conditions or provisions.

10.10 Partial Invalidity. If any term of this Lease, or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Lease shall be valid and enforceable to the fullest extent permitted by law.

10.11 Landlord's Right to Cure. If Tenant shall at any time default in the performance of any obligation under this Lease, Landlord shall have the right, but shall not be obligated, to enter upon the Premises and to perform such obligation, notwithstanding the fact that no specific provision for such substituted performance by Landlord is made in this Lease with respect to such default. In performing such obligation, Landlord may make any payment of money or perform any other act. All sums so paid by Landlord (together with interest at the maximum rate

set by statute), and all necessary incidental costs and expenses in connection with the performance of any such act by Landlord, shall be deemed to be Additional Rent under this Lease and shall be payable to Landlord immediately on demand. Landlord may exercise the foregoing rights without waiving any other of its rights or releasing Tenant from any of its obligations under this Lease.

10.12 Estoppel Certificates. Tenant agrees on the Commencement Date, and from time to time thereafter upon not less than ten (10) days prior written request by Landlord, to execute, acknowledge and deliver to Landlord a statement in writing, certifying that this Lease is unmodified, or, if there have been any modifications, that this Lease is in full force and effect as modified and stating the modifications and in full force and effect; that Tenant is in possession of the Premises and has no defenses, offsets or counterclaims, or if there are any defenses, offsets, or counterclaims, setting them forth in reasonable detail, against its obligations to pay Rent and to perform its other covenants under this Lease; that there are no incurred defaults of Landlord or Tenant under this Lease, or if there are any defaults, setting forth these defaults in reasonable detail; the dates to which the Rent and other charges have been paid; and certifying to such other information as Landlord's mortgagee or prospective purchaser of the Lot and Building may reasonably request. If Tenant fails to respond within ten (10) days of receipt by Tenant of a written request by Landlord as herein provided, Tenant shall be deemed to have given such certificate as above provided without modification and shall be deemed to have admitted the accuracy of any information supplied by Landlord to a prospective purchaser or mortgagee. Any such statement delivered pursuant to this Section 10.12 may be relied upon by any prospective purchaser or mortgagee of premises which include the Premises or any prospective assignee of any such mortgagee.

10.13 Waiver of Subrogation. Any property insurance carried by either party shall, if the other party so requests and it can be so written without additional premium or with an additional premium which the other party agrees to pay, include a clause or endorsement denying to the insurer rights of subrogation against the other party to the extent rights have been waived by the insured prior to occurrence of loss. Each party, notwithstanding any provisions of this Lease to the contrary, hereby waives any rights of recovery against the other for loss due to hazards covered by property insurance containing such clause or endorsement to the extent of the indemnification received thereunder.

10.14 Brokerage. Tenant and Landlord each represent and warrant to the other that neither it nor its officers or agents nor anyone acting on its behalf has dealt with any real estate broker other than the Managing Agent (Atlantic Coast Commercial). The Tenant and Landlord each agree to defend, indemnify and hold each other, its agents, employees, partners, directors, shareholders and independent contractors harmless from and against any and all liabilities, costs, demands, judgments, settlements, claims, and losses, including reasonable attorneys fees and costs, incurred by Landlord or Tenant in conjunction with any such claim or claims of any other broker or brokers claiming to have interested Tenant in the Building or Premises or claiming to have caused Tenant to enter into this Lease.

10.15 Evidence of Authority. If requested by Landlord, Tenant shall furnish appropriate legal documentation evidencing the valid existence and good standing of Tenant and the

authority of any parties signing this Lease to act for Tenant. If Tenant signs as a corporation, each of the persons executing this Lease on behalf of Tenant does hereby covenant and warrant that Tenant is a duly authorized and existing corporation, that Tenant has and is qualified to do business in North Carolina, that the corporation has full right and authority to enter into this Lease and that each of the persons signing on behalf of the corporation is authorized to do so.

10.16 Lease Review; Date of Execution. The submission of this Lease to Tenant for review does not constitute a reservation of or option for the Premises and this Lease shall become effective as a contract only upon execution and delivery by both Landlord and Tenant. The date of execution shall be inserted on the top of the first page of this Lease by Landlord and shall be the date on which the last party signed the Lease, or as otherwise may be specifically agreed by both parties. Such date, once inserted, shall be established as the final date of ratification by all parties to this Lease and shall be the date for use throughout this Lease as the "date of execution" or "execution date".

10.17 Choice of Law. This Lease shall be governed by and construed in accordance with the laws of the State in which the Premises are located.

10.18 Time is of the Essence. Time is of the essence with respect to this Lease.

10.19 Limitation of Liability. Anything in this Lease to the contrary notwithstanding, covenants, undertakings and agreements herein made on the part of Landlord are made and intended not for the purpose of binding Landlord personally or the assets of Landlord but are made and intended to bind only the Landlord's interest in the Premises and Building, as the same may, from time to time, be encumbered and no personal liability shall at any time be asserted or enforceable against Landlord or its stockholders, officers, employees or partners or their respective heirs, legal representatives, successors and assigns on account of the Lease or on account of any covenant, undertaking or agreement of Landlord in this Lease.

Landlord shall not be liable for any damage or injury which may be sustained by Tenant or any other person from water by reason of the breakage, leakage or obstruction of the roof, roof drains, sprinkler systems, water or soil pipes or any other leakage in or about the Premises, or resulting from the sole negligence or willful misconduct on the part of any of Landlord's other tenants, their agents or employees. Landlord shall not be liable for any loss of property from any cause whatsoever, including not by way of limitation, theft, vandalism or burglary from the Premises, and Tenant covenants and agrees to make no claim for any such loss at any time.

In the event of any transfer(s) of Landlord's interest in the Premises or the Building, other than a transfer for security purposes only, the transferor shall be automatically relieved of any and all obligations and liabilities on the part of Landlord accruing from and after the date of such transfer, and Tenant agrees to attorn to the transferee.

10.20 Landlord's Consent or Approval. With respect to any provision of this Lease which provides that Tenant shall obtain Landlord's prior consent or approval, Landlord may withhold such consent or approval for any reason at its sole discretion, unless the provision specifically states that the consent or approval will not be unreasonably withheld.

With respect to any provision of this Lease which provides that Landlord shall not unreasonably withhold or unreasonably delay any consent or any approval, Tenant, in no event, shall be entitled to make, nor shall Tenant make, any claim for, and Tenant hereby waives any claim for, money damages; nor shall Tenant claim any money damages by way of setoff, counterclaim or defense, based upon any claim or assertion by Tenant that Landlord has unreasonably withheld or unreasonably delayed any consent or approval; but Tenant's sole remedy shall be an action or proceeding to enforce any such provision, or for specific performance, injunction or declaratory judgment.

ARTICLE XI - SECURITY DEPOSIT

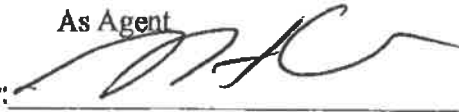
11.1 ~~Security Deposit.~~ Landlord acknowledges receipt from Tenant of the Security Deposit to be held by Landlord, as security, for and during the Term, which deposit shall be returned to Tenant, at the termination of this Lease provided there exists no breach of undertaking of Tenant. The Security Deposit may be held by Landlord in such manner as it shall elect, and Landlord shall be entitled to any interest which accrues thereon. If all or any part of the Security Deposit is applied to an obligation of Tenant hereunder, Tenant shall immediately upon request by Landlord restore the Security Deposit to its original amount. Tenant shall not have the right to call upon Landlord to apply all or any part of the Security Deposit to cure any default or fulfill any obligation of Tenant, but such use shall be solely in the discretion of Landlord. Upon any conveyance by Landlord of its interest under this Lease, the Security Deposit may be delivered by Landlord to Landlord's assignee, grantee or transferee. Upon any such delivery and upon such assignee, grantee or transferee agreeing to assume the obligations of Landlord hereunder, Landlord shall thereupon be released from any and all liability with respect to the Security Deposit, its application and return, and Tenant agrees to look solely to such assignee, grantee or transferee. It is further understood that this provision shall also apply to subsequent assignees, grantees and transferees.

EXECUTED as a sealed instrument pursuant to proper authority in two or more counterparts on the date and year first above written.


LANDLORD:

LIBERTY PLAZA LLC

By: ATLANTIC COAST COMMERCIAL, LLC
As Agent

By: 
Name: _____ 1/17/17
William H. Daniel
Title: Agent

TENANT: FORSYTH COUNTY
NORTH CAROLINA

By:  1/17/17
NAME: J. Dudley Watts, Jr.
Title: County Manager

Approved as to form and legality

JAN 10 2017

By: 
Assistant County Attorney

EXHIBIT A

Legal Description of Lot

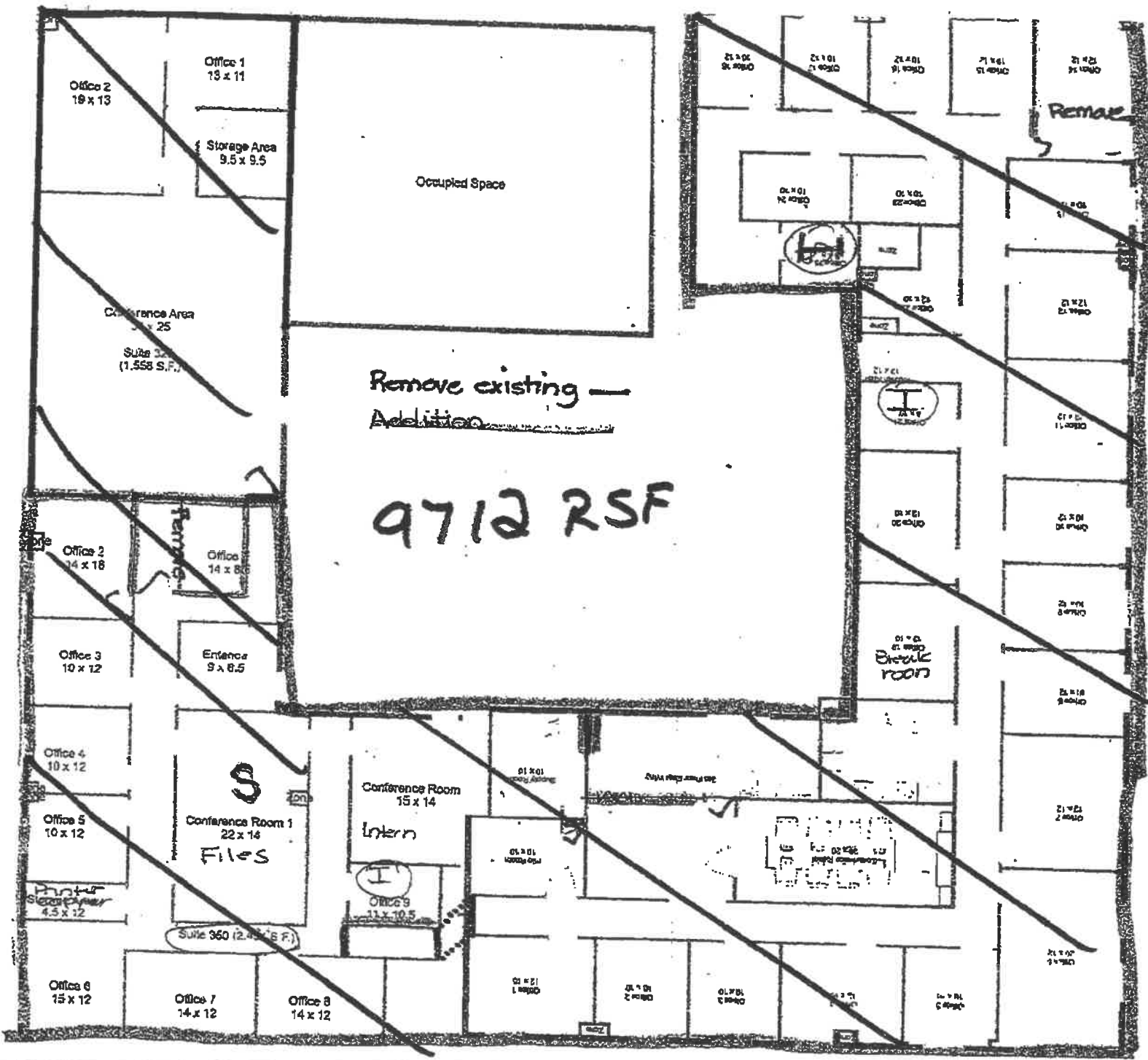
LEGAL DESCRIPTION OF PROPERTY

LYING AND BEING in Winston Township and beginning at an iron stake located at the Intersection of the south right-of-way line of Third Street with the west right-of-way line of Liberty Street; and running thence from said beginning point and with the west right-of-way line of Liberty Street, South 7 degrees 47' East 480.36 feet to an iron stake located at the intersection of the west right of way line of Liberty Street with the north right of way line of Second Street; running thence with said right of way line of Second Street South 82 degrees 10'50 inches West 335.86 feet to an iron stake located at the intersection of said north right-of-way line of Second Street with the east right of way line of Trade Street; running thence with said right-of-way line of Trade Street North 6 degrees 46'40" West 265.05 to an existing nail; running thence with the south line of a 16,219 (more or less) square feet tract of land the two (2) following courses and distances: (1) North 82 degrees 10'50" East 126.22 feet to an existing nail and cap, and (2) North 7 degrees 47'50" West 129.65 feet to a point, the southeast corner of the property belonging to First Home Federal Savings and Loan (see Book 1358 at page 967 of the Forsyth County Registry), running thence with the east line of said property North 7 degrees 50'20" West 87.86 feet to a point in the south right-of-way line of Third Street North 82 degrees 47 East 205 feet to an existing iron, the point and place of beginning and containing 3.047 acres, (more or less). The foregoing description was taken from a plat of survey prepared by Gizinski Surveying Company dated July 30, 1986 entitled "BDF Associates, a North Carolina General Partnership".

EXHIBIT B

Plan Showing Tenant's Space

Intentionally omitted-to be slip sheeted



Remove existing —
Addition

9712 RSF

Office 2
18 x 13

Office 1
15 x 11

Storage Area
9.5 x 9.5

Occupied Space

Conference Area
15 x 25

Suite 300
(1,558 S.F.)

Office 2
14 x 18

Office
14 x 8.6

Office 3
10 x 12

Entrance
9 x 8.5

Office 4
10 x 12

Office 5
10 x 12

Conference Room 1
22 x 14

Files

Storage Area
4.5 x 12

Suite 360 (2,458 S.F.)

Office 6
15 x 12

Office 7
14 x 12

Office 8
14 x 12

Conference Room
15 x 14

Intern

Office 9
11 x 10.5

Office 1
12 x 10

Office 2
10 x 10

Office 3
10 x 10

Office 4
10 x 10

Office 5
10 x 10

Office 6
10 x 10

Remove

Break room

EXHIBIT C

The Landlord has agreed to make certain modifications to the space at no cost to the Tenant as requested by the County and marked up on the plan submitted by hand delivery 10/18/2016 and attached as a reference.

EXHIBIT D

Landlord's Services

1. Landlord shall:

(a) Maintain in reasonable condition and repair the roof, foundation, structure, exterior and common areas of the Building, subject to the applicable terms and provisions of the Lease;

(b) Furnish reasonable heat and air-conditioning ("HVAC") to the Premises from 7:00 a.m. until 7:00 p.m. on Monday through Friday. After hours HVAC shall be provided by Landlord upon request of Tenant, Additional HVAC hours are billed at \$40.00 for the 1st hour of operation and \$35.00 per hour thereafter so long as all costs of providing such after hours service, as reasonably estimated by Landlord, are borne by Tenant. Irrespective of the foregoing, as to each whole floor occupied by Tenant, in lieu of Saturday HVAC hours, Tenant shall be provided with three hundred (300) free hours of HVAC service per year (pro rated for the first and last lease years) at such times as Tenant may request; however, there shall be no carry over of any unused free hours from one calendar year to the next. (Tenant may request HVAC service on the basis of half floors, rather than whole floors, with each hour of half-floor use being deemed one-half hour of free HVAC service for the purpose of the foregoing.) Chilled fluid lines shall be available in the Building to permit Tenant to obtain supplemental air conditioning on a twenty-four (24) hour basis, but Tenant shall be responsible for all installation costs associated therewith;

(c) Provide sufficient elevator service for reasonable access to the Premises;

(d) Furnish reasonable janitorial services for the Premises; as listed on Exhibit D-1

(e) Furnish a reasonable amount of electricity for normal office use in the Premises; however, Landlord's agreement to furnish electricity does not include electricity for electrical equipment requiring voltage greater than that supplied by the Building's standard receptacle circuits unless Landlord's prior written consent is obtained, which consent shall not unreasonably be withheld so long as Tenant is responsible for all costs of installation; and

(f) Furnish in the first floor lobby of the Building a directory of the firm or business names of tenants of the Building.

2. If Landlord defaults in the performance or observance of any provision of Paragraph 1 in this Exhibit D (except to the extent permitted under Paragraph 4 in this Exhibit D), Tenant shall give Landlord notice specifying in what manner Landlord has defaulted and if such default shall not be cured by Landlord within the period of time provided for elsewhere in this Lease, and otherwise within thirty (30) consecutive days after the delivery of such notice (except that if such default cannot be cured within said thirty (30) day period, this period shall be extended for a

reasonable additional time, provided that Landlord commences to cure such default within the thirty (30) day period and proceeds diligently thereafter to effect such cure), Tenant may pursue any remedy available at law or in equity to Tenant; provided, however, in no event shall Tenant be entitled to terminate this Lease in such case.

3. If, in Landlord's opinion, Tenant shall:

(a) Use any utility, including, but not limited to, electricity or water, in an excessive, extravagant or unreasonable manner, Landlord may install meters measuring the quantity of such utility used in the Premises and Tenant, on demand, shall pay Landlord (i) all costs incident to said installation and necessary appurtenances thereto and (ii) Additional Rent equal to the cost of the utility used at rates equal to the rate that the applicable utility company with its own equipment would then charge Tenant for such service. If this method of furnishing utilities to Tenant is utilized, an adjustment will be made to Operating Costs to reflect Tenant's payment of its own utilities in such a manner as to avoid requiring Tenant to pay more than the excess utilities and its ratable share of normal utilities usage included in Landlord's Operating Costs; and

(b) Require removal of refuse and rubbish in larger quantities or more often than is reasonable in the rendering of janitorial service, Tenant on demand shall pay the removal cost to Landlord as Additional Rent.

4. Landlord reserves the right, without liability or responsibility to Tenant and without reduction or deduction of Rent, to suspend or stop, from time to time, service of heating, air-conditioning, elevator, plumbing, electrical or any other system or service required to be furnished or rendered under the terms of this Lease, when such shall become necessary due to accident, emergency, strike, repairs, alterations, improvements, replacements, or any other cause, including laws, orders, or regulations of any federal, state or municipal authority or inability of Landlord to obtain electricity or other suitable fuel.

5. Landlord shall not be responsible for any maintenance or repair of interior improvements of the Premises (exclusive of janitorial services and/or replacement of the Building standard items, *e.g.*, the light bulbs.)

EXHIBIT E

Rules and Regulations

- (1) The sidewalks, halls, passages, elevators and stairways shall not be obstructed by any Lessee or used by any Lessee for any other purposes than for ingress and egress from and to their respective offices. The halls, passages, entrances, elevators, stairways, balconies and roof are not for the use of the general public and Lessor shall in all cases retain the right to control and prevent access thereto of all persons whose presence in the judgment of Lessor, or its employees, shall be prejudicial to the safety, character, reputation and interests of the Building and its Lessees.
- (2) The floors, skylights, windows, doors and transoms that reflect or admit light in passageways, or into any place in the Building, shall not be covered or obstructed by any Lessee. 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, ashes, chemicals or refuse or other injurious substances, shall be thrown therein. Any damage resulting from such misuse or abuse shall be borne and immediately paid by the Lessee by whom or by whose employees it shall have caused.
- (3) Unless otherwise agree to nothing shall be placed on the outside of the Building or on the windows, window sills, or projections.
- (4) Unless otherwise agreed to no sign, advertisement or notice shall be inscribed, painted or affixed on any part of the outside or inside of said Building unless first consented to in writing by the Lessor.
- (5) Unless otherwise agreed to no additional locks shall be placed upon any doors of the Premises and the Lessee shall not permit any duplicate keys to be made, but if more than two keys for any door or lock shall be desired, the addition number must be obtained from the Lessor and be paid for by the Lessee; each Lessee must, upon the termination of its Lease, leave the windows and doors in the demised premises in like condition as of the date of said Lease, and must then surrender all keys to the offices.
- (6) No Lessee shall cause unnecessary labor by reason of carelessness and indifference to the preservation of good order and cleanliness in its Premises and in the Building. In order that the leased premises may be kept in a good state of preservation and cleanliness, each Lessee shall, during the continuance of his Lease, permit the janitor of the Lessor to take charge of and clean the said leased premises.
- (7) Only persons authorized by the Lessor will be permitted to furnish ice, drinking water, towels, vending services and other similar services to Lessees, and only at hours and under regulations fixed by the Lessor. No Lessee shall employ any person or persons, other than the janitor of the Lessor, for the purpose of cleaning or taking charge of said premises, and it

is understood and agreed that the Lessor shall be in no way responsible to any Lessee for any damage done to the furniture or other effects of any Lessee by the janitor or any of his employees, or any other person, or for any loss of property of any kind whatever from leased premises, however occurring. Lessees will see each day that the windows are closed and the doors securely locked before leaving the Building.

(8) Lessees, their clerks or servants, shall not make or commit any improper noises or disturbances of any kind in the Building, smoke in the elevators, or mark or defile the water closets, or toilet rooms, or the walls, windows or doors of the Building, or interfere in any way with other Lessees or those having business with them. Smoking will be conducted in designated smoking areas only.

(9) The installation or operation of radio, machines, TV or appliances shall not be permitted in or about the Premises without the written consent of the Lessor.

(10) No Lessee shall do or permit anything to be done in said Premises, or bring or keep anything therein, which will in any way increase the rate of fire insurance on said Building, or on property kept therein, or obstruct or interfere with the rights of other Lessees, or in any other way injure or annoy them, or conflict with the laws relating to fires, or with the regulations of the Fire Department, or with any insurance policy upon said Building or any part thereof, or conflict with any of the rules and ordinances of the Board of Health.

(11) Each lessee shall promptly and at its expense execute and comply with all laws, rules, orders, ordinances and regulations of the City, County, State or Federal Government, and of any department or bureau of any of them, and of any other governmental authority having jurisdiction over the said premises, affecting the Lessees occupancy of the demised premises or Lessees business conducted thereon.

(12) No carpet, rug or other article shall be hung or shaken out of any window, and nothing shall be thrown or allowed to drop by the Lessees, their clerks or employees out of the windows or doors, or down the passages or skylight of the Building, and no Lessee shall sweep or throw, or permit to be swept or thrown from the leased premises, any dirt or other substances into any of the corridors, halls, elevators or stairways of said Building.

(13) No animals or birds, bicycles or other vehicles shall be kept in or about the Premises or permitted therein.

(14) If Lessees desire to introduce signaling, telegraphic, telephonic, or other wires and instruments, the Lessor will direct the electricians as to where and how the same are to be placed, and without such directions no placing, boring or cutting for wires will be permitted. Lessor shall in all cases retain the right to require the placing and using of such electrical protecting devices to prevent the transmission of excessive currents of electricity into or through the Building, and to require the changing of wires and of their placing and arrangement as Lessor may deem necessary, and further to require compliance on the part of all using or seeking access to such wires with such rules as Lessor may establish relating

thereto, and in the event of non-compliance with the requirements and rules Lessor shall have the right to immediately cut and prevent the use of such wires.

(15) A directory in a conspicuous place on the first floor will be provided by the Lessor, on which the names of Lessees will be placed by the Lessor at its direction.

(16) Lessees shall not use or keep in the building any explosives, kerosene, gasoline, benzene, camphene, burning fluid or other illuminating material.

(17) No Lessee, or no employees of any Lessee, shall go upon the roof of said Building without the written consent of the Lessor.

(18) No furniture, packages or merchandise will be received in the Building or carried up or down in the elevators, except between such hours as shall be designated by the Lessor.

(19) Unless otherwise agreed, no article shall be fastened to or holes drilled or nails or screws driven into the walls or partitions, nor shall the walls or partitions be painted, papered or otherwise covered or in any way marked or broken, nor shall any attachment be made to the electric-lighting wires of the Building for storing of electricity, or for the running of motors or other purpose, nor will machinery of any kind be allowed to be operated in the Premises, nor shall any Lessee use any other method of heating than that provided by Lessor, without the written consent of Lessor. Lessees desiring to put in telephones or call boxes will notify the Lessor, who will designate where the same shall be placed. No mechanics shall be allowed in or about the Building than those employed by the Building Management without the written consent of the Lessor first having been obtained.

(20) Access may be had by the Lessees to the halls, corridors, elevators and stairways in the Building and to the offices leased by them at any time or times. Access to the Building may be refused unless the person seeking admission is known to the watchman in charge, or has a pass or is properly identified. The Lessor shall in no case be liable in damages for the admission or exclusion of any person from said Building. In case of invasion, mob riot, public excitement, or other commotion, the Lessor reserves the right to prevent access to the Building during continuance of the same by closing the doors or otherwise for the safety of the Lessees and protection of property in said Building.

(21) The Lessor in all cases shall prescribe the method and manner in which any merchandise heavy furniture or safes shall be brought in or taken out of the Building, and also the house at which such moving shall be done. The Lessor shall in all cases retain the right to prescribe the weight and proper position of such heavy furniture and safes and all damage done to the Building by taking in or out such merchandise, heavy furniture or safes or any damage done to the Building while said property shall be therein, shall be made good and paid for by the Less by, through or under whom the said damage may have been done. All furniture, safes or fixtures shall be provided supports, glides or castors that will meet the approval of the Management of the Building.

(22) The Lessor reserves the right to rescind any of these rules and to make such other and further rules and regulations as, in Lessors judgment, may from time to time be needed for the safety, care, maintenance, operation and cleanliness of the Building, and for the preservation of good order therein which, when so made, and notice thereof shall have been given to the Lessee, shall have the same force and effect as if originally made a part of the foregoing Lease; and such other and further rules, shall not; however, be inconsistent with the proper and rightful enjoyment by the Lessee under the foregoing Lease of the Premises therein referred to.

EXHIBIT F

Commencement/Expiration Date Agreement

Landlord and Tenant hereby agree upon the following dates pertinent to the Lease Agreement:

1. The date upon which the Premises were "ready for occupancy" as such term is described in Section 3.2 was at Lease Execution.
2. The Commencement Date of the Term is: _____
3. The Expiration Date of the Term is _____ unless the Lease is terminated sooner pursuant to the provisions set forth in the Lease.

In the event of a conflict between the Lease and this Commencement/Expiration Date Agreement, this Agreement shall govern.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have executed this Commencement/Expiration Date Agreement as of this _____ day of _____, 2017.

LANDLORD:

LIBERTY PLAZA LLC

By: ATLANTIC COAST COMMERCIAL, LLC
as Agent

By: _____

Name: _____

William H. Daniel

Title: Agent

TENANT:

By: FORSYTH COUNTY
NORTH CAROLINA

Name: _____

Title: _____

EXHIBIT G

Architect's Certificate

~~The undersigned, _____, does hereby certify to _____, ("Owner") and _____ ("Tenant") that the plans and specifications it has drawn and established for the Premises located _____, Winston Salem, North Carolina _____, comply with all applicable federal, state and local laws, codes, ordinances and regulations including, without limitation, The Americans with Disabilities Act of 1990 and the prevailing practice of the agencies having jurisdiction thereof.~~

~~The undersigned certifies that to the best of its knowledge and belief and on true basis of the information gathered during site visits and from the information furnished by the contractor, that construction of the improvements including with respect to the Premises have been completed in a good and workmanlike manner substantially in accordance with the plans and specifications approved by Owner and Tenant.~~

~~This certificate may be relied on by Owner and Tenant. No other parties may rely on this certificate without the undersigned's written approval.~~

~~Certification and other statements made herein and given to the best of the undersigned's knowledge, information and belief, based upon professional services provided in accordance with generally accepted standards of professional practices.~~

(Architect)

By: _____

Its: _____

Date: _____

EXHIBIT H

Form of Lease Guaranty

~~WHEREAS, Liberty Plaza, LLC, hereinafter referred to as "Landlord," and _____ hereinafter referred to as "Tenant," have simultaneously executed or are about to execute a lease, hereinafter referred to as the "Lease," for certain space located at 102 W. Third Street Suite UP 100, Winston Salem, North Carolina 27101, hereinafter referred to as the "Premises," wherein Landlord will lease the Premises to Tenant, and,~~

~~WHEREAS, hereinafter referred to as "Guarantor", has a financial interest in Tenant, and,~~

~~WHEREAS, Landlord would not enter into the Lease if Guarantor did not execute and deliver to Landlord this Lease Guaranty (this "Guaranty"),~~

~~NOW THEREFORE, for and in consideration of the execution of the foregoing Lease by Landlord and as a material inducement to Landlord to execute the Lease, Guarantor hereby jointly, severally, unconditionally and irrevocably guarantees the prompt payment by Tenant of all rentals and all other sums payable by Tenant under the Lease and the faithful and prompt performance by Tenant of each and every one of the terms, conditions and covenants of the Lease to be kept and performed by Tenant as such are defined in the Lease. The reduction of or limitation on any liabilities of Tenant under the Lease pursuant to any federal or state bankruptcy or insolvency proceeding shall not cause a reduction in or otherwise affect the liabilities or obligations of Guarantor under this Guaranty.~~

~~It is specifically agreed and understood that the terms of the foregoing Lease may be altered, affected, modified or changed by agreement between Landlord and Tenant, or by a course of conduct, and the Lease may be assigned by Landlord or any assignee of Landlord without consent or notice to Guarantor and that this Guaranty shall thereupon and thereafter guarantee the performance of the Lease as so changed, modified, altered or assigned.~~

~~This Guaranty shall not be released, modified or affected by failure or delay on the part of Landlord to enforce any of the rights or remedies of the Landlord under the Lease, whether pursuant to the terms thereof or at law or in equity. No notice of default need be given to Guarantor, it being specifically agreed and understood that the guarantee of the undersigned is a continuing guarantee under which Landlord may proceed forthwith and immediately against Tenant or against Guarantor following any breach or default by Tenant or for the enforcement of any rights which Landlord may have as against Tenant pursuant to or under the terms of the Lease or at law or in equity.~~

~~Landlord shall have the right to proceed against Guarantor hereunder following any breach or default by Tenant without first proceeding against Tenant and without previous notice to or demand upon either Tenant or Guarantor.~~

~~Guarantor hereby waives (a) notice of acceptance of this Guaranty, (b) demand of payment, presentation and protest, (c) all right to assert or plead any statute of limitations as to or relating to this Guaranty and the Lease, (d) all rights under Section 26-7, et seq., of the North Carolina General Statutes to require Landlord to proceed against the primary obligor under the Lease (i.e., Tenant) to realize upon Landlord's security and to take (or refrain from taking) other actions in pursuing Landlord's rights and remedies, and Guarantor specifically waives all of Guarantor's rights under said provisions of the North Carolina General Statutes and under all other statutory provisions which are or may be in conflict with the rights, remedies and privileges granted or otherwise afforded to Landlord pursuant to this Guaranty, (e) any right to require Landlord to apply to any default any security deposit or other security it may hold under the Lease, (f) any right to require Landlord to proceed under any other remedy Landlord may have before proceeding against Guarantor and (g) any right of subrogation.~~

~~The term "Landlord" whenever used in this Guaranty refers to and means the Landlord specifically named in the Lease and also any assignee of the Landlord, whether by outright assignment or by assignment for security, and also any successor to the interest of said Landlord or of any assignee in the Lease or any part thereof, whether by assignment or otherwise. So long as the Landlord's interest in or to the Premises or the rents, issues and profits therefrom, or in, to or under the said lease, are subject to any mortgage or deed of trust or assignment for security, no acquisition by Guarantor of the Landlord's interest in the Premises or under the Lease shall affect the continuing obligation of Guarantor under this Guaranty, which shall nevertheless continue in full force and effect for the benefit of the mortgagee, beneficiary, trustee or assignee under such mortgage, deed of trust or assignment, of any purchase at sale by judicial foreclosure or under private power of sale, and of the successors and assigns of any such mortgagee, beneficiary, trustee, assignee or purchaser. The term "Tenant" whenever used in this Guaranty refers to and means the Tenant specifically named in the Lease and also any assignee or sublessee of the Lease and also any successor to the interests of the Tenant, assignee or sublessee of the Lease or any part thereof, whether by assignment, sublease or otherwise.~~

~~The obligations of the Guarantor hereunder shall include payment to Landlord of all reasonable costs of any successful legal action by Landlord against Guarantor, including reasonable attorneys' fees.~~

~~This Guaranty, all acts and transactions hereunder and the rights and obligations of the parties hereto shall be governed by and construed and enforced in accordance with the laws of the State of North Carolina. As part of the consideration for Landlord's entering into the Lease which this Guaranty is a part, the Guarantor hereby agrees that all actions or proceedings arising directly or indirectly hereunder may, at the option of Landlord, be litigated in courts having situs within the State of North Carolina, and the Guarantor hereby expressly consents to the jurisdiction of any such local, state or federal court, and consents that any service of process in such action or proceeding may be made by personal service upon the Guarantor wherever the Guarantor may then be located, or by certified or registered mail directed to such Guarantor at the following address: _____.~~

~~IN WITNESS WHEREOF, the Guarantor has hereunto caused these presents to be executed under seal this _____ day of _____, 2010.~~

[SEAL]

**RESOLUTION AUTHORIZING EXECUTION OF A LEASE AGREEMENT
WITH LIBERTY PLAZA, LLC AS LANDLORD AND ATLANTIC COAST
COMMERCIAL, LLC AS MANAGING AGENT FOR SPACE FOR
THE PUBLIC DEFENDER'S OFFICE
(GENERAL SERVICES DEPARTMENT)**

BE IT RESOLVED by the Forsyth County Board of Commissioners that, as recommended by the County Manager, the Chairman or County Manager and Clerk to the Board are hereby authorized to execute, on behalf of Forsyth County, the attached Lease Agreement between Forsyth County, as Tenant, Liberty Plaza, LLC, as Landlord, and Atlantic Coast Commercial, LLC as Managing Agent, for the lease of 9,712 square feet of space for the Public Defender's Office for a three-year term, at an annual rate of \$116,058.40 in year one, \$119,554.72 in year two, and \$123,126.36 in year three, subject to a pre-audit certificate thereon by the County Chief Financial Officer, where applicable, and approval as to form and legality by the County Attorney. The original contract is incorporated herein by reference.

Adopted this the 28th of November 2016.

ADOPTED

NOV 28 2016

**Forsyth County Board
of Commissioners**

Contract #2017-0305-00: Liberty Plaza, LLC - Public Defender Offices Lease

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

1/5/2017

Date


Director of Finance