

## LEASE AGREEMENT

THIS LEASE is made and entered into effective as of October 18, 2021 (the "Effective Date"), by and between TECH VILLAGE, LLC, as Landlord, and ISD 709 DULUTH PUBLIC SCHOOLS, as Tenant.

### DEFINITIONS

Except as otherwise specifically defined in this Lease, the capitalized terms used in this Lease have the meanings ascribed to them on Exhibit 1.

### BASIC TERMS

The following Basic Terms are governed by the particular sections in this Lease pertaining to the following information:

- Premises:** Suite 450, consisting of approximately 13,958 rentable square feet of the Building commonly known as the "Duluth Technology Village." The useable space ("Useable Space") is 12,137 square feet. The Building is located at 11 East Superior Street, Duluth, Minnesota. The Premises are depicted on the attached Exhibit 2.
- Lease Term:** Thirty-six (36) full calendar months (see Section 1.2.1) ("Original Term").
- Commencement Date:** October 18, 2021. Tenant shall be provided the use of the spaces identified on Exhibit 4 attached hereto ("Temporary Space") while Tenant Improvements are completed. Landlord shall have the right to show the Temporary Space to prospective tenants upon twenty-four (24) hours prior notice to Tenant.

4. **Basic Rent:**

	PSF	Monthly	Annually
	\$28.31	\$32,929.24	\$395,150.98
Cleaning	\$1.72	\$1,739.64	\$20,875.64

Rent payments will commence on November 1, 2021.

- Early Termination Option:** The Tenant shall have the option to terminate this Lease by providing sixty (60) days advanced written notice of such termination, identifying the date of termination ("Termination Date"), however, this option to terminate may not be exercised within the first two years of the Lease. In the event Tenant exercises this option, Tenant shall continue to pay \$6.12 PSF for the Useable Space with a monthly amount of \$6,189.87 and Annual Amount of \$74,278.44 to cover the Tenant's Tenant Improvement Costs and as described in Section 17 through the Original Term.

6. **Option Period:** The Tenant shall have the option to extend this Lease for two (2) additional three (3)-year periods, the terms of which will commence on (Option 1) October 1, 2024, and expire on September 30, 2027 and (Option 2) commencing October 1, 2027 and expiring September 30, 2030 (the “Extension Period”).

Repayment of the Tenant Improvement will expire at the end of the original term reducing the PSF rate by \$6.12. With the elimination of the Tenant Improvement payment, basic rent during the option period(s) shall increase annually by three percent (3%) annually as follows:

<u>Option 1</u>	<u>Months</u>	<u>PSF</u>	<u>Monthly</u>	<u>Annually</u>
	10/01/2024 – 09/30/2025	\$23.88	\$27,776.42	\$333,317.04
	10/01/2025 – 09/30/2026	\$24.60	\$28,613.90	\$343,366.80
	10/01/2026 – 09/30/2027	\$25.33	\$29,463.01	\$353,556.14
<u>Option 2</u>	<u>Months</u>	<u>PSF</u>	<u>Monthly</u>	<u>Annually</u>
	10/01/2027 – 09/30/2028	\$26.09	\$30,347.02	\$364,164.22
	10/01/2028 – 09/30/2029	\$26.87	\$31,254.29	\$375,051.46
	10/01/2029 – 09/30/2030	\$27.68	\$32,196.45	\$386,357.44

7. **Property Manager:** Tech Village, LLC  
 C/o A&L Property Management, LLC  
 11 East Superior Street, Suite 130  
 Duluth, Minnesota 55802  
  
 Email: [alproperties@alproperties.us](mailto:alproperties@alproperties.us)  
 Telephone: (218) 727-9556

8. **Rent Payment Address:** Property Manager at the address specified above.

9. **Address of Landlord for Notices:** Tech Village, LLC  
 C/o A&L Property Management, LLC  
 11 East Superior Street, Suite 130  
 Duluth, Minnesota 55802  
  
 Email: [alproperties@alproperties.us](mailto:alproperties@alproperties.us)

With a copy to: Property Manager at the address described in Section 6 of the Basic Terms.

**10. Address of Tenant for Notices:** ISD 709 Duluth Public Schools  
Cathy Erickson  
CFO, Executive Director of Business Services  
ISD #709 Business Services Office  
4316 Rice Lake Road, Suite 108  
Duluth, MN 55811

Email: catherine.erickson@isd709.org

**11. Brokers:** Landlord will pay brokerage fee to Greg Follmer Commercial Real Estate (GFCRE) per separate agreement direct with GFCRE.

**12. Security Deposit:** [This section has been intentionally omitted].

**13. Permitted Use:** Tenant shall use the Premises only for general office and schooling purposes, and not for any other purpose (Section 4.1).

**14. Guarantors:** [This section has been intentionally omitted]

**15. Parking.** Tenant shall have twenty-five (25) surface parking spaces within the 1<sup>st</sup> & 1<sup>st</sup> Street lot for use by its employees. Cost for twenty-five (25) spaces are included in gross rental rate of Item 4 above. Parking spaces will be for regular daily employees housed in the Duluth Technology Village office. Landlord will not provide dedicated parking for Tenant's occasional employees or visitors.

**16. Keys:** For safety reasons, the City of Duluth Fire Marshal requires this building to maintain a master key system. Any additional keys and/or lock changes must go through Landlord and will be billed accordingly to Tenant.

Landlord will provide Tenant with twenty-five (25) access cards to the building at no charge. Access cards needed for additional staff and/or replacements will be billed at \$15.00 per card.

**17. Tenant Improvements.** Landlord and Tenant will cause plans and specifications ("Tenant Improvements Plans and Specifications") to be prepared by a licensed architect/engineer for the Tenant Improvements. Tenant will review the Tenant Improvements Plans and Specifications and, when acceptable to Tenant, will indicate its approval of the Tenant Improvements Plans and Specifications. Each page of the approved Tenant Improvements Plans and Specifications will be initialed by Landlord and Tenant and both Landlord and Tenant acknowledge that they will have a copy of the approved Tenant Improvements Plans and Specifications in their possession. Subject to force majeure as provided for in Section 17, Landlord will cause the Tenant Improvements described in the approved Tenant Improvements Plans and Specifications to be constructed at Landlord's cost and expense ("Total Cost of Tenant Improvements") on or before March 1, 2022. Tenant will

pay the Total Cost of Tenant Improvements, less Landlord's Contribution, which contribution by Landlord shall not exceed \$250,000.00 ("Landlord's Contribution"). Tenant shall pay its share of the Tenant Improvements pursuant to monthly per square foot payments on the Lease amortized without interest over the first thirty-six (36) months of this Lease, as detailed on the amortization schedule ("Estimated Amortization Schedule") attached hereto as Exhibit 5. Upon completion of the Tenant Improvements, the actual Total Cost of the Tenant Improvements will be determined and upon approval by Landlord and Tenant will be utilized in a Final Amortization Schedule, which will be signed and dated by Landlord and Tenant. Landlord and Tenant shall make any adjustments (increases or decreases) to the Basic Rent to reflect the Final Amortization Schedule. The PSF shall then be adjusted (increased or decreased) based on the Final Amortization Schedule for the Basic Rent and PSF for the Tenant Improvements for the Early Termination Option in Section 5 and Landlord and Tenant will execute an addendum to this Lease reflecting such modifications.

All changes in the Tenant Improvements Plans and Specifications or orders for extra work or changes by altering or adding to or eliminating any of the Tenant Improvements, regardless of whether there is an increase or decrease in net construction cost and regardless of change to the Tenant Improvements design concept, must be approved in writing by Tenant and Landlord and placed on file with the Landlord and Tenant. Tenant's occupation of the Premises after the Completion Date shall constitute acceptance of the Tenant Improvements.

In the event that Landlord or Tenant shall be delayed or hindered in or prevented from the performance of any act required under this Lease by reason of strike, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental laws, regulations, orders or decrees, riots, insurrection, war, acts of God, inclement weather, or other reason of like or unlike nature or cause beyond Landlord's or Tenant's control, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

18. **Internet Technology (IT):** Internet and cabling and service are the sole responsibility of Tenant.
19. **Temporary Space Use:** Landlord will allow tenant temporary use of the spaces identified on Exhibit 4 ("Temporary Space") within the Duluth Technology Village (DTV) while the Tenant Improvements are being completed. Temporary use of the spaces identified on Exhibit 4 will be provided for the charge identified in Section 4 and the full rent of the Premises will commence on the Completion Date. Tenant shall have the option after the Completion Date to continue to utilize all or part of the Temporary Space for the rent provided for in this Section, subject to Landlord's approval.

Landlord will also provide a designated, storage of Tenant's desired items during construction, which storage space is identified on Exhibit 4. Storage will be provided to Tenant at no additional charge. Tenant acknowledges that Landlord shall not be responsible for damage, if any, to property stored within the designated area caused by fire, water, theft, vandalism or otherwise, and Tenant acknowledges that obtaining insurance on any property stored in the area is Tenant's sole responsibility.

Should Landlord secure a Tenant within temporary spaces designated for classrooms and storage area, Landlord reserves the right to relocate classrooms and/or storage to an alternate area within DTV.

## **ARTICLE 1 LEASE OF PREMISES AND LEASE TERM**

**1.1 Premises.** In consideration of the mutual covenants this Lease describes, and subject to the terms, covenants and conditions set forth in this Lease, Landlord leases the Premises to Tenant and Tenant leases the Premises from Landlord. The rentable area of the Premises is the rentable area specified in the Basic Terms. If Landlord determines in its sole but reasonable discretion that the rentable area of the Premises differs from the rentable area specified in the Basic Terms, then Landlord and Tenant shall amend this Lease accordingly; provided, however, that any such amendment will operate prospectively only. Landlord and Tenant will not make any retroactive adjustments to Rent payments on account of any difference between the rentable area of the Premises specified in the Basic Terms and the rentable area of the Premises as may be determined after the Effective Date.

**1.2 Term, Delivery and Commencement.**

**1.2.1 Commencement and Expiration of Term.** The Term of this Lease is the period stated in the Basic Terms. The Term shall commence on the Commencement Date and shall end on the last day of the last calendar month of the Term.

**1.3 Quiet Enjoyment.** Subject to the terms of this Lease, Landlord covenants that if Tenant timely (a) pays all Rent and other charges provided for herein, (b) performs all of its obligations provided for herein, and (c) observes all of the other provisions hereof, then Tenant shall at all times during the Term peaceably and quietly have, hold and enjoy the Premises, without interruption or disturbance by Landlord, or anyone claiming through or under Landlord.

## **ARTICLE 2 RENT**

- 2.1 Basic Rent.** Tenant will pay Basic Rent in monthly installments to Landlord, in advance, without offset or deduction, commencing on the Commencement Date and continuing on the first day of each and every calendar month after the Commencement Date during the Term. Tenant will make all Basic Rent payments to Landlord at the address specified in the Basic Terms or at such other place or in such manner as Landlord may from time to time designate in writing. Tenant will make all Basic Rent payments without Landlord's previous demand, invoice or notice for payment. Landlord and Tenant will prorate, on a per diem basis, Basic Rent for any partial month within the Term.
- 2.2 Additional Rent.** Intentionally deleted.
- 2.3 Delinquent Rental Payments.** If Tenant does not pay any installment of Basic Rent or any Additional Rent within five Business Days after the date the payment is due, then Tenant will pay Landlord an additional amount equal to the greater of (a) interest on the delinquent payment calculated at the Maximum Rate from the date when the payment is due through the date the payment is made, or (b) a late payment charge equal to five percent of the amount of the delinquent payment. Landlord's right to such compensation for any such delinquency is in addition to all of Landlord's rights and remedies under this Lease, at law or in equity.
- 2.4 Electronic Fund Transfer; ACH Check Conversion.** If Tenant makes any payment of Rent by check, then Tenant authorizes Landlord to either process the payment as a regular check transaction, or to use information from Tenant's check to make a one-time electronic fund transfer from Tenant's account. If Landlord uses information from Tenant's check to make an electronic fund transfer, then Tenant acknowledges and agrees that (a) the funds may be withdrawn from Tenant's account as soon as the same day that Landlord receives Tenant's payment, and (b) Tenant will not receive its original check back from its financial institution.
- 2.5 Independent Obligations.** Notwithstanding anything to the contrary in this Lease, Tenant's covenant and obligation to pay Rent is independent from any of Landlord's covenants, obligations, warranties or representations in this Lease.
- 2.6 Abated Rent.** Not applicable.

**ARTICLE 3  
PROPERTY TAXES AND OPERATING EXPENSES**

- 3.1 Tenant's Inspection and Audit Rights.** Intentionally deleted.

**ARTICLE 4  
USE**

- 4.1 Permitted Use.** Tenant shall use the Premises only for the use specified in Item 13 of the Basic Terms (the “Permitted Use”), and not for any other purpose. Tenant will not use the Property or knowingly permit the Property to be used in violation of any Laws or in any manner that would (a) cause injury or damage to the Property or to the person or property of any other tenant on the Property; (b) cause substantial diminution in the value or usefulness of all or any part of the Property (reasonable wear and tear excepted); or (c) constitute waste or a public or private nuisance. Tenant will obtain and maintain, at Tenant’s sole cost and expense, all permits and approvals required under the Laws for Tenant’s use of the Premises.
- 4.2 Acceptance of Premises.** Tenant acknowledges that neither Landlord nor any agent, contractor or employee of Landlord have made any representation or warranty of any kind with respect to the Premises, the Building, or the Property, specifically including but not limited to any representation or warranty of suitability or fitness of the Premises, Building, or the Property for any particular purpose.
- 4.3 Laws and Building Rules.** This Lease is subject and subordinate to all Laws. Tenant shall at all times comply with the rules and regulations for the Building set forth in Exhibit 3 (the “Building Rules”), and with any reasonable additions thereto and modifications thereof adopted from time to time by Landlord of which Tenant has been given at least 10 days’ prior written notice, and each such rule or regulation shall be deemed to be a covenant of this Lease to be performed and observed by Tenant. Landlord will enforce the Building Rules against the occupants of the Building in a nonarbitrary and nondiscriminatory manner. In the event of any conflict between the Building Rules and this Lease, this Lease shall control.
- 4.4 Common Area.** Landlord grants Tenant the non-exclusive right, together with all other occupants of the Building and their agents, employees and invitees, to use the Common Area during the Term, subject to all Laws. Landlord, at Landlord’s sole and absolute discretion (but subject to Section 9.3 below), may make changes to the Common Area. Landlord’s rights regarding the Common Area include without limitation the right to: (a) restrain unauthorized persons from using the Common Area; (b) place permanent or temporary kiosks, displays, carts or stands in the Common Area and lease the same to others; (c) temporarily close any portion of the Common Area (i) for repairs, improvements or Alterations, (ii) to discourage unauthorized use, (iii) to prevent dedication or prescriptive rights, or (iv) for any other reason that Landlord reasonably deems necessary; (d) change the shape and size of the Common Area; (e) add, eliminate or change the location of any improvements located in the Common Area; and (f) impose and revise Building Rules concerning use of the Common Area (including without limitation the parking facilities).

**4.5 Signs.**

**4.5.1 Interior Signage.** Tenant may install signage above the entry to the Premises only after written approval of said signage by the Landlord.

**4.5.2** Except for the signs specifically allowed in this Section 4.5, no other sign, advertisement, graphics of any nature, or notice shall be inscribed, painted, affixed, or displayed on the windows or exterior walls of the Premises, or on any public area of the Building, without Landlord's prior written consent (which consent Landlord may withhold or condition in its sole but reasonable discretion). All permitted signs shall comply with the Laws and shall be installed and maintained at Tenant's sole expense. Landlord may immediately remove at Tenant's sole cost and expense any sign, advertisement, graphics, or notice that violates this Section 4.5. The rights granted to Tenant pursuant to this Section 4.5 are personal to Tenant and no subtenants of Tenant shall have any rights under this Section 4.5. No signage of any kind may allowed in the building's exterior windows.

**4.6 Tenant Devices and Equipment.** Tenant will not use any device or equipment in the Premises or otherwise on the Property that causes substantial noise, odor or vibration, without Landlord's prior written consent (which consent Landlord may grant, withhold or condition in its sole and absolute discretion). Tenant will not connect any device or equipment to the Building's electrical or plumbing systems except through the electrical and water outlets in the Premises that were installed (or otherwise approved in writing) by Landlord. No antenna, satellite dish, or other communications equipment shall be allowed without Landlord's prior written consent (which consent Landlord may grant, withhold or condition in its sole and absolute discretion). In the event Landlord consents to Tenant's installation of an antenna, satellite dish, or other communications equipment on the Property (including without limitation on the roof of the Building), then Landlord and Tenant shall execute a Communications Equipment License in form required by Landlord in its sole but reasonable discretion. Tenant acknowledges that the installation of any such communications equipment shall be deemed an "alteration" subject to the terms and conditions of Article 8 of this Lease. Tenant shall be responsible for the removal (including cost) of any and all devices and equipment when no longer in use by Tenant.

**4.7 Continuous Operation.** [This section has been intentionally omitted]

**ARTICLE 5  
HAZARDOUS MATERIALS**



- 5.1 Compliance with Hazardous Materials Laws.** Tenant will not cause any Hazardous Material to be brought upon, kept or used on the Property in quantities reportable under any Hazardous Materials Law, or in a manner or for a purpose prohibited by or that could result in liability under any Hazardous Materials Law. Tenant, at its sole cost and expense, will comply with all Hazardous Materials Laws and prudent industry practice relating to the presence, treatment, storage, transportation, disposal, release or management of Hazardous Materials in, on, under or about the Property required for Tenant's use of the Premises and will notify Landlord of any and all Hazardous Materials Tenant brings upon, keeps or uses on the Property (other than small quantities of office cleaning or other office supplies as are customarily used by a tenant in the ordinary course in a general office facility). On or before the expiration or earlier termination of this Lease, Tenant, at its sole cost and expense, will completely remove from the Property (regardless whether any Hazardous Materials Law requires removal), in compliance with all Hazardous Materials Laws, all Hazardous Materials Tenant causes to be present in, on, under or about the Property. Tenant will not take any remedial action in response to the presence of any Hazardous Materials in, on, under or about the Property, nor enter into any settlement agreement, consent decree or other compromise with respect to any Claims relating to or in any way connected with Hazardous Materials in, on, under or about the Property, without first notifying Landlord of Tenant's intention to do so and affording Landlord reasonable opportunity to investigate, appear, intervene and otherwise assert and protect Landlord's interest in the Property.
- 5.2 Notice of Actions.** Tenant will notify Landlord of any of the following actions affecting Landlord, Tenant, or the property that result from or in any way relate to Tenant's use of the Property immediately after receiving notice of the same: (a) any enforcement, clean-up, removal or other governmental or regulatory action instituted, completed or threatened under any Hazardous Materials Law; (b) any Claim made or threatened by any person relating to damage, contribution, liability, cost recovery, compensation, loss or injury resulting from or claimed to result from any Hazardous Material; and (c) an reports made by any person, including Tenant, to any environmental agency relating to any Hazardous Material, including any complaints, notices, warnings or asserted violations. Tenant will also deliver to Landlord, as promptly as possible and in any event within five Business Days after Tenant first receives or sends the same, copies of all Claims, reports, complaints, notices, warnings or asserted violations relating in any way to the Premises or Tenant's use of the Premises. Upon Landlord's written request, Tenant will deliver to Landlord documentation acceptable to Landlord reflecting the legal and proper disposal of all Hazardous Materials removed or to be removed from the Premises. All such documentation will list Tenant or its agent as a responsible party and will not attribute responsibility for any such Hazardous Materials to Landlord or Property Manager.

- 5.3 Disclosure and Warning Obligations.** Tenant acknowledge and agrees that all reporting and warning obligations required under Hazardous Materials Laws resulting from or in any way relating to Tenant's use of the Premises or the Property are Tenant's sole responsibility, regardless whether the Hazardous Materials Laws permit or require Landlord to report or warn.
- 5.4 Landlord Indemnification.** Landlord shall indemnify, defend and hold harmless Tenant from and against all damages (excluding consequential, punitive or similar type damages), costs, losses, expenses (including, but not limited to, reasonable attorneys' fees and engineering fees) arising from or attributable to the existence of any Hazardous Materials at the Property in reportable quantities in violation of applicable Hazardous Materials Laws to the extent caused by Landlord provided, however, in case any claim, action, suit or proceeding shall be brought against Tenant and such matter is subject to Landlord's indemnification as provided above, Tenant shall notify Landlord of the same in time to avoid any prejudice to Landlord and Landlord shall have the right to assume and control the defense thereof with counsel of its own selection, and Landlord shall have the right to control any remediation. The obligations of Landlord under this section shall survive the expiration or earlier termination of this Lease.
- 5.5 Tenant Indemnification.** Tenant will release, indemnify, defend (with counsel reasonably acceptable to Landlord), protect and hold harmless the Landlord Parties from and against any and all Claims whatsoever arising or resulting, in whole or in part, directly or indirectly, from the presence, treatment, storage, transportation, disposal, release or management of Hazardous Materials, in, on, under, upon or from the Property (including water tables and atmosphere) resulting from or in any way related to Tenant's use of the Premises or the Property. Tenant's obligations under this section include, without limitation and whether foreseeable or unforeseeable: (a) the costs of any required or necessary repair, clean-up, detoxification or decontamination of the property; (b) the costs of implementing any closure, remediation or other required action in connection therewith as stated above; (c) the value of any loss of use and any diminution in value of the Property; and (d) consultants' fees, experts' fees and response costs. The obligations of Tenant under this section shall survive the expiration or earlier termination of this Lease.

## **ARTICLE 6 UTILITIES AND SERVICES**

- 6.1 Janitorial Service.** Landlord will provide janitorial services for the Premises. The Basic Rent includes a cost for providing such services. Tenant may determine to provide janitorial services by notice to Landlord in which event the per square foot charges from Landlord to provide services will be eliminated.

**6.2 Utilities.** Landlord will provide electrical energy to the Premises for lighting and for general office use. Landlord will provide heating, ventilation and air conditioning to the Premises sufficient to maintain, in Landlord's reasonable judgment, comfortable temperatures in the Premises. Landlord is not required to provide any heat, air conditioning, electricity or other service in excess of that permitted by voluntary or involuntary governmental guidelines or other Laws. Landlord has the exclusive right and discretion to select the provider of any utility or service to the Property and to determine whether the Premises or any other portion of the Property may or will be separately metered or separately supplied. No interruption in or temporary stoppage of any of the utility services this Article 6 describes is to be deemed an eviction or disturbance of Tenant's use and possession of the Premises, nor does any such interruption or stoppage relieve Tenant from any obligation this Lease describes, render Landlord liable for damages, or entitle Tenant to any abatement of Rent; provided, however, that if any such interruption or temporary stoppage is primarily caused by a negligent act or omission of Landlord and continues for more than ten consecutive days, then Rent hereunder shall abate until such interruption or temporary stoppage either ceases or is no longer primarily caused by a negligent act or omission of Landlord.

## **ARTICLE 7 MAINTENANCE AND REPAIR**

**7.1 Landlord's Obligations.** Except as otherwise provided in this Lease, Landlord will repair and maintain the following in good order, condition and repair (including any necessary replacements): (a) the roof, footings, foundation, and the structural integrity of exterior and interior load-bearing walls of the Building; (b) the electrical, mechanical, plumbing, heating and air conditioning systems located in the Building and serving the Common Area (other otherwise used in common by all tenants of the Building); (c) the Common Area; and (d) the electrical, mechanical, plumbing, heating and air conditioning systems serving the Premises. Landlord's repair and maintenance costs under subsections (a), (b) and (c) of this Section 7.1 are Operating Expenses. Tenant shall reimburse Landlord as Additional Rent for the repair and maintenance costs reasonably incurred by Landlord under subsection (d) of this Section 7.1.

**7.2 Tenant's Obligations.**

**7.2.1 Maintenance of Premises.** Landlord is not required to repair or maintain the Premises or the Property (or to make any Alterations to the Premises or Property), except as otherwise specifically provided in this Lease. Except as specifically set forth in Section 7.1, tenant is solely responsible for the repair, maintenance, replacement, operation, condition and management of the Premises turned over to them. Except as specifically set forth in

Section 7.1, Tenant at its sole cost and expense will keep and maintain the Premises (including without limitation all non-structural interior portions; lighting systems; interior surfaces of exterior walls; glass; and interior moldings, partitions, glass, doors and ceilings) in good order, condition and repair, reasonable wear and tear and damage from insured casualties excepted. Tenant's repairs will be at least equal in quality and workmanship to the original work and Tenant will make the repairs in accordance with all Laws. Tenant will keep the Premises in a neat and sanitary condition and will not commit any nuisance or waste in, on or about the Premises or the Property. Tenant shall release, indemnify, protect and defend Landlord against (with counsel reasonably acceptable to Landlord), and hold Landlord harmless from, any Claims or damages resulting from any penetrations or perforations of the roof or exterior walls of the Building caused or allowed by Tenants.

**7.2.2 Alterations Required by Laws.** If any governmental authority requires any Alteration to the Building or the Premises as a result of Tenant's particular use of the Premises, or as a result of any Alteration to the Premises made by or on behalf of Tenant, or if Tenant's particular use of the Premises subjects Landlord or the Property to any obligation under any Laws, then Tenant will pay the cost of all such Alterations or the cost of compliance, as the case may be. If any such Alterations are Structural Alterations, then Landlord will make the Structural Alterations; provided, however, that Landlord may require Tenant to deposit with Landlord an amount sufficient to pay the cost of the Structural Alterations (including, without limitation, reasonable overhead and administrative costs). If the Alterations are not Structural Alterations, Tenant will make the Alterations at Tenant's sole cost and expense in accordance with Article 8.

**7.2.3 ADA Compliance.** Within ten (10) days after receipt, Landlord and Tenant shall advise the other party in writing, and provide the other with copies of (as applicable) any notices alleging violation of the Americans with Disabilities Act of 1990 ("ADA") relating to any portion of any Building or the Leased Premises; any claims made or threatened in writing regarding noncompliance with the ADA and relating to any portion of any Building or the Leased Premises; or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to any portion of any Building or the Leased Premises. Except as provided below in this Section, Landlord shall be responsible for ensuring that any Building and the Leased Premises comply with the ADA throughout the Lease Term. If Tenant's actions cause any Building and/or Leased Premises to become out of compliance with the ADA, Tenant shall be responsible for bringing any Building and/or Leased Premises back into compliance with the ADA.

**ARTICLE 8**  
**CHANGES AND ALTERATIONS**

- 8.1 Landlord Approval.** Tenant will not make any Structural Alterations to the Premises or any Alterations to the Common Area. Tenant will not make any other Alterations without Landlord's prior written consent, which consent Landlord shall not unreasonably withhold; provided, however, that Landlord may condition its consent in its reasonable discretion. Along with any request for landlord's consent, Tenant will deliver to Landlord complete plans and specifications for the Alterations and will identify and prospective contractors for the Alterations. If Landlord approves the proposed Alterations, Tenant, before commencing the Alterations or delivering (or accepting delivery of) any materials to be used in connection with the Alterations, will deliver to Landlord for Landlord's reasonable approval proof of insurance required by Section 8.2, copies of all necessary permits and licenses, and such other information relating to the Alterations as Landlord reasonably requests. Tenant will not commence the Alterations before Landlord, in Landlord's reasonable discretion, approves the foregoing deliveries. Tenant will construct all approved Alterations or cause all approved Alterations to be constructed (a) promptly by a licensed and properly bonded contractor, (b) in a good and workmanlike manner, (c) in compliance with all Laws, (d) in accordance with all orders, rules and regulations of the Board of Fire Underwriters having jurisdiction over the Premises and nay other body exercising similar functions, and (e) in full compliance with all of Landlord's rules and regulations applicable to third party contractors, subcontractors and suppliers performing work at the Property.
- 8.2 Tenant's Responsibility for Cost and Insurance.** Tenant will pay the cost and expenses of all Alterations, and for any painting, restoring or repairing of the Premises or the Property the Alterations occasion. Prior to commencing the Alterations, Tenant will deliver the following to Landlord in form and amount reasonably satisfactory to Landlord: (a) payment, performance and demolition (if applicable) bonds; and (b) evidence that Tenant and each of Tenant's contractors have in force liability insurance insuring against construction related risks, in at least the form, amounts and coverages required of Tenant under Article 10. The insurance policies described in the preceding sentence shall name Landlord and Property Manager (and, if requested by Landlord, Landlord's lender) as additional insured's.
- 8.3 Construction Obligations and Ownership.** Landlord may inspect construction of the Alterations. Immediately after completing the Alterations, Tenant will furnish Landlord with contractor affidavits, full and final notarized lien waivers and receipted bills covering all labor and materials expended and used in connection with the Alterations. Tenant will remove any Alterations Tenant constructs in violation of this Article 8 within ten days after Landlord's written request and in

any event prior to the expiration or earlier termination of this Lease. All Alterations Tenant makes or installs (including all telephone, computer and other wiring and cabling located within the walls of and outside the Premises, but excluding Tenant's movable trade fixtures, furniture and equipment) become the property of Landlord upon installation and, unless Landlord requires Tenant to remove the Alterations (which removal requirement may be exercised by Landlord at the time Landlord consents to such Alterations, or at the termination of the Lease), Tenant will surrender the Alterations to Landlord upon the expiration or earlier termination of this Lease at no cost to Landlord.

**8.4 Liens.** Tenant will keep the Property free from any mechanics', materialmen's, designers' or other liens arising out of any work performed, materials furnished or obligations incurred by or for Tenant or any person or entity claiming by, through or under Tenant. Tenant will notify Landlord in writing at least 30 days prior to commencing any Alterations in order to provide Landlord the opportunity to record and post notices of non-responsibility or such other protective notices available to Landlord under the Laws. If any such liens are filed and Tenant, within 15 days after such filing, does not release the same of record or provide Landlord with a bond or other surety satisfactory to Landlord protecting Landlord and the Property against such liens, Landlord may, without waiving its rights and remedies based upon such breach by Tenant and without releasing Tenant from any obligation under this Lease, cause such liens to be released by any means Landlord deems proper, including, but not limited to, paying the claim giving rise to the lien or posting security to cause the discharge of the lien. In such event, Tenant will reimburse Landlord, as Additional Rent, for all amounts Landlord payment (including, without limitation, reasonable attorneys' fees and costs).

**8.5 Indemnification.** To the fullest extent allowable under the Laws, Tenant will release, indemnify, protect, defend (with counsel reasonably acceptable to Landlord) and hold harmless the Landlord Parties and the Property from and against any Claims in any manner relating to or arising out of any Alterations or any other work performed, materials furnished or obligations incurred by or for Tenant or any person or entity claiming by, through or under Tenant.

## **ARTICLE 9 RIGHTS RESERVED BY LANDLORD**

**9.1 Landlord's Entry.** Landlord and its authorized representatives may at all reasonable times and upon reasonable notice to Tenant enter the Premises to: (a) inspect the Premises; (b) exercise and perform Landlord's rights and obligations under this Lease; (c) post notices of non-responsibility or other protective notices available under the Laws; (d) show the Premises to current or prospective mortgagees, or to prospective purchasers of the Property; or (e) during the last 12 months of the Term, show the Premises to prospective tenants. Landlord, in the

event of any emergency, may enter the Premises at any time without notice to Tenant. Landlord's entry into the Premises is not to be construed as a forcible or unlawful entry into, or detainer of, the Premises or as an eviction of Tenant from all or any part of the Premises. Subject to Section 9.3 below, Tenant will also permit Landlord (or its designees) to erect, install, use, maintain, replace and repair pipes, cables, conduits, plumbing and vents, and telephone, electric and other wires and other items, in, to and through the Premises if Landlord reasonably determines that such activities are necessary for properly operating and maintaining the Building.

**9.2 Control of Property.** Landlord reserves all rights respecting the Property and Premises not specifically granted to Tenant under this Lease, including, without limitation, the right to: (a) change the name or street address of the Building; (b) designate and approve all types of signs, window coverings, internal lighting and other aspects of the Premises and its contents that may be visible from the exterior of the Premises; (c) grant any party the exclusive right to conduct any business or render any service in the Building, provided such exclusive right does not prohibit Tenant from using the Premises for the Permitted Use; (d) close the Building after regular business hours in accordance with such rules and regulations as Landlord may prescribe from time to time for security purposes; (e) install, operate and maintain security systems that monitor persons entering or leaving the Building; (f) install and maintain pipes, ducts, conduits, wires and structural elements in the Premises that serve other parts or other tenants of the Building; (g) change the regular business hours of the Property; and (h) retain and receive master keys or pass keys to the Premises and all doors in the Premises. Notwithstanding the foregoing, or the provision of any security-related services by Landlord, Landlord is not responsible for the security of persons or property in the Premises or otherwise on the Property, and Landlord is not liable in any way whatsoever for any breach of security except to the extent directly caused by the gross negligence or willful misconduct of Landlord or its agents.

**9.3 Interference with Tenant's Business.** With respect to any provision of this Lease which entitles or requires Landlord to make improvements, alterations or repairs to the Premises, the Building or the Common Area, Landlord agrees that such work shall not materially interfere with Tenant's use and enjoyment of the Premises. Landlord shall endeavor, when reasonably possible, to perform any such work so as to minimize disruption to Tenant's business.

## **ARTICLE 10 INSURANCE AND LIABILITY**

**10.1 Tenant's Insurance Obligations.** Tenant, at all times during the Term and during any early occupancy period, at Tenant's sole cost and expense, will maintain the insurance this Section 10.1 describes.

**10.1.1 Liability Insurance.** Tenant shall maintain commercial general liability insurance (providing coverage at least as broad as the current ISO commercial general liability form) with respect to the Premises and the Tenant's activities in the Premises and upon and about the Property, on an "occurrence" basis, with minimum limits of \$1,000,000.00 each occurrence and \$2,000,000.00 general aggregate. Such insurance must include the following specific coverage provisions or endorsements: (a) broad form contractual liability insurance insuring Tenant's obligations under this Lease; (b) naming Landlord and Property Manager as additional insureds by an "additional Insured – Managers or Lessors of Premises" endorsement (or equivalent coverage or endorsement); (c) waiving the insurer's subrogation rights against all Landlord Parties; and (d) providing Landlord with at least ten Business Days prior notice of modification, cancellation, non-renewal or expiration. Tenant acknowledges and agrees that Tenant's liability insurance will be provided on a primary and non-contributory basis. If Tenant provides such liability insurance under a blanket policy, the insurance must be made specifically applicable to the Premises and this Lease on a "per location" basis.

**10.1.2 Other Insurance.** Tenant shall also maintain such other insurance as may be required by any Laws (including without limitation any necessary worker's compensation insurance), or as may reasonably be required by Landlord from time to time. If insurance obligations generally required of tenants in similar space in similar buildings in the area in which the Property is located increase or otherwise change, then Landlord may likewise increase or otherwise change Tenant's insurance obligations under this Lease.

**10.1.3 Miscellaneous Insurance Provisions.** All of Tenant's insurance will be written by companies rated at least "Best A-VII" and otherwise reasonably satisfactory to Landlord. Tenant will deliver evidence of insurance reasonably satisfactory to Landlord, (a) on or before the Commencement Date (and prior to any earlier occupancy by Tenant), (b) not later than ten Business Days prior to the expiration of any current policy or certificate, and (c) at such other times as Landlord may reasonably request. If Landlord allows Tenant to provide evidence of liability insurance by certificate, then Tenant will deliver an ACORD Form 25 certificate and will attach or cause to be attached to the certificate copies of any endorsements in this Section 10.1 requires. Tenant's insurance must permit releases of liability and provide for waiver of subrogation as provided in Section 10.3. Tenant



acknowledges and agrees that Landlord's establishment of minimum insurance requirements is not a representation by Landlord that such limits are sufficient and does not limit Tenant's liability under this Lease in any manner.

**10.1.4 Tenant's Failure to Insure.** Notwithstanding any contrary language in this Lease and any notice and cure rights this Lease provides Tenant, if Tenant fails to provide Landlord with evidence of insurance as required under this Section 10.1, and if such failure continues for more than two Business Days after Tenant's receipt of Landlord's written notice of such failure, then Landlord may assume that Tenant is not maintaining the insurance Section 10.1 requires Tenant to maintain and Landlord may (but is not obligated to) without further demand upon Tenant or notice to Tenant and without giving Tenant any cure right or waiving or releasing Tenant from any obligation contained in this Lease, obtain such insurance for Landlord's benefit. In such event, Tenant will pay to Landlord, as Additional Rent, all costs and expenses Landlord incurs obtaining such insurance. Landlord's exercise of its rights under this section does not relieve Tenant from any default under this Lease.

**10.2 Landlord's Insurance Obligations.** Landlord will (except for the optional coverages and endorsements this Section 10.2 may describe) at all times during the Term maintain the insurance this Section 10.2 describes. All premiums and other costs and expenses Landlord incurs in connection with maintaining such insurance (including without limitation a reasonable administrative fee for maintaining and coordinating Landlord's insurance program) are Operating Expenses.

**10.2.1 Property Insurance.** Property insurance on the Building in an amount not less than the full insurable replacement cost of the Building insuring against loss or damage by such risks as are covered by the current ISO Special Form policy. Landlord, at its option, may obtain such additional coverages or endorsements as Landlord deems appropriate or necessary in its sole discretion, including without limitation insurance covering foundation, grading, excavation and debris removal costs; business income and rents insurance; earthquake insurance; terrorism insurance; and flood insurance. Landlord may maintain such insurance in whole or in part under blanket policies. Tenant acknowledges and agrees that Landlord's property insurance will not cover or be applicable to any property of Tenant within the Premises or otherwise located at the Property.

**10.2.2 Liability Insurance.** Commercial general liability insurance against claims for bodily injury and property damage occurring at the Property in such amounts as Landlord deems appropriate or necessary in its sole discretion.

Such liability insurance will only protect Landlord (and, at Landlord's sole option, Landlord's lender and some or all of the Landlord Parties). Such liability insurance will not protect or insure Tenant and does not replace or supplement the liability insurance this Lease obligates Tenant to carry.

**10.2.3 Deductible.** Tenant acknowledges that Landlord's insurance may include deductible limits, that such deductible amounts reduce the insurance premiums chargeable as Operating Expenses under the Lease, and that, notwithstanding the waiver set forth in Section 10.3, such deductible amounts shall either (i) be considered Operating Expenses under the Lease, or, (ii) if any loss covered by Landlord's insurance resulted from Tenant's negligent or intentional act or omission, be considered the sole responsibility of Tenant hereunder to the extent of Tenant's fault.

**10.3 Mutual Waiver of Subrogation.** Subject only to Section 10.2.3 above, each party hereby waives any and every right or cause of action for any and all loss of, or damage to, any of its property (whether or not such loss or damage is caused by the fault or negligence of the other party or anyone for whom said other party may be responsible), which loss or damage is actually covered by an insurance policy maintained by such party, but only to the extent that such loss or damage is covered under any such insurance policy.

**10.4 Liability of Landlord and Tenant.**

**10.4.1** The Landlord Parties shall not have any liability to Tenant for any Claims based on or arising out of any cause whatsoever, including without limitation the following: the repair or maintenance of any portion of the Premises (including the Tenant Improvements) or the Property; interruption in the use of the Premises; any accident or damage resulting from any use or operation by Landlord, Tenant or any other person or entity of the heating, cooling, electrical, or plumbing systems serving the Property; termination of this Lease by reason of damage to the Premises or the Building; fire, robbery, theft, vandalism, or any other casualty; actions of any other tenant of the Building or of any other person or entity; failure or inability to furnish any service specified in this Lease; and leakage in any part of the Premises or the Building from water, rain, ice or snow that may leak into, or flow from, any part of the Premises or the Building, or from drains, pipes or plumbing fixtures in the Premises or the Building. Any property placed by Tenant in or about the Premises or the Property shall be at the sole risk of Tenant, and Landlord shall not in any manner be responsible therefore. Notwithstanding the foregoing, Landlord shall not be released from liability to Tenant for and to the extent of any injury caused by Landlord's negligence or willful misconduct. In no event, however, shall Landlord have any liability to Tenant on account of any

claims for the interruption of or loss to Tenant's business or for any indirect damages or consequential losses.

**10.4.2** In addition to Tenant's other indemnification obligations in this Lease (but subject to Landlord's insurance obligations in Section 10.2 above, Tenant to the fullest extent allowable under the Laws shall release, indemnify, protect, defend (with counsel reasonably acceptable to Landlord) and hold harmless the Landlord Parties from and against all Claims arising from: (a) any breach or default by Tenant in the performance of any of Tenant's covenants or agreements in this Lease; (b) any misconduct or negligent act or omission of Tenant; (c) any accident, injury, occurrence or damage in, about or to the Premises; and (d) to the extent caused in whole or in part by Tenant, any accident, injury, occurrence or damage in, about or to the Property.

**10.4.3** Landlord hereby indemnifies and agrees to save Tenant harmless from and against any and all claims to the extent directly arising out of the negligence or willful misconduct of Landlord in connection with the possession, use, occupation, management, repair, maintenance or control of the Common Area, and not resulting from the negligence or willful misconduct of Tenant.

**10.4.4** Notwithstanding any provision to the contrary contained herein, Tenant shall look solely to the estate and property of Landlord in and to the Property in the event of any claim against Landlord arising out of or in connection with this Lease, the relationship of Landlord and Tenant, or Tenant's use of the Premises, and Tenant agrees that the liability of Landlord arising out of or in connection with this Lease, the relationship of Landlord and Tenant, or Tenant's use of the Premises, shall be limited to such estate and property of Landlord in and to the Property. No properties or assets of Landlord other than the estate and property of Landlord in and to the Property and no property owned by any partner of Landlord shall be subject to levy, execution or other endorsement procedures for the satisfaction of any judgment (or other judicial process) or for the satisfaction of any other remedy of Tenant arising out of or in connection with this Lease, the relationship of Landlord and Tenant or Tenant's use of the Premises.

## **ARTICLE 11 DAMAGE OR DESTRUCTION**

**11.1 Tenant's Notice of Casualty.** If the Premises or any part thereof shall be damaged by fire or any other casualty, Tenant shall give immediate written notice thereof to Landlord.

- 11.2 Tenantable Within 180 Days.** Except as provided in Section 11.4, if a casualty renders the whole or any material part of the Premises untenable and Landlord determines in its sole but reasonable discretion that it can make the Premises tenantable within 180 days after the date of the casualty, then Landlord will notify Tenant within 20 Business Days after the date of the casualty that Landlord will repair and restore the Building and the Premises as required by Section 11.6. Notwithstanding anything to the contrary contained herein, in the event that such restoration of the Premises is not substantially completed within 180 days from the date of the casualty, and provided that such delay in substantial completion results from a cause other than Tenant Delay or Force Majeure, then Tenant shall have the right to terminate this Lease by delivering 30 days' prior written notice to Landlord. In the event the restoration of the Premises is substantially completed within such 30-day period, such right of termination shall be deemed to be void and without effect.
- 11.3 Not Tenantable Within 180 Days.** If a casualty renders the whole or any material part of the Premises untenable and Landlord reasonably determines in its sole discretion that it cannot make the Premises tenantable within 180 days after the date of the casualty, then Landlord will so notify Tenant within 20 Business Days after the date of the casualty and may, in such notice, terminate this Lease effective on the date of Landlord's notice. If Landlord does not terminate this Lease as provided in this section, Tenant may terminate this Lease by notifying Landlord within 30 days after Tenant's receipt of Landlord's notice, which termination will be effective 30 days after Landlord's receipt of Tenant's notice.
- 11.4 Building Substantially Damaged.** Notwithstanding Section 11.2, if the Building is damaged or destroyed by casualty (regardless whether the Premises is affected) and either (a) fewer than nine months remain in the Term, or (b) the damage reduces the value of the improvements on the Property by more than 50% (as determined by Landlord in its sole but reasonable discretion), then, regardless of whether Landlord determines in its reasonable discretion that it can make the Building tenantable within 180 days after the date of the casualty, Landlord, at Landlord's option, by notifying Tenant within 20 Business Days after the casualty, may terminate this Lease effective on the date of Landlord's notice.
- 11.5 Insufficient Proceeds.** Notwithstanding any contrary language in this Article 11, if this Article 11 obligates Landlord to repair damage to the Premises or Building caused by casualty, and if Landlord does not receive sufficient insurance proceeds (excluding any deficiency caused by the amount of any policy deductible) to repair all of the damage, or if the lender under any Mortgage does not release to Landlord sufficient insurance proceeds to repair all of the damage, then Landlord, at Landlord's option, by notifying Tenant within 45 days after the casualty, may terminate this Lease effective on the date of Landlord's notice.

- 11.6 Landlord's Repair Obligations.** If this Lease is not terminated under Sections 11.3 through 11.5 following a casualty, then Landlord shall repair and restore the Premises and the Building to as near their condition prior to the casualty as is reasonably possible with all commercially reasonable diligence and speed (subject to delays caused by Tenant Delay or Force Majeure). In such case, this Lease shall remain in full force and effect, but Basic Rent and Tenant's Share of Expenses for the period during which the Premises are untenable shall abate pro rata (based upon the rentable area of the untenable portion of the Premises as compared with the rentable area of the entire Premises). In no event is Landlord obligated to repair or restore any Alterations that are not covered by Landlord's insurance, any special equipment or improvements installed by Tenant, or any personal property (or other property) of Tenant. Landlord will, if necessary, equitably adjust Tenant's Share of Expenses Percentage to account for any reduction in the rentable area of the Premises or Building resulting from a casualty.
- 11.7 Rent Apportionment Upon Termination.** If either party terminates this Lease under this Article 11, then Landlord will apportion Basic Rent and Tenant's Share of Expenses on a per diem basis and Tenant will pay the Basic Rent and Tenant's Share of Expenses to (a) the date of the casualty if the event renders the Premises completely untenable or (b) if the event does not render the Premises completely untenable, the effective date of such termination (provided that if a portion of the Premises is rendered untenable, but the remaining portion is tenable, then Tenant's obligation to pay Basic Rent and Tenant's Share of Expenses abates pro rata [based upon the rentable area of the untenable, portion of the Premises divided by the rentable area of the entire Premises] from the date of the casualty and Tenant will pay the unabated portion of the Rent to the date of such termination).
- 11.8 Exclusive Casualty Remedy.** The provisions of this Article 11 are Tenant's sole and exclusive rights and remedies in the event of a casualty. To the extent permitted by the Laws, Tenant waives the benefits of any Law that provides Tenant any abatement or termination rights (by virtue of a casualty) not specifically described in this Article 11.

## **ARTICLE 12 CONDEMNATION**

- 12.1 Termination of Lease.** If a Condemning Authority desires to effect a Taking of all or any material part of the Property, then Landlord will notify Tenant. If Landlord and Tenant both reasonably conclude that the Taking will render the Premises unsuitable for Tenant's intended purposes, then Landlord and Tenant will document such determination, and this Lease will terminate as of the date the Condemning Authority takes possession of the portion of the Property taken.

Tenant will pay Rent to the date of termination. If a Condemning Authority takes all or any material part of the Building, or if a Taking reduces the value of the Property by 50% or more (as reasonably determined by Landlord in its sole discretion), regardless whether the Premises is affected, then Landlord, at Landlord's option, by notifying Tenant prior to the date the Condemning Authority takes possession of the portion of the Property taken, may terminate this Lease effective on the date the Condemning Authority takes possession of the portion of the Property taken.

- 12.2 Landlord's Repair Obligations.** If this Lease does not terminate with respect to the entire Premises under Section 12.1 and the Taking includes a portion of the Premises, then this Lease shall automatically terminate as to the portion of the Premises taken as of the date the Condemning Authority takes possession of the portion taken and Landlord will, at its sole cost and expense, restore the remaining portion of the Premises to a complete architectural unit with all commercially reasonable diligence and speed and will reduce the Basic Rent for the period after the date the Condemning Authority takes possession of the portion of the Premises taken to a sum equal to the product of the Basic Rent provided for in this Lease multiplied by a fraction, the numerator of which is the rentable area of the Premises after the Taking and after Landlord restores the Premises to a complete architectural unit, and the denominator of which is the rentable area of the Premises prior to the Taking. Landlord will also equitably adjust Tenant's Share of Expenses Percentage for the same period to account for the reduction in the rentable area of the Premises or the Building resulting from the Taking. Tenant's obligation to pay Basic Rent and tenant's Share of Expenses will abate on a proportionate basis with respect to that portion of the Premises remaining after the Taking that Tenant is unable to use during Landlord's restoration for the period of time that Tenant is unable to use such portion of the Premises.
- 12.3 Tenant's Participation.** Except only as specifically set forth in the last sentence of this Section, Landlord is entitled to receive and keep all damages, awards or payments resulting from or paid on account of a Taking. Tenant has no right to receive any award for its interest in this Lease or for loss of leasehold (including without limitation any award for the unexpired portion of the Term), and Tenant hereby assigns to Landlord any interest of Tenant in any such award. Tenant may only provide in any condemnation proceedings and may only receive from the Condemning Authority; (a) any separate award for damages to or condemnation of Tenant's movable trade fixtures and equipment, and (b) any separate award for relocation expenses.
- 12.4 Exclusive Taking Remedy.** The provisions of this Article 12 are Tenant's sole and exclusive rights and remedies in the event of a Taking. To the extent permitted by the Laws, Tenant waives the benefits of any Law that provides Tenant any

abatement or termination rights or any right to receive any payment or award (by virtue of a Taking) not specifically described in this Article 12.

## **ARTICLE 13 TRANSFERS**

### **13.1 Restrictions on Transfers.**

**13.1.1 General Prohibition.** Except as set forth in Section 13.1.2, Tenant will not cause or suffer a Transfer without first obtaining Landlord's written consent, which consent Landlord may grant, withhold, or condition in its sole but reasonable discretion. If Landlord consents to the Transfer, then Landlord may impose on Tenant or the transferee such conditions as Landlord deems appropriate in its sole but reasonable discretion. Tenant's request for Landlord's consent to a Transfer must describe in detail the parties, terms and portion of the Premises affected. Tenant will, in connection with requesting Landlord's consent, provide Landlord with a copy of any and all documents and information regarding the proposed Transfer and the proposed transferee as Landlord reasonably requests. Landlord will notify Tenant of Landlord's election to consent or withhold consent within 30 days after receiving Tenant's written request for consent to the Transfer. Tenant acknowledges and agrees that no Transfer will release Tenant from any liability or obligation under this Lease, and that Tenant shall remain liable to Landlord after such a Transfer as a principal and not as a surety or guarantor, and that the collection or acceptance of rent from any such assignee, transferee, subtenant or occupant shall not constitute a waiver or release of Tenant under any provision of the Lease. If Landlord consents to any Transfer, Tenant will pay to Landlord, as Additional Rent, 50% of any amount Tenant receives on account of the Transfer in excess of the amounts this Lease otherwise requires Tenant to pay. Any attempted Transfer in violation of this Lease is null and void and constitutes a breach of this Lease. Tenant acknowledges and agrees that Landlord's refusal to consent to a Transfer shall be deemed not to have been unreasonably withheld if (a) the proposed transferee is not of a type and quality consistent with the first-class nature of the Building, (b) the proposed transferee is a governmental agency or any party by whom any suit or action could be defended on the ground of sovereign immunity, (c) the proposed transferee is already a tenant at the Property, or is a party with whom the Landlord is presently negotiating for the lease of space at the Property, (d) the presence of the proposed transferee in the Premises would cause Landlord to be in violation of any other lease, or would trigger termination rights by any other tenant, (e) the proposed transferee does not have the financial capacity and credit worthiness to undertake and perform the obligations of this Lease, or (f) the space to be assignment or

sublet is not configured to allow appropriate means of ingress and egress. Tenant also acknowledges that one or more existing or future mortgagees of a Mortgage affecting the Property may have the right to approve any Transfer and that, whenever that is the case, Landlord shall have the absolute right to withhold its consent to a Transfer if any such mortgagee withholds its consent thereto.

**13.1.2 Transfers to Affiliates.** Provided that Tenant is not in default in the performance of its obligations under this Lease, Tenant may cause a Transfer to an Affiliate if: (a) Tenant notifies Landlord at least 30 days prior to such Transfer; (b) the transferee assumes and agrees in a writing reasonably acceptable to Landlord to perform Tenant's obligations under this Lease and to observe all terms and conditions of this Lease; and (c) Tenant delivers to Landlord, at the time of Tenant's notice, current financial statements of the proposed transferee. Tenant acknowledges and agrees that a Transfer to an Affiliate under this Section 13.1.2 will not release Tenant from any liability or obligation under this Lease, and that Tenant shall remain liable to Landlord after such a Transfer as a principal and not as a surety or guarantor. Landlord's right described in Section 13.1.1 to share in any profit Tenant receives from a Transfer permitted under this Section 13.1.2 does not apply to any Transfer this Section 13.1.2 permits.

**13.2 Costs.** Tenant will pay to Landlord, as Additional Rent, all costs and expenses Landlord actually incurs in connection with any Transfer, including without limitation reasonable attorneys' fees and other third-party expenses, regardless whether Landlord consents to the Transfer.

## **ARTICLE 14 DEFAULTS; REMEDIES**

**14.1. Events of Default.** The occurrence of any of the following constitutes an "Event of Default" by Tenant under this Lease:

**14.1.1 Failure to Pay Rent.** Tenant fails to pay as and when due (a) Basic Rent, (b) any installment of Tenant's Share of Expenses, or (c) any other Additional Rent amount, and such failure continues for 10 days after Landlord notifies Tenant of such failure.

**14.1.2 Failure to Perform.** Tenant breaches or fails to perform any of Tenant's non-monetary obligations under this Lease and the breach or failure continues for a period of 30 days after Landlord notifies Tenant of such breach or failure; provided, however, that if Tenant cannot reasonably cure its breach or failure within said 30 day period, then Tenant's breach or failure is not an Event of Default if Tenant promptly commences to cure



its breach or failure and thereafter diligently pursues the cure and effects the cure within a period of time that does not exceed 90 days after the date that Landlord notified Tenant of the breach of failure. Notwithstanding any contrary language in this Section 14.1.2, Tenant is not entitled to any notice or cure period before an incurable breach of this Lease (or failure) becomes an Event of Default.

**14.1.3 Misrepresentation.** The existence of any material misrepresentation or omission in any financial statements, correspondence or other information provided to Landlord by or on behalf of Tenant or any Guarantor (if any) in connection with: (a) Tenant's negotiation or execution of this Lease; (b) Landlord's evaluation of Tenant as a prospective tenant at the Property; (c) any proposed or attempted Transfer; or (d) any consent or approval requested by Tenant under this Lease.

**14.1.4 Other Defaults.** (a) Tenant makes a general assignment or general arrangement for the benefit of creditors; (b) a petition for adjudication of bankruptcy or for reorganization or rearrangement is filed by Tenant; (c) a petition for adjudication of bankruptcy or for reorganization or rearrangement is filed against Tenant and is not dismissed within 60 days; (d) a trustee or receiver is appointed to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease and possession is not restored to Tenant within 30 days; or (e) substantially all of Tenant's assets, substantially all of Tenant's assets located at the Premises or Tenant's interest in this Lease is subjected to attachment, execution or other judicial seizure not discharged within 30 days. If a court of competent jurisdiction determines that any act described in this section does not constitute an Event of Default, and the court appoints a trustee to take possession of the Premises (or if Tenant remains a debtor in possession of the Premises) and such trustee or Tenant transfers Tenant's interest hereunder, then Landlord is entitled to receive, as Additional Rent, the amount by which the Rent (or any other consideration) paid in connection with the Transfer exceeds the Rent otherwise payable by Tenant under this Lease.

**14.1.5 Notice Requirements.** The notices required by this Section 14.1 are intended to satisfy any and all notice requirements imposed by the Laws and are not in addition to any such requirements.

**14.2 Remedies.** Upon the occurrence of any Event of Default, Landlord, at any time and from time to time, and without preventing Landlord from exercising any other right or remedy, may exercise any one or more of the following remedies:

**14.2.1 Termination of Tenant's Possession; Re-entry and Reletting Right.**

Terminate Tenant's right to possess the Premises by any lawful means with or without terminating this Lease, in which event Tenant will immediately surrender possession of the Premises to Landlord. Unless Landlord specifically states that it is terminating this Lease, Landlord's termination of Tenant's right to possess the Premises is not to be construed as an election by Landlord to terminate this Lease or Tenant's obligations and liabilities under this Lease. In such event, this Lease continues in full force and effect (except for Tenant's right to possess the Premises) and Tenant continues to be obligated for and must pay all Rent as and when due under this Lease. If Landlord terminates Tenant's right to possess the Premises, Landlord is not obligated to but may re-enter the Premises and remove all persons and property from the Premises. Landlord may store any property Landlord removes from the Premises in a public warehouse or elsewhere at the cost and for the account of Tenant. Upon such re-entry, Landlord is not obligated to buy may relet all or any part of the Premises to a third party or parties for Tenant's account. Tenant is immediately liable to Landlord for all Re-entry Costs and must pay Landlord the same within 10 days after Landlord's notice to Tenant. Landlord may relet the Premises for a period shorter or longer than the remaining Term. If Landlord relets all or any part of the Premises, Tenant will continue to pay Rent when due under this Lease and Landlord will refund to Tenant the Net Rent Landlord actually receives from the reletting up to a maximum amount equal to the Rent paid by Tenant that came due after Landlord's reletting. If the Net Rent Landlord actually receives from reletting exceeds such Rent, Landlord will apply the excess sum to future Rent due under this Lease. Landlord may retain any surplus Net Rent remaining at the expiration of the Term.

**14.2.2 Termination of Lease.** Terminate this Lease effective on the date Landlord specifies in its termination notice to Tenant. Upon termination, Tenant will immediately surrender possession of the Premises to Landlord. If Landlord terminates this Lease, Landlord may recover from Tenant and Tenant will pay to Landlord on demand all damages Landlord incurs by reason of Tenant's default, including, without limitation: (a) all Rent due and payable under this Lease as of the effective date of the termination; (b) any amount necessary to compensate Landlord for any detriment proximately caused to Landlord by Tenant's failure to perform its obligations under this Lease or which in the ordinary course would likely result from Tenant's failure to perform, including but not limited to any Re-entry Costs; (c) an amount equal to the difference between the present worth, as of the effective date of the termination, of the Basic Rent for the balance of the Term remaining after the effective date of the termination (assuming no termination) and the present worth, as of the effective date of the termination, of a fair market Rent for the Premises for the same period (as Landlord reasonably

determinates the fair market Rent); and (d) Tenant's Share of Expenses to the extent Landlord is not otherwise reimbursed for such Expenses. For purposes of this section, Landlord will utilize the Discount Rate to compute present worth. Nothing in this section shall limit or prejudice Landlord's right to prove and obtain damages in an amount equal to the maximum amount allowed by the Laws, regardless whether such damages are greater than the amounts set forth in this section.

**14.2.3 Present Worth of Rent.** Recover from Tenant, and Tenant will pay to Landlord on demand, an amount equal to the then present worth, as of the effective date of termination, of the aggregate of the Rent and any other charges payable by Tenant under this Lease for the unexpired portion of the Term, less the fair and reasonable rental value of the Premises for the corresponding period. Landlord will utilize the Discount Rate to compute present worth. The fair and reasonable rental value of the Premises shall be determined in good faith by Landlord on the basis of the rents payable under leases entered into by Landlord for comparable space in the Building during the 18-month period immediately preceding Landlord's election to proceed under this Section 14.2.3; or, if Landlord reasonably determines that no such leases for comparable space have been entered into, then the fair and reasonable rental value shall be otherwise determined by Landlord in good faith. If the Premises or any part thereof are relet by Landlord before any adjudication of Landlord's claims for damages, then the amount of rent payable to Landlord for such reletting shall be deemed the fair and reasonable rental value of the Premises (or the applicable part thereof) during the term of the reletting.

**14.2.4 Self Help.** Perform the obligation on Tenant's behalf without waiving Landlord's rights under this Lease at law or in equity, and without releasing Tenant from any obligation under this Lease. Tenant shall pay to Landlord, as Additional Rent, all sums that Landlord pays and all obligations that Landlord incurs on Tenant's behalf under this section.

**14.2.5 Other Remedies.** Any other right or remedy available to Landlord under this Lease, under the Laws and/or in equity.

**14.3 Costs.** Tenant will reimburse and compensate Landlord on demand and as Additional Rent for any actual loss Landlord incurs in connection with, resulting from or related to any breach or default of Tenant under this Lease, regardless whether the breach or default constitutes an Event of Default, and regardless whether suit is commenced or judgment is entered. Such loss shall include all reasonable legal fees, costs and expenses (including paralegal fees and other professional fees and expenses) Landlord incurs in investigating, negotiating, settling or enforcing any of Landlord's rights or remedies or otherwise protecting

Landlord's interests under this Lease. Tenant will also indemnify, defend (with counsel reasonably acceptable to Landlord), protect and hold harmless the Landlord Parties from and against all Claims that Landlord or any of the other Landlord Parties incurs if Landlord or any of the other Landlord Parties becomes or is made a party to any claim or action (a) instituted by Tenant (other than claims asserting that Landlord has breached any of its obligations to Tenant under this Lease) or by or against any person holding any interest in the premises by, under or through Tenant, (b) for foreclosure of any lien for labor or material furnished to or for Tenant or such other person, or (c) otherwise arising out of or resulting from any act or omission of Tenant or such other person. In addition to the foregoing, Landlord is entitled to reimbursement of all of Landlord's fees, expenses and damages, including, but not limited to, reasonable attorneys' fees and paralegal and other professional fees and expenses, Landlord incurs in connection with protecting its interests in any bankruptcy or insolvency proceeding involving Tenant, including without limitation any proceeding under any chapter of the Bankruptcy Code; by exercising and advocating rights under Section 365 of the Bankruptcy Code; by proposing a plan of reorganization and objecting to competing plans; and by filing motions for relief from stay. Such fees and expenses are payable on demand, or, in any event, upon assumption or rejection of this Lease in bankruptcy.

**14.4 Waiver and Release by Tenant.** Tenant waives and releases all Claims Tenant may have resulting from Landlord's re-entry and taking possession of the Premises by any lawful means and removing and storing Tenant's property as permitted under this Lease, regardless whether this Lease is terminated, and, to the fullest extent allowable under the Laws, Tenant will release, indemnify, defend (with counsel reasonably acceptable to Landlord), protect and hold harmless the Landlord Parties from and against any and all Claims occasioned thereby. No such re-entry is to be considered or construed as a forcible entry by Landlord.

**14.5 Landlord's Default.** If Landlord defaults in the performance of any of its obligations under this Lease, Tenant will notify Landlord of the default and Landlord will have 30 days after receiving such notice to cure the default. If Landlord is not reasonably able to cure the default within a 30-day period, Landlord will have an additional reasonable period of time to cure the default as long as Landlord promptly commences the cure and thereafter diligently pursues the cure to completion. In no event shall Landlord be liable to Tenant or any other person for consequential, special or punitive damages (including without limitation lost profits). If Landlord has not commenced repair or maintenance required to be performed by Landlord hereunder within 45 days after written notice thereof from Tenant, then Tenant shall have the right, but not the obligation, to make such repairs and Landlord shall reimburse Tenant for the reasonable and actual cost thereof within 30 days after receipt of a bill therefore from Tenant. In the event of an emergency, Tenant may (but shall not be obligated

to) perform such repairs which would otherwise be Landlord's obligation hereunder which may be reasonably necessary, after having given Landlord such notice, if any, as may be practicable under the circumstances. Notwithstanding anything to the contrary set forth hereinabove, Tenant shall not be required to perform any repairs which would otherwise be Landlord's obligation hereunder.

**14.6 No Waiver.** Except as specifically set forth in this Lease, no failure by Landlord or Tenant to insist upon the other party's performance of any of the terms of this Lease or to exercise any right or remedy upon a breach thereof, constitutes a waiver of any such breach or of any breach or default by the other party in its performance of its obligations under this Lease. No acceptance by Landlord of full or partial Rent from Tenant or any third party during the continuance of any breach or default by Tenant of Tenant's performance of its obligations under this Lease constitutes Landlord's waiver of any such breach or default. Except as specifically set forth in this Lease, none of the terms of this Lease to be kept, observed or performed by a party to this Lease, and no breach thereof, are waived, altered or modified except by a written instrument executed by the other party. One or more waivers by a party to this Lease are not to be construed as a waiver of a subsequent breach of the same covenant, term or condition. No statement on a payment check from a party to this Lease or in a letter accompanying a payment check is binding on the other party. The party receiving the check, with or without notice to the other party, may negotiate such check without being bound to the conditions of any such statement.

## **ARTICLE 15 CREDITORS; ESTOPPEL CERTIFICATES**

**15.1 Subordination.** This Lease, all rights of Tenant in this Lease, and all interest or estate of Tenant in the Property, is subject and subordinate to the lien of any Mortgage. Tenant, within 15 days of Landlord's demand, will execute and deliver to Landlord any document reasonably required to confirm the self-effectuating subordination of this Lease as provided in this Section to the lien of any Mortgage. If Tenant does not timely deliver the properly signed document to Landlord, and if such failure continues for more than two Business Days after Tenant's receipt of a written notice from Landlord of such failure, then such failure shall constitute an Event of Default under this Lease. Notwithstanding the subordination to any future Mortgage provided for in this section, as long as Tenant is not in default in the payment of Rent or the performance and observance of any covenant, condition, provision, term or agreement to be performed and observed by Tenant under this Lease beyond any applicable grace or cure period this Lease provides Tenant, the holder of the Mortgage shall not by virtue of such subordination under this section be entitled to disturb Tenant's right of possession of the Property under this Lease. Landlord acknowledges and agrees that the lien of any existing

or future Mortgage will not cover Tenant's moveable trade fixtures or personal property located in or on the Premises.

**15.2 Attornment.** If the holder of any Mortgage at a foreclosure sale (or by deed in lieu of foreclosure) or any other transferee acquires Landlord's interest in this Lease, the Premises or the Property, then Tenant will attorn to the transferee of or successor to Landlord's interest in this Lease, the Premises or the Property (as the case may be) and recognize such transferee or successor as landlord under this Lease, provided that any such purchaser at a foreclosure sale or transferee under a deed in lieu of foreclosure shall not be (a) bound by any payment of Rent more than one month in advance, (b) liable for damages for any breach, act or omission of any prior landlord, or (c) subject to any offsets or defenses which Tenant might have against any prior landlord. Tenant waives the protection of any statute or rule of law that gives or purports to give Tenant any right to terminate this Lease or surrender possession of the Premises upon the transfer of Landlord's interest.

**15.3 Mortgage Protection Clause.** Provided that Landlord or the holder of a Mortgage has previously notified Tenant of the notice address of the holder of the Mortgage, Tenant shall give the holder of the Mortgage, by registered mail, a copy of any notice of default that Tenant serves on Landlord. If Landlord fails to cure such default within the time provided for in this Lease, then Tenant will also provide written notice of such failure to the holder of the Mortgage, and such holder will have an additional 30 days after receipt of such notice within which to cure the default (but shall not be obligated to cure the default). If the default cannot be cured within the additional 30-day period, then the holder will have such additional time as may be reasonably necessary to effect the cure if, within the 30-day period, the holder has promptly commenced and is diligently pursuing in good faith the cure (including without limitation commencing foreclosure proceedings if necessary to effect the cure).

**15.4 Estoppel Certificates.**

**15.4.1 Contents.** Upon Landlord's written request, Tenant will execute, acknowledge and deliver to Landlord a written statement in form satisfactory to Landlord certifying: (a) that this Lease is unmodified and in full force and effect (or, if there have been any modifications, that the Lease is in full force and effect as modified, and stating the modifications); (b) that this Lease has not been canceled or terminated; (c) the last date of payment of Rent and the time period covered by such payment; (d) whether there are then existing any breaches or defaults by Landlord under this Lease known to Tenant and, if so, specifying the same; (e) specifying any existing claims or defenses in favor of Tenant against the enforcement of this Lease; (f) that Tenant has accepted the Premises and

that Landlord has no outstanding construction or payment obligations with respect to preparation of the Premises for Tenant's occupancy; (g) that Tenant has no option to purchase the Premises or any part of the Property; and (h) such other factual statements as Landlord, or any lender, prospective lender, investor or purchaser may reasonably request. Tenant will deliver the properly signed statements to Landlord within fifteen (15) days after receipt of Landlord's request. Landlord may give any such statement by Tenant to any lender, prospective lender, investor or purchaser of all or any part of the Property, and any such party may conclusively rely upon such statement as true and correct.

**15.4.2 Failure to Deliver.** If Tenant does not timely deliver the properly signed statement referenced in Section 15.4.1 to Landlord, and if such failure continues for more than two (2) Business Days after Tenant's receipt of written notice from Landlord of such failure, then such failure shall constitute an Event of Default under this Lease. Further, if Tenant fails to timely deliver the properly signed statement within such two (2) day period, then Landlord and any lender, prospective lender, or purchaser may conclusively presume and rely, except as otherwise represented by Landlord, (a) that the terms and provisions of this Lease have not been changed; (b) that this Lease has not been canceled or terminated; (c) that not more than one (1) month's Rent has been paid in advance; (iv) that Tenant has accepted the Premises and that Landlord has no outstanding construction or payment obligations with respect to preparation of the Premises for Tenant's occupancy; (v) that Tenant has no option to purchase the Property or any part of the Property; and (vi) that Landlord is not in default in the performance of any of its obligations under this Lease. In such event, Tenant is stopped from denying the truth of such facts.

## **ARTICLE 16 SURRENDER; HOLDING OVER**

**16.1 Surrender of Premises.** Tenant will surrender the Premises to Landlord at the expiration or earlier termination of this Lease in good order, condition and repair (reasonable wear and tear, permitted Alterations and damage by casualty or condemnation excepted), and will surrender all keys to the Premises to Landlord at the place then fixed for Tenant's payment of Basic Rent or as Landlord otherwise directs. Tenant will also inform Landlord of all combinations on locks, safes and vaults, if any, in the Premises or on the Property. Tenant will at such time remove all of its property from the Premises and, if Landlord required as a condition of its consent, all specified Alterations carried out by Tenant in the Premises. Tenant will promptly repair any damage to the Premises caused by such removal. If Tenant does not surrender the Premises in accordance with this section, Tenant will indemnify, defend (with counsel reasonably acceptable to

Landlord), protect and hold harmless Landlord from and against any claim resulting from Tenant's delay in so surrendering the Premises, including, without limitation, any Claim made by any succeeding occupant founded on such delay. All property of Tenant not removed on or before the last day of the Term is deemed abandoned. If Tenant fails to remove all of Tenant's property from the Premises upon termination of this Lease, then Tenant shall be deemed to have appointed Landlord as Tenant's agent to remove, at Tenant's sole cost and expense, all of Tenant's property from the Premises upon termination of this Lease and to cause its transportation and storage for Tenant's benefit, all at the sole cost and risk of Tenant, and Landlord will not be liable for damage, theft, misappropriation or loss thereof or in any manner in respect thereto.

**16.2 Holding Over.** If Tenant possesses the Premises after the Term expires (or after this Lease is otherwise terminated) without executing a new lease but with Landlord's written consent, then Tenant is deemed to be occupying the Premises as a tenant from month-to-month, subject to all provisions, conditions and obligations of this Lease applicable to a month-to-month tenancy, except that (a) Rent for each month during the holdover period shall be equal to 125% of the Rent for the month immediately preceding the commencement of the holdover period, and (b) either Landlord or Tenant may terminate the month-to-month tenancy at any time upon thirty (30) days' prior written notice to the other party. If Tenant possesses the Premises after the Term, expires (or is otherwise terminated) without executing a new lease and without Landlord's written consent, then Tenant is deemed to be occupying the premises without claim of right (but subject to all terms and conditions of this Lease) and, in addition to Tenant's liability for failing to surrender possession of the Premises as provided in Section 16.1, Tenant shall also pay to Landlord a charge for each day of occupancy after expiration of the Term in an amount equal to 200% of the Rent for the last month of the expired Term (on a daily basis).

## **ARTICLE 17 ADDITIONAL PROVISIONS**

**17.1 Tenant Improvements.** Landlord is providing the Premises in its current "AS IS" condition, without representation or warranty of any kind, and Landlord shall have no obligation to make any modifications or alterations to the Premises subsequent to the initial agreed upon Tenant Improvements. Any improvements made to the Premises by Tenant after the Tenant Improvements are complete shall be at Tenant's sole expense and shall be deemed an "Alteration" subject to Article 8 of this Lease. Landlord shall maintain control of improvement plans. Upon completion and review of said plans, mutual approval by Landlord and Tenant shall be made.

**17.2 Security Deposit.** [This section has been intentionally omitted]



**17.3 Substitution.** Landlord has the right at any time, upon one hundred twenty (120) days' prior notice to Tenant, to substitute other space within the Building for the Premises (the "Substitute Premises"), which Substitute Premises shall include tenant finish substantially comparable to that of the Premises. Tenant shall relocate to the Substitute Premises on the date specified in Landlord's notice which date will be no sooner than one hundred twenty (120) days after notice. Landlord will pay all reasonable expenses incurred by Tenant to move its furniture, fixtures and equipment to the Substitute Premises. The suite number designation and Exhibit 2 shall be deemed revised to reflect the description of the Substitute Premises. Except for such revisions, the provisions of this Lease are applicable to the Substitute Premises and references to the Premises in the Lease shall mean the Substitute Premises following the Tenant's move.

## **ARTICLE 18 MISCELLANEOUS PROVISIONS**

**18.1 Notices.** All Notices must be in writing and must be sent by personal delivery, by nationally recognized overnight express delivery service, or by U.S. registered or certified mail (return receipt requested, postage prepaid), to the addresses specified in the Basic Terms or at such other place as either party may designate to the other party by written notice given in accordance with this section. Such notices shall be deemed received (a) as of the date of delivery, if delivered by hand by 4:00 p.m. Central time on a Business Day (if hand delivered after said time, any such notice shall be deemed received as of the first Business Day after delivery), (b) as of the next Business Day, if tendered to an overnight express delivery service by the applicable deadline for overnight service, or (c) as of the fifth Business Day after mailing, if sent by regular mail.

**18.2 Transfer of Landlord's Interest.** If Landlord Transfers any interest in the Premises for any reason other than collateral security purposes, then the transferor is automatically relieved of all obligations on the part of Landlord accruing under this Lease from and after the date of the Transfer, provided that the transferor will deliver to the transferee any funds the transferor holds in which Tenant has an interest. Landlord's covenants and obligations in this Lease find each successive Landlord only during and with respect to its respective period of ownership. However, notwithstanding any such Transfer, the transferor remains entitled to the benefits of Tenant's indemnity and insurance obligations (and similar obligations) under this Lease with respect to matters arising or accruing during the transferor's period of ownership.

**18.3 Successors.** The covenants and agreements contained in this Lease bind and inure to the benefit of Landlord, its successors and assigns, bind Tenant and its

successors and assigns and inure to the benefit of Tenant and its permitted successors and assigns.

- 18.4 Captions and Interpretation.** The captions of the articles and sections of this Lease are to assist the parties in reading this Lease and are not a part of the terms or provisions of this Lease. Whenever required by the context of this Lease, the singular includes the plural and the plural includes the singular.
- 18.5 Relationship of Parties.** This Lease does not create the relationship of principal and agent, or of partnership, joint venture, or of any association or relationship between Landlord and Tenant other than that of landlord and tenant.
- 18.6 Entire Agreement; Amendment.** The Basic Terms and all exhibits, addenda and schedules attached to this Lease are incorporated into this Lease as though fully set forth in this Lease and together with this Lease contain the entire agreement between the parties with respect to the improvement and leasing of the Premises. All preliminary and contemporaneous negotiations, including, without limitation, any letters of intent or other proposals and any drafts and related correspondence, are merged into and superseded by this Lease. No subsequent alteration, amendment, change or addition to this Lease (other than to the Building Rules) is binding on Landlord or Tenant unless it is in writing and signed by the party to be charged with performance.
- 18.7 Severability.** If any covenant, condition, provision, term or agreement of this Lease is, to any extent, held invalid or unenforceable, the remaining portion thereof and all other covenants, conditions, provisions, terms and agreements of this Lease, will not be affected by such holding, and will remain valid and in force to the fullest extent permitted by law.
- 18.8 Survival.** All of Tenant's obligations under this Lease (together with interest on payment obligations at the Maximum Rate) accruing prior to expiration or other termination of this Lease survive the expiration or other termination of this Lease. Further, all of Tenant's release, indemnification, defense and hold harmless obligations under this Lease survive the expiration or other termination of this Lease, without limitation.
- 18.9 Attorneys' Fees.** If either Landlord or Tenant commences any litigation or judicial action to determine or enforce any of the provisions of this Lease, the prevailing party in any such litigation or judicial action is entitled to recover all of its costs and expenses (including, but not limited to, reasonable attorneys' fees, costs and expenditures) from the non-prevailing party.
- 18.10 Governing Law.** This Lease is governed by, and must be interpreted under, the internal laws of the State of Minnesota.

- 18.11 Time is of the Essence.** Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.
- 18.12 Joint and Several Liability.** All parties signing this Lease as Tenant and any Guarantor(s) of this Lease are jointly and severally liable for performing all of Tenant's obligations under this Lease.
- 18.13 Tenant's Waiver.** Any claim Tenant may have against Landlord for default in performance of any of Landlord's obligations under this Lease is deemed waived unless Tenant notifies Landlord of the default within one hundred eighty (180) days after Tenant actually knew of the default.
- 18.14 Authority.** Landlord and Tenant and each individual signing this Lease on behalf of either Landlord or Tenant represents and warrants that they are duly authorized to sign on behalf of and to bind said party and that this Lease is a duly authorized obligation of said party.
- 18.15 Force Majeure.** If Landlord is delayed or prevented from performing any act required in this Lease (excluding, however, the payment of money) by reason of either Tenant Delay or Force Majeure, then Landlord's performance of such act is excused for the period of delay caused by such Tenant Delay or Force Majeure, and the period of the performance of any such act will be extended for a period equivalent to such period.
- 18.16 No Recording.** Tenant will not record this Lease or a Memorandum of this Lease without Landlord's prior written consent, which consent Landlord may grant or withhold in its sole and absolute discretion.
- 18.17 Nondisclosure of Lease Terms.** Subject to the provisions of Section 18.21, the terms and conditions of this Lease constitute proprietary information of Landlord that Tenant will keep confidential. Tenant's disclosure of the terms and conditions of this Lease could adversely affect Landlord's ability to negotiate other leases and impair Landlord's relationship with other tenants. Accordingly, Tenant, without Landlord's consent (which consent Landlord may grant or withhold in its sole and absolute discretion), will not directly or indirectly disclose the terms and conditions of this Lease to any other tenant or prospective tenant of the Building or to any other person or entity other than Tenant's employees and agents who have a legitimate need to know such information (and who will also keep the same in confidence).
- 18.18 Financial Disclosure.** At the request of Landlord, from time to time during the Term, Tenant shall provide Landlord with any reasonable financial records, including financial statements or federal tax returns of Tenant prepared in

accordance with generally accepted accounting principles for the current or prior one to three fiscal years of operation of Tenant. Landlord shall retain such financial disclosure in confidence with shall be permitted to provide copies to its mortgagees for the purpose of financing the Building or to prospective purchasers of the Building.

**18.19 Construction of Lease and Terms.** All provisions of this Lease, whether covenants or conditions, are deemed both covenants and conditions. The terms and provisions of this Lease represent the results of negotiations between Landlord and Tenant, each of which are sophisticated parties and each of which has been represented or been given the opportunity to be represented by counsel of its own choosing, and neither of which has acted under any duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this Lease must be interpreted and construed in accordance with their usual and customary meanings, and Landlord and Tenant each waive the application of any rule of law that ambiguous or conflicting terms or provisions contained in this Lease are to be interpreted or construed against the party who prepared the executed Lease or any earlier draft of the same. Landlord's submission of this instrument to Tenant for examination or signature by Tenant does not constitute a reservation of or an option to lease and is not effective as a lease or otherwise until Landlord and Tenant both execute and deliver this Lease. The parties agree that, regardless of which party provided the initial form of this Lease, drafted or modified one or more provisions of this Lease, or compiled, printed or copied this Lease, this Lease is to be construed solely as an offer from Tenant to lease the Premises, executed by Tenant and provided to Landlord for acceptance on the terms set forth in this Lease, which acceptance and the existence of a binding agreement between Tenant and Landlord may then be evidenced only by Landlord's execution of this Lease.

**18.20 Tenant's Indemnification Obligation.** Tenant is a municipality, as that term is defined in Chapter 466 of the Minnesota Statutes ("Municipal Tort Liability Law"). Any indemnification obligations of Tenant created under this Lease are subject to the liability limits set forth in the Municipal Tort Liability Law.

**18.21 Data Practices Act.** Landlord acknowledges that Tenant is subject to the provisions of the Minnesota Government Data Practices Act. Landlord must comply with the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, as it applies to all data provided by Tenant in accordance with this Agreement and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by Landlord in accordance with this Agreement. The civil remedies of Minnesota Statutes § 13.08, apply to Landlord and Tenant. Minnesota Statutes, Chapter 13, provides that all government data are public unless otherwise classified. If Landlord receives a request to release the data referred to in this Section, Landlord must immediately notify Tenant and consult with Tenant as to

how Landlord should respond to the request. Landlord's response shall comply with applicable law, including that the response is timely and, if Landlord denies access to the data, that Landlord's response references the statutory basis upon which Landlord relied. Landlord does not have a duty to provide public data to the public if the public data is available from Tenant.

**[SIGNATURES APPEAR ON NEXT PAGE]**

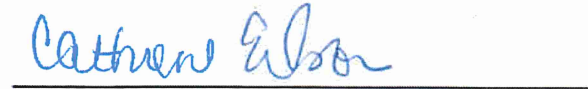
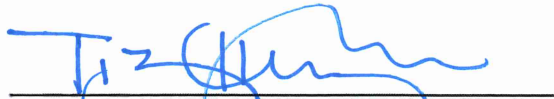
Landlord and Tenant have each caused this Lease to be executed and delivered by its duly authorized representative to be effective as of the Effective Date.

**LANDLORD:**

**TENANT:**

**Tech Village, LLC**

**Independent School District No. 709**



Signature

Signature

By/Name: Tiffany Hughes

By/Name: Catherine Erickson

Its: Treasurer

Its: CFO

**EXHIBIT 1**  
**DEFINITIONS**

**“Additional Rent”** means any charge, fee or expense (other than Basic Rent), however denoted, that is payable by Tenant under this Lease.

**“Affiliate”** means any person or entity that, directly or indirectly, controls, is controlled by or is under common control with Tenant. For purposes of this definition, “control” means possessing the power to direct or cause the direction of the management and policies of the entity by the ownership of a majority of the voting securities of the entity.

**“Alteration”** means any change, alteration, addition or improvement to the Premises or Property.

**“Bankruptcy Code”** means the United States Bankruptcy Code as the same now exists and as the same may be amended, including any and all rules and regulations issued pursuant to or in connection with the United States Bankruptcy Code now in force or in effect after the Effective Date.

**“Basic Rent”** means the basic rent amounts specified in the Basic Terms.

**“Building”** means the building(s) now existing on the Land, as identified in the Lease Data.

**“Business Days”** means any day other than Saturday, Sunday or a legal holiday in the State.

**“City”** means the City of Duluth, Minnesota.

**“Claims”** means all claims, actions, demands, liabilities, damages, costs, penalties, forfeitures, losses or expenses, including, without limitation, reasonable attorneys’ fees and the costs and expenses of enforcing any indemnification, defense or hold harmless obligation under the Lease.

**“Commencement Date”** means the Commencement Date specified in the Lease Data.

**“Common Area”** means the parking area, driveways, and other areas of the Property Landlord may designate from time to time as common area available to all tenants.

**“Completion Date”** means the date that a Certificate of Occupancy is issued by the City of Duluth for the Tenant Improvements.

**“Condemning Authority”** means any person or entity with a statutory or other power of eminent domain.

**“County”** means the County in which the Property is located in.

**“Deposit”** means the Security Deposit specified in the Lease Data.

**“Discount Rate”** means 1% per annum plus the prevailing “Primary Credit” discount rate established by the Federal Reserve Act.

**“Event of Default”** means the occurrence of any of the events specified in Section 14 of the Lease, or of any other events specifically identified in the Lease as an “Event of Default.”

**“Expenses”** means the total amount of Property Taxes and Operating Expenses due and payable with respect to the Property during any calendar year of the Term.

**“Force Majeure”** means acts of God, strikes, lockouts, inability to procure materials (despite commercially reasonable pursuit of such materials), governmental laws or regulations, casualty, orders or directives of any legislative, administrative, or judicial body or any governmental department, inability to obtain any governmental licenses, permissions or authorities (despite commercially reasonable pursuit of such licenses, permissions or authorities), and other similar is dissimilar causes beyond Lessor’s reasonable control.

**“Guarantor”** means any person or entity at any time providing a guaranty of all or any part of Tenant’s obligations under this Lease.

**“Hazardous Materials”** means any of the following, in any amount: (a) any petroleum or petroleum product, asbestos in any form, urea formaldehyde and polychlorinated biphenyls; (b) any radioactive substance; (c) any toxic, infectious, reactive, corrosive, ignitable or flammable chemical or chemical compound; and (d) any chemicals, materials or substances, whether solid, liquid or gas, defined as or included in the definitions of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” “solid waste” or words of similar import in any federal, states or local statute, law, ordinance or regulation now existing or existing on or after the Effective Date as the same may be interpreted by government offices and agencies.

**“Hazardous Materials Laws”** means any federal, state or local statutes, laws, ordinances or regulations now existing or existing after the Effective Date that control, classify, regulate, list or define Hazardous Materials.

**“Land”** means the parcel(s) of land on which the Building is located. In the event the Building is part of a designated complex, then “Land” shall also mean all associated parcels of land owned by Lessor, all easements appurtenant thereto, and all access drives serving the complex. Subject to the terms and conditions of any applicable Permitted Encumbrances, and such other restrictions as Lessor may impose during the Lease Term, Tenant will have the nonexclusive right to use the described access-ways within the complex, as the same may exist from time to time.

**“Lessor”** means only the owner or owners of the Property at the time in question.



**“Lessor Parties”** means Lessor and Property Manager and their respective officers, directors, partners, shareholders, members and employees.

**“Laws”** means any law, regulation, rule, order, statute or ordinance of any governmental or private entity in effect on or after the Effective Date and applicable to the Property or the use or occupancy of the Property, including, without limitation, Hazardous Materials Laws, Building Rules and permitted Encumbrances.

**“Lease”** means this Lease Agreement, as the same may be amended or modified after the Effective Date.

**“Lease Year”** means each consecutive 12 month period during the Term, commencing on the Commencement Date, except that if the Commencement Date is not the first day of a calendar month, then the first Lease Year is a period beginning on the Commencement Date and ending on the last day of the calendar month in which the Commencement Date occurs plus the following 12 consecutive calendar months.

**“Maximum Rate”** means interest at a rate equal to the lesser of (a) 18% per annum or (b) the maximum interest rate permitted by law.

**“Mortgage”** means any mortgage, deed of trust, security interest or other security document of like nature that at any time may encumber all or any part of the Property and any replacements, renewals, amendments, modifications, extensions or refinancing thereof, and each advance (including future advances) made under any such instrument.

**“Net Rent”** means all rental Lessor actually receives from any reletting of all or any part of the Premises, less any indebtedness from Tenant to Lessor other than Rent (which indebtedness is paid first to Lessor) and less the Re-entry Costs (which costs are paid second to Lessor).

**“Notices”** means all notices, demands or requests that may be or are required to be given, demanded or requested by either party to the other as provided in the Lease.

**“Operating Expenses”** means all expenses Lessor incurs in connection with maintaining, repairing and operating the Property, as reasonably determined by Lessor in accordance with generally accepted accounting principles consistently followed. “Operating Expenses” shall include without limitation the following: utility charges including without limitation electricity, water, sewer, gas, fuel and steam); lighting; window washing; the costs and expenses incurred in connection with the provision of the utilities and services set forth in Section Four (including without limitation the maintenance and repair of the Building systems furnishing such utilities and services); costs and expenses incurred in connection with Lessor’s obligations under Section Four; Lessor’s costs and expenses for insurance, as specified in Section Four; property association fees, dues, and any other payments under any of the Permitted Encumbrances (except the Mortgage) affecting the Property; wages payable to persons whose duties are connected with maintaining and operating

the Property (but only for the portion of such persons' time allocable to the Property), together with all payroll taxes, unemployment insurance, vacation allowances and disability, pension, profit sharing, hospitalization, retirement and other so-called "fringe benefits" paid in connection with such persons (allocated in a manner consistent with such persons' wages); amounts paid to contractors or subcontractors for work or services performed in connection with maintaining, repairing and operating the Property; all costs of uniforms, supplies and materials used in connection with maintaining, repairing and operating the Property; all services, supplies, replacements or other expenses for maintaining, repairing and operating the Property; costs of complying with Laws; reasonable management fees (not to exceed 5% of gross rents); expenses Lessor incurs in connection with public sidewalks adjacent to the Property; any pedestrian walkway system (either above or below ground) and any other public facility to which Lessor or the Property is from time to time subject in connection with operating the Property; and such other expenses as may ordinarily be incurred in connection with maintaining, repairing and operating a property similar to the Property. Notwithstanding anything to the contrary in this lease, if Lessor makes a capital improvement to the Property that would be deemed a capital expense under generally accepted accounting principles, then Lessor may only include in Operating Expenses reasonable charges for interest paid on the investment and reasonable charges for depreciation of the investment, so as to amortize the investment over the reasonable useful life of the improvement on a straight line basis. The term "Operating Expenses" does not include:

- a. Interest, principal, points and fees, amortization or any other costs associated with the Mortgage, and all costs and expenses associated with any such debt, irrespective of whether this Lease is subject or subordinate thereto.
- b. Expenses or Allowances for depreciation or amortization (except as may be expressly allowed by this Lease, including without limitation the amortization of capital improvements as noted above).
- c. Any bad debt loss, or any reserve for bad debt loss.
- d. Compensation paid to any employee of Lessor or Property Manager above the grade of building superintendent or manager.
- e. Lessor's general corporate overhead and administrative expenses, except to the extent related (or reasonably allocated) to the Property, and except as otherwise expressly provided in this Lease.
- f. Expenses to prepare, renovate, or perform any other work in any space leased to an existing or new tenant of the Building.
- g. Expenses to retain existing tenants or to lease space to new tenants, including without limitation legal fees, leasing commissions, advertising, and promotional expenditures;

- h. Expenses to resolve disputes with existing tenants, or to negotiate lease terms with prospective tenants.
- i. The costs of any services or supplies to the extent that such costs are reimbursed to Lessor by tenants of the Building (other than by virtue of the pass through of Operating Expenses to tenants), or by other third parties.
- j. The costs of repair, restoration or other work occasioned by any insurance casualty.
- k. The costs of any repair, restoration or other work occasioned by a condemnation proceeding, if and to the extent Lessor has actually been reimbursed by condemnation proceeds.
- l. Rent payable by Lessor pursuant to any ground or air-rights lease affecting the Property, irrespective of whether this Lease is subject or subordinate thereto.
- m. Fees or sums paid to an affiliate of Lessor, to the extent that such fees exceed the customary amount charged by independent contractors and suppliers for the services or supplies provided.
- n. Expenses for any necessary replacement of any item to the extent that it is covered under warranty.
- o. Interest or penalties assessed against Lessor due to the late payment of any Expenses.
- p. Expenses for any item or service that Tenant pays directly to a third party, or separately reimburses to Lessor.
- q. Personal property taxes of Lessor for equipment or items to the extent not used directly in the operation or maintenance of the Property.
- r. Costs of sculptures, paintings and other objects of art.
- s. Charitable or political contributions by Lessor.

***“Permitted Encumbrances”*** means all mortgages, liens, easements, declarations, encumbrances, covenants, conditions, reservations, restrictions and other matters now or after the Effective Date affecting title to the Property.

***“Property”*** means, collectively, the Land, Building (including the Premises) and all other improvements on the Land.

***“Property Manager”*** means the property manager specified in the Lease Data, or any agent Lessor may appoint from time to time to manage the Property.

***“Property Taxes”*** means any general real property tax, improvement tax, assessment, special assessment, reassessment, commercial rental tax, tax in lieu tax, levy, charge, penalty or similar imposition imposed by any authority having the direct or indirect power to tax, including but not limited to (a) any city, county, state or federal entity, (b) any school, agricultural, lighting, drainage or other improvement or special assessment district, (c) any governmental agency, or (d) any private entity having the authority to assess the Property under any of the Permitted Encumbrances. The term ***“Property Taxes”*** includes all charges or burdens of every kind and nature Lessor incurs in connection with using, occupying, owning, operating, leasing or possessing the Property, without particularizing by any known name and whether any of the foregoing are general, special, ordinary, extraordinary, foreseen or unforeseen, any tax or charge for fire protection, street lighting, streets, sidewalks, road maintenance, refuse, sewer, water or other services provided to the Property and any personal property taxes on personal property used on the Property. The term ***“Property Taxes”*** does not include Landlord state or federal income, franchise, estate or inheritance taxes. If Lessor is entitled to pay, and elects to pay, any of the above listed assessments or charges in installments over a period of two or more calendar years, then only such installments of the assessments or charges (including interest thereon) as are actually paid in a calendar year will be included within the term ***“Property Taxes”*** for such calendar year. If any of Tenant’s trade fixtures and other personal property are taxed with the Property, Tenant will pay the taxes attributable to Tenant’s trade fixtures and other personal property to Lessor as Additional Rent.

***“Re-entry Costs”*** means all costs and expenses Lessor incurs re-entering or reletting all or any part of the Premises, including, without limitation, all costs and expenses Lessor incurs (a) maintaining or preserving the Premises after an Event of Default; (b) recovering possession of the Premises, removing persons and property from the Premises (including, without limitation, court costs and reasonable attorney’s fees) and storing such property; (c) reletting, renovating or altering the Premises; and (d) real estate commissions, advertising expenses and similar expenses paid or payable in connection with reletting all or any part of the Premises. ***“Re-entry Costs”*** also includes the value of free rent and other concessions Lessor gives in connection with re-entering or reletting all or any part of the Premises.

***“Rent”*** means, collectively, Base Rent and Additional Rent.

***“State”*** means the State in which the Property is located.

***“Structural Alterations”*** means any Alterations involving the structural, mechanical, electrical, plumbing, fire/life safety or heating, ventilating and air conditioning systems of the Building.

***“Taking”*** means the exercise by a Condemning Authority or its power of eminent domain on all or any part of the Property, either by accepting a deed in lieu of condemnation or by any other manner.

**“Tenant”** means the tenant identified in the Lease and such tenant’s permitted successors and assigns. In any provision relating to the conduct, acts or omissions of “Tenant” means the tenant identified in the Lease and such tenant’s agents, employees, contractors, invitees, successors, assigns and others using the Premises or on the Property with Tenant’s expressed or implied permission.

**“Tenant Delays”** means any delays causes or contributed to by Tenant.

**“Tenant Improvements”** means the improvements required to be completed by Landlord pursuant to the terms of this Lease.

**“Tenant’s Share of Expenses”** means the product obtained by multiplying the amount of Expenses for the period in question by the Tenant’s Share of Expenses Percentage.

**“Tenant’s Share of Expenses Percentage”** means the percentage specified in the Lease Data, as such percentage may be adjusted in accordance with the terms and conditions of this Lease.

**“Term”** means the initial term of this Lease specified in the Lease Data and, if applicable, any extension term then in effect.

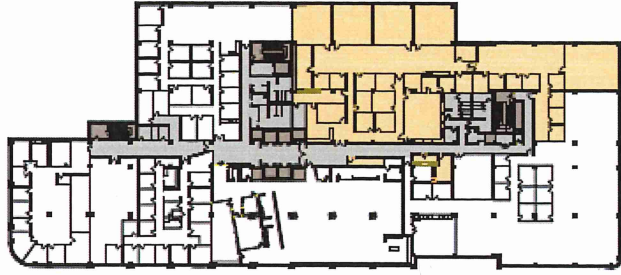
**“Transfer”** means an assignment, mortgage, pledge, transfer, sublease or other encumbrance or conveyance (voluntarily, by operation of law or otherwise) of this Lease or the Premises or any interest in this Lease or the Premises. The term “Transfer” also includes any assignment, mortgage, pledge, transfer or other encumbering or disposal (voluntarily, by operation of law or otherwise) of any ownership interest in Tenant or in any Guarantor that results or could result in a change of control of Tenant or of any Guarantor.

**EXHIBIT 2  
SUITE PLAN**

LAST SAVED: SEPTEMBER 27, 2007 BY: CKEMP P:\1989-2010 PROJECTS\2007 PROJECTS\103.00 A&L PROPERTY MANAGEMENT 2007\DULUTH TECHNOLOGY VILLAGE\2- DRAWINGS\2- BOMMA\4- BOMA

**4th Floor Key Plan**

- Building Common Areas
- Vertical Penetrations
- Floor Common Areas
- Private Circulation
- Tenant Location

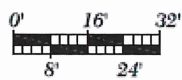


Modified Rentable Area 13,958 Sq. Ft.

Total Useable Area 12,137 Sq. Ft.

**SCALE**

1/32" = 1'-0"



**Duluth Technology Village**  
Suite 450  
11 East Superior Street  
Duluth, MN 55802

### EXHIBIT 3

#### DULUTH TECHNOLOGY VILLAGE (DTV) RULES AND REGULATIONS

Tenant agrees to observe the rights reserved to Landlord in the Lease and agrees, for itself, its employees, agents, clients, invitees and guests, to comply with the following rules and regulations with such reasonable modifications thereof and additions thereto as Landlord may make, from time to time, for the Building:

1. The sidewalks, entries, passages, courtyard, corridors, stairways and elevators shall not be obstructed by any tenants, their employees or agents, or used by them for purposes other than ingress and egress to and from their respective suites. Boxes, cartons or any other debris which is to be thrown away by the cleaning crew should be left within your suite, not be left in the corridors.

2. All heavy articles (i.e. safes) shall be carried up to or into the Premises only at such times and in such manner as shall be prescribed by Landlord, and Landlord shall in all cases have the right to specify the proper weight and position of any such heavy article. Any damage done to the Building by taking in or removing any such equipment or from overloading any floor in any way shall be paid for by Tenant. Defacing or injuring in any way any part of the Building by Tenant, his agents or employees, shall be paid for by the Tenant.

3. Tenant will refer all contractors, contractor's representatives and installation technicians rendering any service on or to the Premises for Tenant to Landlord for Landlord's approval and supervision before performance of any contractual service. This provision shall apply to all work performed in the Building, including but not limited to the installation of the telephone and other communications equipment, electrical devices and attachments and installations of any nature affecting floors, walls, woodwork, trim, windows, ceilings, equipment or any other physical portion of the Building. Such approval, if given, shall in no way make Landlord a party to any contract between Tenant and any such contractor, and Landlord shall have no liability thereof. All data cabling from MDF/data closets to tenant suites must be completed by contractor approved by Landlord at the expense of tenant.

4. The electronic directory, with the names of tenant and/or employees, is provided by Landlord; any such necessary revisions to the directory will be made by landlord within a reasonable time after notice from Tenant of the error or change making the revision necessary. Suite signage is permitted but must be approved by Landlord before installing or making changes. No furniture shall be placed in front of the Building or in any lobby or corridor without written consent of Landlord. Landlord shall have the right to remove all other signs and furniture, without notice to Tenant, at the expense of Tenant.

5. Tenant shall have the non-exclusive use in common with Landlord, other tenants, their guests and invitees subject to reasonable rules and regulations for the use thereof as prescribed

from time to time by Landlord. Landlord shall have the right to designate parking areas for the use of tenants of the Building and their employees, and tenants and their employees shall not park in parking areas not so designated, specifically including driveways, fire lanes, loading/unloading areas, walkways and building entrances. Tenant agrees that upon written notice from Landlord, it will furnish Landlord, within five (5) days from receipt of such notice, the state automobile license numbers assigned to the automobiles of Tenant and its employees. Landlord shall not be liable for any vehicle of Tenant or its employees that Landlord shall have towed from the premises when illegally parked. Landlord will not be liable for damage to vehicles in the parking lots or garages or for theft of vehicles, personal property from vehicles, or equipment of vehicles.

6. No tenant 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 the property kept therein, or obstruct or interfere with the rights of other tenants, or in any way injure or annoy them, or conflict with the laws relating to fire, or with any regulations of the fire department, or with any insurance policy upon said buildings or any part thereof, or conflict with any rules and ordinances of the local board of health or any governing bodies.

7. Employees of the Building will at all times keep a pass key, and agents of Landlord shall at all times be allowed admittance to Tenant's Premises. Landlord will not provide afterhours access to suites.

8. No additional locks shall other than locks installed by Landlord shall be placed upon any door in the building. All keys to the Premises shall be furnished by Landlord in a reasonable number commensurate with the square footage leased. Additional keys shall be furnished at Tenant's cost. Upon termination of the Lease, all keys shall be surrendered, and Tenant shall then give Landlord or its agent explanation of the combination of all locks upon any doors or vaults.

Any card access security systems approved by the Landlord and installed by tenant must remain in place when Tenant vacates.

9. No windows or other openings that reflect or admit light into the corridors or passageways, or to any other place in said Building, shall be covered or obstructed by any tenant without Landlords consent.

10. No person shall disturb the occupants of the Building by the use of any musical instruments, the making of unseemly noises, or any unreasonable noise. No animals or pets of any kind will be allowed in the Building. No solicitation is allowed within or outside of building.

11. The water closets and other water fixtures shall not be used for any purpose other than those for which they were constructed, and any damage resulting to them from misuse, or the defacing or injury of any part of the Building, shall be borne by the person who shall occasion it.



12. No bicycles or similar vehicles will be allowed in the Building. Bicycle storage can be found in the DTV parking ramp entry located off of First Avenue East.
13. Nothing shall be thrown out of the windows of the Building or down the stairways or other passages.
14. Tenant shall not be permitted to use or keep in the Building any kerosene, camphene, burning fluid or other illuminating materials.
15. If any tenant desires, at its cost, telephonic or other electronic connections, Landlord or its agents will direct the electricians as to where and how the wires may be introduced, and without such directions, no boring or cutting for wires will be permitted. All expenses incurred will be Tenant's responsibility.
16. Tenant shall be responsible for purchase, installation and all maintenance associated with existing or installed window coverings. Any existing or installed window coverings by Tenant shall remain property of the building and cannot be removed upon Tenant vacating the premises.
17. Six (6) months prior to the expiration of the Lease (if Tenant has not provided notice of its intent to renew its Lease), Landlord or its agents may show the Premises
18. No portion of the Building shall be used for the purpose of lodging rooms or for any immoral or unlawful purposes.
19. All glass, locks and trimmings in or about the doors and windows and all electric fixtures belonging to the Building shall be kept whole, and whenever broken by anyone shall be immediately replaced or repaired and put in order at Tenant's cost under the direction and to the satisfaction of Landlord, and on removal shall be left whole and in good repair.
20. Tenant shall not install or authorize the installation of any vending machines or food preparation devices without Landlord's written approval. Landlord shall have the right to rescind this approval, if given, without liability to Tenant for reimbursement of any Tenant costs or expenses or to grant exclusive rights to vending machine operators.
21. Landlord reserves the right at any time to take one elevator out of service to tenants for exclusive use by management in servicing the Building.
22. No electric heaters or electric fans are allowed on the Premises without the prior written consent of Landlord.
23. Tenant shall list all furniture, equipment and similar articles Tenant desires to remove from the Premises or the Building and deliver a copy to Landlord and procure a removal permit from the Office of the Building authorizing Building employees to permit such articles to be removed.

24. Before leaving the Premises unattended, Tenant shall close and securely lock all doors and transoms and shut off all utilities in the Premises. Any damage resulting from failure to do so shall be paid by Tenant.

25. Tenant shall not operate or permit to be operated any musical or sound producing instrument or device inside or outside the Premises which may be heard outside the Premises, or operate any electrical device from which may emanate electrical waves which may interfere with or impair radio or television broadcasting or reception from or in the Building or elsewhere.

26. Tenant shall not make or permit any noise, vibration or odor to emanate from the Premises; or do anything therein tending to create, or maintain, a nuisance; or disturb, solicit or canvass any occupant of the Building, or do any act tending to injure the reputation of the Building.

27. Tenant shall not place anything or allow to be placed near the glass of any door, partition, or window which may be unsightly from outside the Premises; or take or permit to be taken in or out of other entrances of the Building, or take or permit on other elevators, any item normally taken in or out through the trucking concourse or service doors or in or on freight elevators; or whether temporarily, accidentally, or otherwise, allow anything to remain in, place or store anything in, or obstruct in any way, any passageway, exit, stairway, elevator, shipping platform, or truck concourse. Tenant shall lend its full cooperation to keep such areas free from all obstruction and in a clean and presentable condition and move all supplies, furniture and equipment as soon as received directly to the Premises and move all such items and waste, other than waste customarily removed by employees of the Building, being taken from the Premises, directly to the shipping platform at or about the time arranged for removal therefrom.

EXHIBIT 4

LEASED PREMISES

ISD 709 - ALC  
Temporaty Space

<u>Tech Village</u>	<u>Suite #</u>	<u>Sq. Ft.</u>	<u># Of Keys Needed</u>
	140	2,387	6
	142	186	1
	144	183	1
	145	3,012	2
	155	1,079	1
	328	589	1
	330	1,918	6
	332	405	1
	340	4,773	5
	410	1,990	4
	531	255	1
	532	229	1
	533	233	1
	548	682	1
	552	224	1
	<b>Tech Village Total Sq. Ft.</b>	<b>18,145</b>	

<u>Wieland Block</u>	<u>Suite #</u>	<u>Sq. Ft.</u>	<u># Of Keys Needed</u>
	408	2,764	7
	<b>Wieland Block Total Sq. Ft.</b>	<b>2,764</b>	

Grand Total Both Buildings: **20,909**

EXHIBIT 5

TENANT IMPROVEMENT  
AMORTIZATION SCHEDULE

ALC - ISD 709  
Duluth Technology Village Suite 450

Dated 10/6/2021  
7:53 P.M.

Amount	Line Description	
\$ 3,747.00	1 Permitting	
\$ 5,013.00	2 Supervision, safety, layout, tracking, clean up scaffolding, final cleaning, etc	
\$ 5,000.00	3 Dumpsters	
\$ 4,031.00	4 Floor Protection	
\$ 15,614.00	5 Demolition	
\$ 75,750.00	6 Metal Stud framing, insulation of hollow metal frames, sound insulation, drywall, taping and sanding	
\$ 6,410.00	7 Blocking and metal Backing	
\$ 39,515.00	8 Painting - wood door allowance (16 hours) refinishing/touch up of existing doors	
\$ -	9 Includes allowance for Painting Existing rooms called out as existing on A4.1	
\$ -	10 Includes allowance for Painting - new wood doors (staining sealing, and varnishing of 12 doors) Includes allowance for finishing of 12 new doors	
\$ 83,000.00	11 Electrical Work	
\$ 41,885.00	12 Mechanical/HVAC (includes mini-split in server room)	
\$ 26,194.00	13 New doors, frames, hardware, and glass for new frames	
\$ 3,409.00	14 Installation of all doors and hardware	
\$ 17,323.00	15 Supply and installation of new cabinets and countertops	
\$ 3,509.00	16 Existing cabinetry (salvage and re-use)	
\$ 10,644.00	17 Acoustical ceilings and above ceiling insulation	
\$ 8,860.00	18 Sprinkler Modifications	
\$ 16,860.00	19 Flooring - new VCT, vinyl base, carpet tile, Static dissipative tile	
\$ 740.00	20 Misc. Accessories	
	21	
	22	
	23	\$ 367,506.00
\$ -	24 Sub total	\$ 367,506.00
	25	\$ -
\$ 36,750.60	26 General Contractor Charge	
\$ 10,660.00	27 Architectural Charges	
	28 Voice Data Work	
	29	
\$ 30,319.25	30 A&L Property Management Fee	
\$ 445,235.85	Project Total	
\$ 222,617.92	Landlord Contribution	
\$ 222,617.92	Tenant Responsibility To be amortized term @0%	

Estimates are based on contractor/A&L Property Management review of architectural drawing from DSGW Architects. Prices may change if any modifications are made by tenant.

\* Data work included in Benson Electrical Estimate