

**DEED OF LEASE**  
**TABLE OF CONTENTS**

| SECTION   | PAGE |
|---|------|
| 1. DEFINITIONS.....   | 1    |
| 2. TERM. ....   | 9    |
| 3. AS-IS CONDITION; LANDLORD’S WORK. ....   | 10   |
| 4. RENT. ....   | 11   |
| 5. ADDITIONAL RENT. ....  | 14   |
| 6. USE.....   | 17   |
| 7. CARE OF DEMISED PREMISES. ....   | 18   |
| 8. ALTERATIONS BY TENANT. ....  | 19   |
| 9. EQUIPMENT. ....  | 21   |
| 10. REMOVAL OF PROPERTY AT END OF TERM. ....  | 22   |
| 11. LANDLORD’S ACCESS TO DEMISED PREMISES. ....   | 23   |
| 12. PROVISION OF AND MAINTENANCE FOR SERVICES AND UTILITIES.....  | 25   |
| 13. RULES AND REGULATIONS. ....   | 28   |
| 14. REPAIR OF DAMAGE CAUSED BY TENANT. ....   | 29   |
| 15. COVENANT OF SUFFICIENT EQUITY; LIMITATION ON LIABILITY;<br>LIABILITY FOR CONSEQUENTIAL DAMAGES..... | 29   |
| 16. FIRE AND OTHER CASUALTY.....  | 31   |
| 17. INSURANCE. ....   | 32   |
| 18. CONDEMNATION.....   | 36   |
| 19. DEFAULT. ....   | 38   |
| 20. NO WAIVER.....  | 42   |
| 21. HOLDING OVER. ....  | 42   |
| 22. SUBORDINATION.....  | 43   |
| 23. ASSIGNMENT AND SUBLETTING. ....   | 46   |
| 24. TRANSFER BY LANDLORD.....   | 48   |
| 25. ESTOPPEL CERTIFICATES. ....   | 48   |
| 26. COVENANT OF QUIET ENJOYMENT. ....   | 49   |
| 27. BROKERS. ....   | 49   |
| 28. CERTAIN RIGHTS RESERVED BY LANDLORD.....  | 49   |
| 29. NOTICES.....  | 52   |
| 30. TENANT’S APPROPRIATION OF FUNDS. ....   | 52   |
| 31. ROLE OF TENANT/TENANT DECISIONS. ....   | 53   |
| 32. NO WAIVER OF SOVEREIGN IMMUNITY BY TENANT.....  | 53   |
| 33. INDEMNIFICATION AND HOLD HARMLESS. ....   | 53   |
| 34. NO RIGHTS IN THIRD PARTIES.....   | 54   |
| 35. COUNTY BOARD APPROVAL.....  | 54   |
| 36. MISCELLANEOUS PROVISIONS.....   | 54   |
| 37. INABILITY TO PERFORM. ....  | 57   |
| 38. PARKING.....  | 57   |
| 39. HAZARDOUS MATERIALS.....  | 60   |
| 40. [INTENTIONALLY OMITTED].....  | 62   |

|                 |   |    |
|-----------------|---|----|
| 41.             | RECORDATION OF MEMORANDUM OF LEASE..... | 62 |
| 42.             | [ <i>INTENTIONALLY OMITTED</i> ].....   | 62 |
| 43.             | SIGNS.....                              | 62 |
| 44.             | TERRACE AREA.....                       | 63 |
| 45.             | CONVERSION OPTION.....                  | 64 |
| 46.             | OPTION TO EXTEND.....                   | 66 |
| SIGNATURES..... |   | 67 |

|           |  |
|-----------|--|
| Exhibit A | Plans Showing Demised Premises   |
| Exhibit B | Declaration of Acceptance  |
| Exhibit C | Terrace Area Plan  |
| Exhibit D | Rules and Regulations  |
| Exhibit E | Base Rental Revenue for the Demised Premises   |
| Exhibit F | Subordination, Nondisturbance and Attornment Agreement   |
| Exhibit G | Tenant's Option to Terminate   |
| Exhibit H | Memorandum of Lease  |
| Exhibit I | Memorandum of Lease Termination  |
| Exhibit J | Plat   |
| Exhibit K | Location of Tenant's Exterior Signage  |
| Exhibit L | Schedule of Categories of Operating Expenses Attributable to Portions of<br>Common Areas Located on One or More Floors of the Building on Which No<br>Space is Leased to Tenant and On or from Which There is No Access to the<br>Demised Premises<br>and<br>Schedule of Categories of Operating Expenses Attributable to Portions of<br>Common Areas Located on One or More Floors of the Building on Which the<br>Demised Premises are Located, or On or from Which There is Access to the<br>Demised Premises, but Not Susceptible to Cost Allocation Solely to Tenant<br>and<br>Schedule of Categories of Operating Expenses Attributable to Portions of<br>Common Areas Located on One or More Floors of the Building on Which the<br>Demised Premises are Located, or On or from Which There is Access to the<br>Demised Premises, and Susceptible to Cost Allocation Solely to Tenant |
| Exhibit M | [ <i>Intentionally Omitted</i> ]   |
| Exhibit N | Schedule of Existing Personalty  |
| Exhibit O | Form of Bill of Sale   |
| Exhibit P | [ <i>Intentionally Omitted</i> ]   |
| Exhibit Q | Landlord's Payment Information   |

## DEED OF LEASE

**THIS DEED OF LEASE** (this "Lease") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2008, by and between 1101 WILSON OWNER, LLC, a Delaware limited liability company ("Landlord"), and THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, a body politic ("Tenant").

**WHEREAS**, on December 15, 2007, the County Board of Arlington County, Virginia enacted an Ordinance ("SP #18 Ordinance"), pursuant to application SP #18 on file in the Office of the Zoning Administrator, granting an amendment to the special exception for SP #18, on property known as 1815 N. Fort Myer Drive and 1850 N. Moore Street (RPC #s 16-037-004 and 16-037-005), subject to certain conditions specified in a document entitled *Addendum 12-15-07-B - Site Plan #18* ("SP #18 Conditions");

**WHEREAS**, the SP #18 Conditions include, without limitation, Condition #92, which requires that prior to the issuance of an Excavation/Sheeting and Shoring Permit for any portion of the properties included in SP #18, the Developer shall execute, deliver to the County Manager, and obtain County Board approval of, a Lease Agreement on the former Newseum space at 1101 Wilson Blvd. (RPC #16-039-002), containing, at a minimum, the terms specified in Condition #92;

**WHEREAS**, on December 15, 2007, the County Board of Arlington County, Virginia also enacted an Ordinance ("SP #89 Ordinance"), pursuant to application SP #89 on file in the Office of the Zoning Administrator, granting an amendment to a special exception for SP #89, on property known as 1101 Wilson Blvd. (RPC #16-039-002), to convert the former Newseum space, subject to all previous conditions, three new conditions which apply solely to the subject (Newseum) space as set forth in the document entitled *Addendum 12-15-07-C - Site Plan #89*, and approval of the above-referenced amendment to SP #18; and

**WHEREAS**, the new conditions to the amended SP #89 provide, without limitation, that the Newseum space shall remain restricted in accordance with applicable conditions of SP # 89, except as specified in the new conditions, which require, in part (Condition #1), that the Developer execute, deliver to the County Manager, and obtain County Board approval of, a Lease Agreement on the former Newseum space, containing, at a minimum, the terms specified in Condition #1.

**NOW, THEREFORE**, in consideration of the foregoing recitals (which are hereby fully incorporated into this Lease by this reference), the Rent hereinafter reserved and the agreements hereinafter set forth, Landlord and Tenant mutually agree as follows:

### 1. DEFINITIONS.

**A. Alterations:** Any improvements, alterations, fixed decorations or modifications, structural or otherwise, which are performed by or on behalf of Tenant to or at the Demised Premises, excluding the Terrace Area, including, without limitation, the installation or modification of carpeting, partitions, counters, doors, air conditioning ducts, plumbing, piping, lighting fixtures, wiring, hardware, locks, ceilings and window and wall coverings, including, without limitation, any of the foregoing which are made by Tenant to ready the Demised Premises, excluding the Terrace Area, for Tenant's occupancy.

B. *Applicable Law:* All present and future laws, ordinances (including zoning ordinances and land use requirements), regulations and orders concerning the use, occupancy and condition of the Building or the Demised Premises, as applicable, and all machinery, equipment, furnishings, fixtures and improvements used therein.

C. *Bonus Space:* Sixteen thousand six hundred fifty (16,650) square feet of area located within the Demised Premises.

D. *Broker:* Monday Properties Services, LLC, as agent of Landlord.

E. *Building:* A twenty-four (24) story building containing approximately three hundred eighteen thousand six hundred sixteen (318,616) square feet of office and museum area and three hundred twenty-six thousand eight hundred eighty-nine (326,889) square feet of total area as of the date hereof and located at 1101 Wilson Boulevard, Arlington, Virginia. Except as otherwise expressly provided in this Lease, the term "Building" shall include all portions of said building, including the Demised Premises, the Common Areas and the Parking Garage. Such square footages shall be measured on the same basis as the Demised Premises, excluding the Terrace Area, for the purpose of determining Tenant's Share of Operating Expenses and Tenant's Share of Real Estate Tax Expenses.

F. *Building Hours:* 7:00 a.m. to 6:00 p.m. on Monday through Friday (excluding Holidays) and 9:00 a.m. to 1:00 p.m. on Saturday (excluding Holidays), and such other hours, if any, as Landlord from time to time determines.

G. *Common Areas:* Those areas of the Building and/or Land, as the case may be, made available by Landlord for use by Tenant in common with Landlord, other tenants of the Building and the employees, agents and invitees of Landlord and of such other tenants, but excluding electrical closets, risers and equipment rooms.

H. *Comparable Buildings:* Office buildings in the Rosslyn-Ballston Corridor in Arlington, Virginia, comparable to the Building, taking into account the age, finishes, method of construction and system design of the Building and of such comparable buildings.

I. *Comparable Space:* Leasable space that is subject to similar use restrictions as the Demised Premises, excluding the Terrace Area, and is of a similar size, type and quality as the Demised Premises, excluding the Terrace Area, including without limitation, other museum or cultural use space, mezzanine space in office buildings and large multi-level retail space (e.g., three floors of retail on basement, street, and mezzanine/second levels of an office building).

J. *Demised Premises:* approximately fifty-three thousand eight hundred twenty-six (53,826) square feet of area in the Building, consisting of the Bonus Space, the Restricted Space, the Unrestricted Space, as shown on the floor plans attached hereto and made a part hereof as Exhibit A. In addition to the areas in the Building as aforesaid, the Demised Premises shall include the Terrace Area pursuant to the terms of Section 44 of this Lease, which Terrace Area is also shown on Exhibit A attached hereto. Tenant's lease of the Terrace Area shall be subject to Landlord's right to access to the Terrace Area for the purpose of inspections, maintenance, repairs, replacements and exhibiting the Terrace area (i) at any reasonable time to representatives of then existing or proposed lenders or investors or to prospective purchasers of the Building and (ii) during the last eighteen (18) months of the Term, at any reasonable time to persons who may be interested in leasing the Demised Premises or any other portion of the Building.

K. *Demised Premises' Standard Electrical Capacity:* The capacity of the electrical system serving the Demised Premises, excluding the Terrace Area, as of the date of this Lease, so long as such electrical capacity is not less than the electrical capacity of the Demised Premises during its prior use as the Newseum. Landlord and Tenant shall confirm the Demised Premises' Standard Electrical Capacity within thirty (30) days after the Lease Commencement Date, and shall note such capacity, in number of watts per square foot of the Demised Premises, on the Declaration of Acceptance attached hereto and made a part hereof as Exhibit B.

L. *Effective Date:* The date of completion of all of the following: (i) approval as to form of this Lease by the County Attorney; (ii) approval of this Lease by the County Board of Arlington County, Virginia (as evidenced by an action of the County Board); (iii) execution and delivery of this Lease by the last of the parties to execute and deliver same; and (iv) an Acceptable SNDA (as hereinafter defined) has been fully executed and delivered by and among Landlord, Tenant and Landlord's current Mortgagee.

M. *Existing Personalty:* Those items of equipment, trade fixtures and other personal property located in the Demised Premises, excluding the Terrace Area, as of the date of this Lease and more particularly described on Exhibit N attached hereto and made a part hereof.

N. *Holidays:* New Year's Day, Presidents' Day, Martin Luther King, Jr.'s Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving, Christmas Day and any other holidays which may be designated by an executive order of the President of the United States, by Act of Congress, by an executive order of the Governor of Virginia, or by an Act of the Virginia General Assembly; provided, however, that Landlord retains the right, in its sole discretion, to decrease, occasionally or permanently, the legal holidays which it observes.

O. *Initial Lease Term or Initial Term:* The period commencing on the Lease Commencement Date and ending on 11:59 p.m. on April 30, 2023, or such earlier date on which this Lease is terminated pursuant to the provisions hereof (the "Lease Expiration Date").

P. *Land:* The parcels of land upon which the Building is situated, and all associated easements, which parcels of land are also identified by RPC № 16039002 and RPC № 16039003, and the metes and bounds of such parcels of land can be determined from the plat entitled "1101 Wilson Boulevard and 1700 North Kent Street", dated May 19, 2005, and last revised May 3, 2007 prepared by VIKA Incorporated, and incorporated by reference, designated as Exhibit J attached hereto and made a part hereof. The plat attached hereto as Exhibit J also includes the parcel of land identified as RPC № 16039021, which parcel is not part of the Land.

Q. *Landlord Notice Address:* 1101 Wilson Owner, LLC, c/o Monday Properties Services, LLC, 1000 Wilson Boulevard, Suite 700, Arlington, Virginia 22209, Attention: Mr. Timothy Helmig, with copies to: Greenstein DeLorme & Luchs, P.C., 1620 L Street, N.W., Suite 900, Washington, D.C. 20036, Attention: Abraham J. Greenstein, Esq.

R. *Landlord Payment Address:* 1101 Wilson Owner, LLC and delivered to Landlord at the address shown on Exhibit Q attached hereto and made a part hereof; provided, however, that at Landlord's sole option, following at least thirty (30) days written notice to Tenant, Tenant shall thereafter make all payments due and payable to Landlord under this Lease by means of electronic transfers of funds from Tenant's financial institution to Landlord's designated financial institution; further provided, that Tenant may elect, at its sole discretion, to make all

payments due and payable to Landlord under this Lease by means of electronic transfers of funds from Tenant's financial institution to Landlord's designated financial institution, provided that Tenant establishes such procedures for the making of such payments as are reasonably acceptable to Landlord for the purpose of administration of this Lease. Landlord may, from time to time, modify Landlord's Address for Payment or Landlord's Notice Address, as applicable by providing Tenant with written notice of the modified Landlord's Address for Payment or Landlord's Notice Address, as applicable.

S. *Lease Commencement Date* or the *Commencement Date*: The date on which the Initial Term of this Lease commences upon Landlord's delivery of the Demised Premises to Tenant in the condition required pursuant to the terms of this Lease, which must occur no later than five (5) business days after the Effective Date of this Lease.

T. *Lease Expiration Date* or the "*Expiration Date*": April 30, 2023 at 11:59 p.m.

U. *Lease Year*: That period that commences on the Lease Commencement Date and which expires at 11:59 p.m. on April 30, 2009 (the "first Lease Year"), and each consecutive twelve (12) month period thereafter. Each of the following Lease Years shall similarly be numbered for identification purposes. (It is recognized and agreed that the first Lease Year shall be less than a full twelve (12) month period.)

V. *Market Area*: Arlington County, Virginia.

W. *Mortgages*: All mortgages, deeds of trust and similar security instruments which may now or in the future encumber or otherwise affect the Building or the Land, including mortgages related to both construction and permanent financing. "Mortgagees" shall denote those persons and entities holding such mortgages, deeds of trust and similar security instruments.

X. *Operating Expenses*: All costs and expenses incurred by Landlord during any calendar year occurring during the Term which are reasonably attributable to the management, operation and maintenance of the Building and the Land, as reasonably determined by Landlord in accordance with generally accepted accounting principles. Such costs and expenses shall include, but not be limited to, the cost of water, gas, sanitary sewer, storm sewer, electricity and other utilities, trash removal, telephone services, insurance, janitorial and char services and supplies, security services, labor costs (including social security taxes and contributions and fringe benefits) of on-site employees directly engaged in the management of the Building and the allocable portion of such costs of off-site employees who perform services with respect to the Building (but in no event any executive personnel of Landlord or of Landlord's property management agent), charges under maintenance and service contracts (including chillers, boilers, elevators (other than elevators that serve portions of the Common Areas from which there is no access to the Demised Premises), window cleaning, and security services actually serving the Building, central heating and air conditioning of Common Areas (and not any areas that are leased or then available for lease, except for Building structural components or base Building operating systems within any such areas), management fees, business taxes, license fees, public space and vault rentals and charges, costs, charges and other assessments made by or for any entity operating a business improvement district in which the Building is located, condominium fees, assessments, dues, expenses, and other charges which are paid by Landlord as a result of the Building, the Land or part or all of both being part of a condominium, the cost of any equipment or services provided by Landlord in connection with the servicing, operation, maintenance, repair and protection of the Building and the Land and related exterior

appurtenances (whether or not provided on the Lease Commencement Date), maintenance and repairs with respect to the Building (other than areas that are leased or then available for lease, except for Building structural components or base Building operating systems within any such areas), access control services contract, periodic extermination of Building areas (other than retail tenanted areas), and maintenance of fire extinguishers serving office areas. Operating Expenses shall include the cost of capital improvements made by Landlord to manage, operate or maintain the Building, together with any financing charges actually incurred by Landlord in connection therewith, which financing charges shall not, in any event, exceed twelve percent (12%) per annum, provided that such costs shall be amortized over the useful life of the improvements (as determined pursuant to the Internal Revenue Code) and only the portion attributable to the applicable calendar year shall be included in Operating Expenses for such calendar year; further provided, that such expenditures shall be limited to improvements or building elements added to the Building which in Landlord's reasonable judgment will increase the efficiency of the Building (*i.e.*, are reasonably anticipated by Landlord to reduce Operating Expenses as they relate to the item which is the subject of the capital expenditure or to reduce the rate of increase in the Operating Expense which relates to the item which is the subject of the capital expenditure from what it otherwise may have been reasonably anticipated to be in the absence of such capital expenditure).

Operating Expenses shall not include: (i) Real Estate Tax Expenses; (ii) debt service, including payments of principal and interest on any Mortgages; (iii) leasing commissions; (iv) costs of preparing, improving or altering any space which is leased or then available for lease, except for Building structural components or base Building operating systems within any such areas; (v) capital improvements (including (A) those with respect to Common Areas and (B) alterations or building systems expenditures which are capital improvements), except as specified above; (vi) the costs of special, extra or after hours services and utilities provided to or for particular tenants of the Building; (vii) costs which are reimbursed to Landlord by insurers or other persons or entities, pursuant to warranties or otherwise or by governmental authorities in eminent domain proceedings (so long as Landlord makes continuing commercially reasonable efforts to collect such amounts to which Landlord reasonably believes it is entitled); (viii) costs of advertising, promotional expenses, and other expenses incurred in procuring tenants for the Building or in connection with the renewal or expansion of any existing tenancies; (ix) costs of any equipment, services or utilities which are provided solely to one or more other tenants of the Building; (x) costs of repair of any fire or other casualty damage to the Building; (xi) costs of any expansion of the Building; (xii) costs and expenses solely associated with equipment, utilities or services provided to other tenants and/or occupants that are not generally available to Tenant; (xiii) depreciation of the Building; (xiv) ground rent or other rental payments made under any ground lease or underlying lease except to the extent such payments are in lieu of the direct payment of real estate taxes, insurance premiums or the like; (xv) costs incurred in connection with the sale, financing, refinancing, mortgaging, selling or change of ownership of all or any portion of the Building or any interest therein; (xvi) repairs or replacements (a) necessitated by the negligence or willful misconduct of Landlord or its employees or agents, or (b) required to comply with Applicable Law with respect to conditions existing in violation thereof on the Commencement Date (unless the violation is solely caused by Tenant); (xvii) costs, including legal fees, of enforcement of leases of other tenants in the Building and reserves for bad debt; (xviii) legal fees, accounting fees and other professional and consulting fees (a) incurred in procuring or removing tenants for the Building (including, without limitation, fees

incurred in connection with (i) failed negotiations with prospective tenants in the Building; and (ii) the design and construction of tenant improvements for any other tenant or prospective tenant in the Building), (b) incurred in connection with Landlord's negligence or willful misconduct, (c) relating to enforcing any leases or any landlord/tenant proceeding, (d) relating to the defense of Landlord's title to, or interest in, the Property, (e) relating to the refinancing or sale of the Property or any interest therein or sale of any interest in Landlord; or (f) relating to the internal affairs of the ownership entity or entities constituting Landlord; (xix) income or franchise taxes or such other taxes imposed upon or measured by Landlord's net income; (xx) recordation and transfer taxes and transfer gain taxes, including, without limitation, any such taxes incurred if this Lease is recorded by Landlord; (xxi) any cost representing an amount paid for services or materials to a person, firm or entity affiliated with Landlord to the extent such amount materially exceeds the amount ordinarily paid for such services or materials of comparable quality at the then-existing market rates; (xxii) all expenses for which Landlord has received (or is entitled to receive) reimbursement (such as, without limitation, by insurance or from other tenants of the Building) except as additional rent under operating expenses or Common Area maintenance expenses lease provisions in leases; (xxiii) rentals and other related expenses incurred in leasing air-conditioning systems, elevators or other equipment ordinarily considered to be of a capital nature (to the extent that any of same would not be includable in Operating Expenses had such expenses been for the purchase or installation of such items); (xxiv) direct and indirect costs incurred to clean up, contain, abate, remove, or otherwise remedy asbestos or hazardous waste (as determined by Applicable Law) from the Property unless the wastes were in or on the Demised Premises or the Building because of, or the action was otherwise necessitated by, Tenant's acts or those of its agents, invitees, or subtenants; (xxv) the cost of performing special services or installations to or for tenants or occupants to the extent such service exceeds that provided by Landlord to Tenant without charge hereunder; (xxvi) electricity costs or HVAC costs for other than Common Areas serving the Demised Premises; (xxvii) fees or expenses of property management services in excess of three percent (3%) of gross income derived from the Property, it being agreed that "gross income" shall include the Building's revenues derived from the following sources, in each case to the extent required to be paid pursuant to Landlord's then existing contract with its property management agent: (a) all base rent and additional rent, however designated, (b) security deposits applied as rent, (c) net income paid to Landlord with respect to the Building's Parking Garage, (d) proceeds from rent loss insurance, and (e) license and other user fees received from tenants, licensees, concessionaires, assignees, subtenants or otherwise for or in connection with the operation, use and/or occupancy of the Building (notwithstanding the fact that the rate of the management fee actually paid by Landlord for such calendar year may be greater than three percent (3%) of all gross income from the Building); (xxviii) painting or decorating any area of the Property which is leased or then available for lease; and (xxix) the cost of artwork. In the event that, during any calendar year or portion thereof during the Term, Landlord shall furnish any utility or service which is included in the definition of Operating Expenses to less than one hundred percent (100%) of the area of the Building because (i) less than all of the area of the Building is occupied, (ii) any such utility or service is not desired or required by any tenant, or (iii) any tenant is itself obtaining or providing any such utility or service, then the Operating Expenses for such calendar year shall be increased to equal the total expenses that Landlord reasonably estimates it would have incurred if Landlord had provided all such utilities and services to one hundred percent (100%) of the area of the Building for the entire calendar year. For example, if the average occupancy rate of the Building

during a calendar year is eighty percent (80%), the janitorial contractor's charges are \$1.00 per occupied square foot per year, and the Building contains one hundred thousand (100,000) square feet of space, then it would be reasonable for Landlord to estimate that, if the Building had been one hundred percent (100%) occupied during the entire calendar year, janitorial charges for such calendar year would have been One Hundred Thousand Dollars (\$100,000) and to compute the Operating Expenses for such calendar year accordingly. In no event shall the provisions of this paragraph be used (A) to enable Landlord to collect from the tenants of the Building more than one hundred percent (100%) of the costs and expenses incurred by Landlord in managing, operating and maintaining the Building and the Land, or (B) to enable Landlord to collect from the tenants of the Building the same expenditure more than once for any calendar year, i.e., there shall be no "double counting" of expenses.

Notwithstanding anything to the contrary set forth in this Section I.X, Operating Expenses for services, utilities, goods and other purposes which are incurred by Landlord with respect to portions of the Common Areas shall be includable in Operating Expenses for purposes of determining the Tenant's Share of Operating Expenses as follows: (A) with respect to categories of Operating Expenses which are incurred with respect to portions of the Common Areas that are located on one or more floors of the Building on which no space is leased to Tenant and on or from which there is no access to the Demised Premises, excluding the Terrace Area, which Landlord and Tenant have agreed are, as of the Effective Date, those categories of Operating Expenses set forth on Exhibit L attached hereto and made a part hereof, Landlord shall reasonably allocate the portion of such categories of Operating Expenses between the Demised Premises and other space in the Building, it being hereby agreed by Landlord and Tenant that, as of the Effective Date, sixteen and forty-seven hundredths percent (16.47%) of the total amount of the Operating Expenses incurred with respect to such items shall be included in Operating Expenses hereunder, (B) with respect to categories of Operating Expenses which are incurred with respect to portions of the Common Areas that are located on one or more floors of the Building on which the Demised Premises, excluding the Terrace Area, are located, on or from which there is access to the Demised Premises, excluding the Terrace Area, but are not susceptible to cost allocation solely to Tenant, which Landlord and Tenant have agreed are, as of the Effective Date, those categories of Operating Expenses set forth on Exhibit L attached hereto and made a part hereof, Landlord shall reasonably allocate the portion of such categories of Operating Expenses between the Demised Premises and other space in the Building, it being hereby agreed by Landlord and Tenant that, as of the Effective Date, one hundred percent (100%) of the total amount of the Operating Expenses incurred with respect to such items shall be included in Operating Expenses hereunder, and (C) with respect to any categories of Operating Expenses which are incurred solely with respect to portions of the Common Areas that are located solely on one or more floors of the Building on which the Demised Premises, excluding the Terrace Area, are located, or on or from which there is access to the Demised Premises, excluding the Terrace Area, and which are susceptible to cost allocation solely to Tenant, which Landlord and Tenant have agreed are, as of the Effective Date, those categories of Operating Expenses set forth on Exhibit L attached hereto and made a part hereof, Tenant shall reimburse Landlord separately, not as part of Tenant's Share of Operating Expenses, for one hundred percent (100%) of such costs.

*Y. Parking Permits:* Up to twenty-five (25) monthly parking permits, in accordance with the terms of Section 38 below (recognizing that Tenant shall also have the right to utilize not less

than an additional fifty-five (55) transient parking spaces in accordance with the terms of Section 38 below).

*Z. Real Estate Tax Expenses:* All real estate taxes and special assessments levied against the Land and/or improvements thereon by governmental taxing authorities, including any traffic mitigation charges imposed by Applicable Law on Landlord, the Building or the Land. Such taxes shall not include, without limitation: any tax upon Landlord's net income or profits, business, professional and occupational and license taxes (BPOL), federal, state or local income taxes, franchise, gift, transfer, excise, capital stock, estate, succession, or inheritance taxes. Landlord shall not include in taxes any interest or penalties incurred by Landlord by reason of Landlord's failure to pay when due any real property taxes and assessments, except that if Tenant has not paid all portions of Tenant's Share of Real Estate Tax Expenses which are then due and payable, Tenant shall pay to Landlord such interest and penalties as are allocable to such unpaid portion of Tenant's Share of Real Estate Taxes.

AA. *Renewal Term:* The five (5) year additional period provided for in Section 46.

BB. *Rent:* All Base Rent and Additional Rent.

(1) *Base Rent:* The FMV Rental Rate for the Demised Premises, excluding the Terrace Area, as determined in accordance with, and subject to the Rent abatement provisions of, Section 4 of this Lease.

(2) *FMV Rental Rate:* The aggregate fair market rental rate for the Restricted Space, the Unrestricted Space, and the Bonus Space, as agreed to by the parties or determined by the Three Broker Method pursuant to Section 4 of this Lease, based upon the rent for Comparable Space in the Market Area taking into account, among all other factors deemed relevant under the Uniform Standard Professional Appraisal Practices (the "USPAP") (a) Tenant's use (or its subtenant's, licensee's or assignee's use, as applicable) of the Restricted Space, the Unrestricted Space and the Bonus Space, as applicable, and (b) the fact that Tenant is obligated to pay Tenant's Share of Operating Expenses and Tenant's Share of Real Estate Tax Expenses in the manner provided in Section 5 hereof (which the parties acknowledge does not reflect a "full service" lease).

(3) *Additional Rent:* All sums of money payable by Tenant pursuant to this Lease other than Base Rent.

CC. *Restricted Space:* Nineteen thousand seven hundred sixty-six (19,766) square feet of area located within the Demised Premises.

DD. *Tenant's Addresses for Notice(s):*

Before and after the Commencement Date:

Arlington County Manager  
2100 Clarendon Boulevard, Suite 302  
Arlington, Virginia 22201  
Phone: (703) 228-3120  
Fax: (703) 228-3295

In either case, with a copy to:

Real Estate Bureau Chief  
Engineering & Capital Projects Division  
Department of Environmental Services  
2100 Clarendon Boulevard, Suite 900  
Arlington, Virginia 22201  
Phone: (703) 228-34354  
Fax: (703) 228-7542

and

Director of Department of Management and Finance, Arlington County  
2100 Clarendon Boulevard, Suite 501  
Arlington, Virginia 22201  
Phone: (703) 228-3415  
Fax: (703) 228-3401

and

Director of Parks, Recreation and Cultural Resources  
2100 Clarendon Boulevard, Fourth Floor  
Arlington, Virginia 22201  
Phone: (703) 228-3323  
Fax: (703) 228-3328

Tenant may, from time to time, modify Tenant's Address for Notice(s) by providing Landlord with written notice of the modified Tenant's Address for Notice(s).

*EE. Tenant's Personal Property:* All equipment, improvements, furnishings and/or other property now or hereafter installed or placed in or on the Demised Premises by and at the sole expense of Tenant or with Tenant's permission (other than any property of Landlord), including without limitation, the Existing Personalty, which is (except for Existing Personalty) removable without damage to the Demised Premises, the Building and the Land.

FF. "*Term*" means the Initial Term and, if applicable, the Renewal Term (as defined in Section 46).

GG. *Terrace Area:* The exterior terrace area designated on Exhibit C attached hereto and made a part hereof.

HH. *Unavoidable Delay:* Any delays due to strikes, labor disputes, shortages of material, labor or energy, acts of God, governmental restrictions, enemy action, civil commotion, fire, unavoidable casualty or any other causes beyond the control of Landlord or Tenant, as applicable.

II. *Unrestricted Space:* Seventeen thousand four hundred ten (17,410) square feet of area located within the Demised Premises.

## 2. TERM.

Landlord does hereby lease to Tenant, and Tenant does hereby lease from Landlord, for the Term upon the conditions hereinafter provided, the Demised Premises. If requested by either party hereto at any time during the Initial Term, the party so requested promptly will execute a

declaration in the form attached hereto and made a part hereof as Exhibit B, which declaration shall confirm the Effective Date and the Lease Commencement Date. Notwithstanding any other provision, term or condition of this Lease, Tenant shall have the right to terminate this Lease pursuant to the Tenant's Option to Terminate attached hereto and made a part hereof as Exhibit G.

### **3. AS-IS CONDITION; LANDLORD'S WORK.**

A. Landlord shall deliver the Demised Premises to Tenant in its "as-is" condition as of the Lease Commencement Date; provided, however, that Landlord shall, at its sole cost and expense do the following (it being agreed that Operating Expenses shall not include any repairs or replacements required to comply with Applicable Law with respect to conditions existing in violation thereof on the Commencement Date (unless the violation is solely caused by Tenant)):

(1) Ensure that, as of the Lease Commencement Date, the Demised Premises is free of all Hazardous Materials (as defined in Section 39 below), and that all electrical, mechanical (including without limitation, elevators and escalators), plumbing and life safety systems serving the Demises Premises are in working condition prior to the beginning of the Initial Term;

(2) Ensure that, as of the Lease Commencement Date, and at all other times during the Term, the Demised Premises, excluding the Terrace Area, is equipped with code-compliant, operational smoke detectors, operational fire alarms, and, an operational sprinkler system, unless necessitated by any Alterations of the Demised Premises by Tenant or any of Tenant's Transferees (as defined below), in which event such compliance is Tenant's responsibility, for its specific use;

(3) Ensure that, as of the Lease Commencement Date, and at all other time during the Term, Landlord shall provide barrier-free accessibility to the Common Areas, and Landlord shall adhere to the requirements of the Americans with Disabilities Act and the regulations promulgated thereunder (the "ADA") on an ongoing basis as Building modifications are undertaken by Landlord or other tenants of the Building other than Tenant. As of the Lease Commencement Date, to the best of Landlord's knowledge, the Building's Common Areas are in compliance with the ADA; provided, however, that Tenant, at its sole cost and expense, shall be responsible for the correction of any non-compliance of the Common Areas with the ADA resulting from any Alterations made by Tenant which relate to "path of travel" requirements, as set forth in the ADA, and similar accessibility requirements set forth in the ADA. In the event that Tenant desires a higher standard of accessibility in or through Common Areas than is provided for in the ADA, Tenant shall have the right to request that Landlord make such improvements and modifications as Tenant desires, at Tenant's sole cost and expense, and Landlord shall advise Tenant whether Landlord elects to make such improvements and modifications, which election shall be made by Landlord in its sole and absolute discretion. In the event that Landlord elects not to make such requested improvements and modifications, Landlord shall advise Tenant, for informational purposes only, of the basis for Landlord's decision.

(4) As of the Lease Commencement Date, Landlord makes no representation that the Demised Premises, including, without limitation, the Terrace Area, are in compliance with the ADA.

B. Simultaneously with Landlord's execution of this Lease, Landlord shall convey the ownership of and to the Existing Personalty to Tenant pursuant to a Bill of Sale in the form attached hereto and made a part hereof as Exhibit O, which Bill of Sale shall contain warranties

of good, lien free title to the Existing Personalty. Landlord acknowledges and agrees that, from and after the Effective Date, Tenant shall have the right to relocate and/or to remove all or any portion of, the Existing Personalty within or from the Demised Premises from time to time and to sell, transfer, replace or dispose of same at Tenant's sole discretion.

Except as specifically set forth in this Lease, Landlord has no obligation to make any other improvements or alterations to the Demised Premises or to provide any allowance with respect to the performance by Tenant of any Alterations to the Demised Premises.

#### **4. RENT.**

From and after the Lease Commencement Date, Tenant shall pay to Landlord Base Rent and Additional Rent as are set forth in this Section 4 and in Section 5, respectively, below.

##### *A. Base Rent:*

(1) Base Rent with respect to the Bonus Space shall be abated in its entirety throughout the entire Initial Term.

(2) For the first ten (10) Lease Years, Base Rent for the remainder of the Demised Premises, excluding the Terrace Area (*i.e.*, the Restricted Space and the Unrestricted Space), shall be abated in its entirety.

(3) Base Rent for Lease Year 11 for the remainder of the Demised Premises, excluding the Terrace Area (*i.e.*, the Restricted Space and the Unrestricted Space), shall be abated by sixty-seven percent (67%), which abatement shall be applied on an equal monthly basis.

(4) Base Rent for Lease Year 12 for the remainder of the Demised Premises, excluding the Terrace Area (*i.e.* the Restricted Space and the Unrestricted Space), shall be abated by thirty-four percent (34%), which abatement shall be applied on an equal monthly basis.

(5) Base Rent for Lease Year 13 through the expiration of the Initial Term of this Lease for the remainder of the Demised Premises, excluding the Terrace Area (*i.e.*, the Restricted Space and the Unrestricted Space), shall be an amount equal to one hundred percent (100%) of the then FMV Rental Rate.

(6) Base Rent for the Renewal Term (to the extent exercised) shall be as established pursuant to Section 46.

If Landlord and Tenant have not mutually agreed on: (i) the FMV Rental Rate for Lease Year 11; and (ii) an annual percentage increase in the FMV Rental Rate for Lease Years 12 through 15, inclusive (the "Annual Percentage Increase") prior to that date which is ninety (90) days prior to the expiration of Lease Year 10, then within ten (10) days after such date, each party shall give notice to the other party setting forth the name and address of a Broker (as hereinafter defined) selected by such party who has agreed to act in such capacity, to determine the FMV Rental Rate and the Annual Percentage Increase. If either party shall fail to select a Broker as aforesaid and such failure shall continue for more than ten (10) days after written notice of such failure is provided, the FMV Rental Rate and the Annual Percentage Increase shall be determined by the Broker selected by the other party. Each Broker shall thereupon independently make his or her determination of the FMV Rental Rate and the Annual Percentage Increase within twenty (20) days after the appointment of the second Broker. If the two Brokers' determinations of the FMV Rental Rate are not the same, but the higher of such two values is not more than one hundred five percent (105%) of the lower of them, then the FMV Rental Rate

shall be deemed to be the average of the two values. If the higher of such two values is more than one hundred five percent (105%) of the lower of them, then the two Brokers shall jointly appoint a third Broker within ten (10) days after the second of the two determinations described above has been rendered. If the two Brokers do not agree upon the third Broker within such ten (10) day period, then the third Broker shall be selected by arbitration in Arlington, Virginia, in accordance with the then current commercial rules of the American Arbitration Association (the "AAA"). The third Broker shall independently make his or her determination of the FMV Rental Rate within thirty (30) days after his or her appointment. The highest and the lowest determinations of value among the three Brokers shall be disregarded and the remaining determination shall be deemed to be the FMV Rental Rate. Within thirty (30) days after the FMV Rental Rate is determined as aforesaid, the parties shall execute an amendment to this Lease setting forth the Base Rent to be paid for the remainder of the Initial Term. Landlord and Tenant hereby expressly agree that if the FMV Rental Rate has not been determined prior to the expiration of Lease Year 10, then Tenant shall pay Base Rent for the Remainder of the Demised Premises, excluding the Terrace Area (*i.e.*, the Restricted Space and the Unrestricted Space), in the amount reasonably estimated by Landlord to be the FMV Rental Rate starting thirty (30) days after Landlord provides Tenant with written notice of Landlord's reasonable estimate as aforesaid (but subject to the sixty-seven percent (67%) abatement described in Section 4.A(3) above), and the Base Rent shall be retroactively adjusted to the FMV Rental Rate once determined pursuant to the terms of this Section 4, if the Base Rent as thus determined is different from the amount of Base Rent proposed by Landlord.

If Landlord and Tenant, at the time of establishing the FMV Rental Rate for Lease Year 11, have not agreed to the Annual Percentage Increase, then Landlord and Tenant shall employ the above-described "Three Broker Method" to determine the Annual Percentage Increase.

Within thirty (30) days after the FMV Rental Rate and Annual Percentage Increase are determined as aforesaid, the parties shall execute a written confirmation of the Base Rent to be paid for the applicable period of the Initial Term. Landlord and Tenant hereby expressly agree that if the FMV Rental Rate has not been determined prior to the expiration of Lease Year 10, then (i) Tenant shall pay Base Rent in an amount equivalent, on a monthly basis, to the abated rent for Lease Year 10 as shown in the Abated Rent Schedule (as hereinafter defined), (ii) the Base Rent shall be retroactively adjusted to the FMV Rental Rate once determined pursuant to the terms of this Section 4, and (iii) any Base Rent shortfall resulting from such retroactive adjustment shall be paid by Tenant within thirty (30) days after the FMV Rental Rate is so determined. Likewise, in the event that any Base Rent overpayment arises from such retroactive adjustment, Landlord shall credit such overpayment against Base Rent next due and owing.

For the purposes of this Lease, "Broker" shall mean a commercial real estate broker licensed in the Commonwealth of Virginia, who has been regularly engaged in such capacity in the Market Area for at least ten (10) years immediately preceding such person's appointment hereunder. The Brokers shall be instructed to take into account that the Demised Premises, excluding the Terrace Area, are comprised of 17,410 square feet of unrestricted space, 19,766 square feet of restricted space, and 16,650 square feet of bonus space. Each party shall pay for the cost of its Broker and one half (½) of the cost of the third Broker.

**B. Payment:** Tenant shall pay Base Rent to Landlord in the applicable amounts set forth in Section 4.A in equal monthly installments ("Monthly Base Rent") in advance on the first day of

each calendar month during the Term, without notice. All Base Rent and Additional Rent due and payable to Landlord under this Lease shall be paid to Landlord at the Landlord Payment Address. Payments of Rent (other than in cash), if initially dishonored, shall not be considered rendered until ultimately honored as cash by Landlord's depository. Except as expressly set forth otherwise in this Lease, Tenant will pay all Rent to Landlord without demand, deduction, set-off or counter-claim. If any sum payable by Tenant under this Lease is paid by check which is returned due to insufficient funds, stop payment order, or otherwise, then: (a) such event shall be treated as a failure to pay such sum when due; and (b) in addition to all other rights and remedies of Landlord hereunder, Landlord shall be entitled (i) to impose, as Additional Rent, a returned check charge of Fifty Dollars (\$50.00) to cover Landlord's administrative expenses and overhead for processing, and (ii) to require that all future payments be remitted by wire transfer, money order, or cashier's or certified check.

C. *Late Fee*: If Tenant fails to make any payment of Rent on or before the date when payment is due, then Tenant also shall pay to Landlord a late fee equal to five percent (5%) of the amount that is past due for any such late payment during the Initial Term and three percent (3%) of the amount that is past due for any such late payment during the Renewal Term, and, in either case, if any amount remains past due for more than one (1) month, then thereafter Tenant shall pay to Landlord a late fee in an amount equal to one percent (1%) of the amount that is past due for each month or part thereof until such Rent is fully paid; provided, however, that on the first (1<sup>st</sup>) occasion (but not on any subsequent occasion) during any twelve (12) month period, such late fee shall not be assessed on a payment of Rent which is not made on the due date therefor if such payment of Rent is made on or before the ninth (9<sup>th</sup>) day following such due date, and thereafter the aforesaid late fee shall be applied to each subsequent required payment which is not received by the date on which such payment is due, rather than deferring such late fee until after the ninth (9<sup>th</sup>) day following the date when such payment is due. Said late fee shall be deemed reimbursement to Landlord for its costs of carrying and processing Tenant's delinquent account. Acceptance by Landlord of said late fee shall not waive or release any other rights or remedies to which Landlord may be entitled on account of such late payment.

D. *REIT/UBTI*: Landlord and Tenant agree that no rental or other payment by Tenant for the use or occupancy of the Demised Premises is or shall be based in whole or in part on the net income or profits derived by any person or entity from the Building or the Demised Premises. Tenant further agrees that it will not enter into any sublease, license, concession or other agreement for any use or occupancy of the Demised Premises which provides for a rental or other payment for such use or occupancy based in whole or in part on the net income or profits derived by any person or entity from the Demised Premises so leased, used or occupied. Nothing in the foregoing sentence, however, shall be construed as permitting or constituting Landlord's approval of any sublease, license, concession, or other use or occupancy agreement not otherwise approved by Landlord in accordance with the provisions of Section 23 of this Lease. This Section 4.D shall not be deemed or construed to prohibit or prevent Tenant from entering into a sublease, license, concession or other agreement for any use or occupancy of the Demised Premises which provides for a rental or other payment for such use or occupancy based on a percentage of gross revenue or portion of gross revenue (*e.g.*, for ticket sales or admission charges) derived by any person or entity from the Demised Premises so leased, used or occupied.

## 5. ADDITIONAL RENT.

### A. *Tenant's Share of Operating and Real Estate Tax Expenses:*

(1) "Tenant's Share of Operating Expenses" shall be an amount equal to that percentage of Operating Expenses which is the equivalent of the number of square feet of area in the Demised Premises, excluding the Terrace Area (53,826 on the Lease Commencement Date), divided by the number of square feet of area of leasable space in the Building other than retail space (318,616 on the Lease Commencement Date). "Tenant's Share of Real Estate Tax Expenses" shall be an amount equal to that percentage of Real Estate Tax Expenses which is equivalent to the number of square feet of area in the Demised Premises, excluding the Terrace Area (53,826 on the Lease Commencement Date), divided by the number of square feet of all leasable area (including retail) in the Building (326,889 on the Lease Commencement Date). However, in no event shall any of the aforesaid sums be less than zero.

(2) Commencing on the Lease Commencement Date, and for each calendar year during the Term, Tenant shall pay to Landlord, as Additional Rent, Tenant's Share of Operating Expenses and Tenant's Share of Real Estate Tax Expenses. For any partial calendar year during the Term, Tenant's obligation for Tenant's Share of Operating Expenses and Tenant's Share of Real Estate Tax Expenses shall be the result of multiplying the actual Tenant's Share of Operating Expenses and Tenant's Share of Real Estate Tax Expenses by a fraction, the numerator of which shall be the greater of (x) the number of days in the calendar year the Demised Premises was leased by Tenant or (y) in the event of Tenant's holdover occupancy in the Demised Premises after the Expiration Date or earlier termination of this Lease, the number of days during such calendar year that Tenant occupied the Demised Premises or any portion thereof, and the denominator of which shall be 365 (or, in the case of leap years, 366).

B. *Statements:* For each calendar year of the Term, Landlord shall deliver to Tenant a statement estimating Tenant's Share of Operating Expenses and Tenant's Share of Real Estate Tax Expenses, which estimated statement Landlord shall endeavor to deliver to Tenant on or before January 1 of the calendar year to which the estimated statement applies; provided, however, that Landlord shall have the right to revise such estimated statement if delivered to Tenant not later than March 31 of the calendar year to which such estimated statement applies. Landlord's statement as aforesaid for calendar year 2009 is attached hereto and made a part hereof as Exhibit L. Tenant shall pay such estimated Tenant's Share of Operating Expenses and Tenant's Share of Real Estate Tax Expenses set forth in Landlord's statement in equal monthly installments on the first (1st) day of each calendar month (but starting no sooner than thirty (30) days after Landlord delivers such statement to Tenant) until the first (1st) day of the calendar month which commences at least thirty (30) days after the date on which Tenant is given any subsequent statement, and thereafter Tenant shall pay to Landlord in equal monthly installments on the first (1st) day of each calendar month the amount of Tenant's Share of Operating Expenses and Tenant's Share of Real Estate Tax Expenses as set forth in the most recently delivered statement.

C. *Reconciliations:* After the expiration of each calendar year, Landlord shall review its books and records and a determination shall subsequently be made of the actual Operating Expenses and the actual Real Estate Tax Expenses for such prior calendar year. Actual Operating Expenses and Real Estate Tax Expenses for each calendar year shall be those actually incurred with respect to such calendar year. Landlord shall submit to Tenant a statement of the aforesaid

determination, including actual Operating Expenses and Real Estate Tax Expenses and Tenant's Share of Operating Expenses and Tenant's Share of Real Estate Tax Expenses, which such statement shall be certified by Landlord's Chief Financial Officer as having been prepared in accordance with the applicable provisions of this Lease and as containing no material inaccuracies known to Landlord's Chief Financial Officer. Landlord shall provide such statement within one hundred eighty (180) days following the end of the calendar year to which the statement applies, and if such statement is not provided within said 180-day period following the end of the calendar year to which the statement applies, Tenant shall have the right, at any time thereafter, to notify Landlord that it has not provided such statement within said 180-day period following the end of the calendar year to which the statement applies, which notice shall be in bold font and advise Landlord that it is being issued pursuant to this Section 5.C because of Landlord's failure to provide such statement within the 180-day period following the end of the calendar year to which the statement applies and that Landlord has an obligation to deliver such statement to Tenant within sixty (60) days following Landlord's receipt of Tenant's notice. Landlord shall then be obligated to deliver such statement to Tenant within sixty (60) days following receipt of Tenant's notice. If Landlord fails to deliver such statement to Tenant within sixty (60) days following Landlord's receipt of Tenant's notice, Landlord shall be prohibited from seeking or obtaining any shortfall in payments for such calendar year. Actual Operating Expenses and Real Estate Tax Expenses shall be computed by Landlord on the accrual basis. Within thirty (30) days after the delivery of such statement (including any statement delivered after the Expiration Date or earlier termination of this Lease), Tenant shall pay to Landlord the amount by which actual Tenant's Share of Operating Expenses and Tenant's Share of Real Estate Tax Expenses exceeds estimated payments of Tenant's Share of Operating Expenses and Tenant's Share of Real Estate Tax Expenses made by Tenant pursuant to Section 5.A(2) above, for the calendar year. If the aggregate amounts of such estimated payments toward Tenant's Share of Operating Expenses and Tenant's Share of Real Estate Tax Expenses paid by Tenant during the preceding calendar year exceeds actual Tenant's Share of Operating Expenses and Tenant's Share of Real Estate Tax Expenses, then the overpayment shall be credited toward payment of the next installments of Rent to be paid by Tenant after Tenant receives said statement of actual Tenant's Share of Operating Expenses and Tenant's Share of Real Estate Tax Expenses from Landlord; provided that in the event the Term has expired and Tenant is not then in default under this Lease, beyond any applicable notice and cure periods, said overpayment shall be paid to Tenant within thirty (30) days after the Expiration Date or earlier termination of this Lease. In the event that Landlord receives a refund of Real Estate Tax Expenses following the expiration of the Term or earlier termination of this Lease, Landlord shall refund to Tenant, Tenant's pro rata share of such refund within thirty (30) days following the later to occur of (a) the date of Landlord's receipt of such refund or (b) Tenant's cure of all defaults, by Tenant, if any, under this Lease.

D. *Audit Rights:* Within one hundred eighty (180) days following Landlord's delivery of a reconciliation statement pursuant to Section 5.C above, Tenant shall have the absolute right to have a certified public accounting firm or an employee of Tenant (who either is Tenant's Director of Department of Management and Finance, an employee of Tenant who is designated by Tenant's Director of Department of Management and Finance or an employee of Tenant who is supervised by Tenant's Director of Department of Management and Finance) ("Tenant's Auditor") audit on a non-contingent fee basis Landlord's books and records pertaining to Operating Expenses and Real Estate Tax Expenses and Tenant's Share of Operating Expenses

and Tenant's Share of Real Estate Tax Expenses for the calendar year which is the subject of such statement and for the two (2) immediately prior calendar years; provided, however, Tenant shall not be entitled to audit Landlord's books and records as aforesaid more than once for any particular calendar year but can use the results of a prior audit in connection with Tenant's current audit. Any statement provided to Tenant by Landlord pursuant to this Section 5 shall be conclusive and binding upon Tenant unless, within one hundred twenty (120) days after delivery thereof, Tenant notifies Landlord of the respects in which the statement is claimed to be incorrect. During such 120-day period, Landlord, upon thirty (30) days written notice from Tenant, shall make available for Tenant's Auditor to review all appropriate books and records, paid bill files, general ledgers, Operating Expense and Real Estate Tax Expenses billing files and contracts to the extent that same relate to Operating Expenses or Real Estate Tax Expenses, whichever is at issue. In the event of a dispute between Landlord and Tenant as to whether there has been an overstatement by Landlord of Tenant's Share of Operating Expenses, Tenant's Share of Real Estate Tax Expenses or both of same, Landlord's accountant and Tenant's Auditor shall jointly select an independent certified public accounting firm, or, if Landlord's accountant and Tenant's Auditor do not jointly select such independent certified public accounting firm within ten (10) business days following a request from Landlord and Tenant to do so, then the Northern Chapter of The Virginia Society of Certified Public Accountants (the "Northern Chapter of TVSCPA") shall select an independent certified public accounting firm which is one of the so-called "Big Three" accounting firms (the independent certified public accounting firm jointly selected by Landlord's accountant and Tenant's Auditor or by the Northern Chapter of TVSCPA, as applicable, being hereinafter referred to as the "Independent Accountant"), who shall resolve the dispute, and the determination of said Independent Accountant shall be conclusive with respect to the dispute. Tenant shall be responsible for the entire cost of said audit unless an overstatement of Tenant's Share of Operating Expenses and Tenant's Share of Real Estate Tax Expenses greater than five percent (5%) in Landlord's favor is identified by either agreement of the parties or pursuant to a determination by the Independent Accountant. In such instance, Landlord shall be responsible for audit costs incurred by Tenant, not to exceed \$5,000.00. The costs of the Independent Accountant shall be divided equally between Landlord and Tenant (recognizing that in all events each party shall bear the cost of its own legal fees), unless (i) the Independent Accountant determines that Landlord's statement did not contain a discrepancy in Landlord's favor, in which event Tenant shall bear the costs of the Independent Accountant, or (ii) the Independent Accountant determines that Landlord's statement contained a discrepancy of at least five percent (5%) in Landlord's favor, in which event Landlord shall bear the costs of the arbitrator. Pending determination of any dispute, Tenant shall pay all amounts due pursuant to the disputed statement, but such payments shall be without prejudice to Tenant's position. In the event of an overpayment of Tenant's Share of Operating Expenses and Tenant's Share of Real Estate Tax Expenses, Landlord shall promptly apply said overpayment to Rent next coming due, or if the Term of this Lease has expired or been terminated, then Landlord shall pay the amount of any such excess estimated payments to Tenant within thirty (30) days after the date of Tenant's cure of all defaults, if any, under this Lease.

E. *Change In or Contest of Taxes:* In the event of any change by any taxing body in the period or manner in which any of the Real Estate Tax Expenses are levied, assessed or imposed, Landlord shall have the right, in its sole discretion, to make equitable adjustments with respect to computing increases in Real Estate Tax Expenses. Real Estate Tax Expenses which are being contested by Landlord shall be included in computing Tenant's Share of Real Estate Tax

Expenses under this Section 5, but if Tenant shall have paid Rent on account of contested Real Estate Tax Expenses and Landlord thereafter receives a refund of such taxes, Tenant shall receive a credit toward subsequent Rent payments in an amount equal to Tenant's proportionate share of such refund.

F. *No Additional Charges:* Except for Base Rent and Additional Rent payable by Tenant under this Lease, Tenant shall not, at any time, be obligated to pay any sums as rent, costs, or expenses, for the right to lease the Demised Premises, or use any portion of the Common Areas of the Building.

## 6. USE.

A. *Permitted Use:* During the Initial Term and the Renewal Term (to the extent exercised), Tenant shall be permitted to use and occupy the Demised Premises solely for a museum, other cultural uses, and any related ancillary uses (including, but not limited to, food service, café uses or retail use related to the museum or other cultural uses that are the primary uses), as approved by Landlord, which approval shall not be unreasonably withheld, conditioned or delayed. (Tenant's use of the Terrace Area is further subject to the provisions of Section 44 hereof.) Notwithstanding the foregoing, without limitation, the following uses are prohibited: medical use, the provision of general governmental services not directly related to the uses otherwise permitted herein, use as a payment center, provision of temporary services, counseling or gambling-related functions, other than charitable games (for example, bingo, auctions and raffles) on an occasional basis under the auspices of tax-exempt charitable organizations for participation by their members and guests of members, as opposed to such games being conducted by general public. Any other use shall be subject to the approval of Landlord. Landlord covenants and warrants that the uses permitted by this Lease are not prohibited or restricted by any unrecorded restrictive covenants. Tenant shall not permit uses in the Demised Premises which transmit noise levels to any adjacent spaces (including but not limited to Common Areas) during the hours of 7:00 a.m. to 6:00 p.m. on Monday through Friday (excluding Holidays) or during the hours from 9:00 a.m. to 1:00 p.m. on Saturdays in excess of an average, or  $L_{eq}$ , of 35 dBA, with maximum levels not exceeding an  $L_{10}$  of 45 dBA (the "Permitted Noise Limit"). In order to determine whether the Permitted Noise Limit is exceeded, sound shall be measured during a 15-minute period in any of the adjoining spaces during normal operational conditions in the space in which the sound is produced, with measurements to be conducted by moving an Integrating Sound Level Meter through an arch to obtain a space average over such 15-minute period following proper measurement techniques (the "Noise Measuring Procedures"). The  $L_{eq}$  represents the average level over the measurement period (and thus average levels should be less than 35 dBA). The  $L_{10}$  represents the level that is not exceeded more than ten percent (10%) of the time (and thus 90% of the time levels will be less than 45 dBA).

B. *Legal and Other Restrictions of Tenant's Use:* Tenant shall not use or occupy the Demised Premises for any unlawful purpose, or in any manner that will violate the site plan or certificate of occupancy for the Demised Premises or the Building or that will constitute waste, nuisance or unreasonable annoyance to Landlord or any other tenant or user of the Building. Tenant shall comply with, and shall ensure that the Demised Premises is at all times not in violation of Applicable Law which shall be complied with in a timely manner at Tenant's sole expense. If any such Applicable Law requires an occupancy or use permit or license for the Demised Premises or the operation of the business conducted therein (including a certificate of

occupancy or nonresidential use permit), then Tenant or its subtenant or licensee, as the case may be, shall obtain and keep current such permit or license at Tenant's expense and shall promptly deliver a copy thereof to Landlord. Except as permitted in Section 6.A, Tenant shall not use any space in the Building for the sale of goods to the public at large or for the sale at auction of goods or property of any kind. Tenant shall not conduct any operations, sales, promotions, or advertising or special events in, on or about the Building outside of the Demised Premises, except to the extent permitted in the Terrace Area by any other provision(s) of this Lease. Nothing set forth in the immediately preceding sentence shall restrict Tenant's right to conduct any promotions or advertising outside of the property line of the Land that would otherwise be permitted by Applicable Law. Tenant shall not use the Demised Premises for any use prohibited by the applicable provisions of the Arlington County Zoning Ordinance.

## **7. CARE OF DEMISED PREMISES.**

A. *Generally.* Tenant shall, at its expense, keep the Demised Premises (including the HVAC system exclusively serving the Demised Premises and the escalator located within the Demised Premises and all improvements, fixtures, furniture, equipment located in, or exclusively serving, the Demised Premises, and all other property located therein serving the Demised Premises) in a neat and clean condition and in good order and repair, make all required repairs and replacements thereto and suffer no waste or injury thereto; provided, however, that the maintenance and repair of the Terrace Area is addressed at Section 44 hereof. Tenant shall have the right to request that Landlord, at Tenant's cost and upon such terms and conditions as are mutually acceptable to Tenant and Landlord, make such repairs and replacements as are required of Tenant by this Section 7. Landlord agrees to perform such requested repairs and replacements on an "open book" basis, that is, prior to the acceptance of any bid or contract for any such work, Landlord shall furnish Tenant with the price of the proposed work and a copy of each accompanying bid. Tenant shall reimburse Landlord for all costs so incurred by Landlord plus twenty percent (20%) of the costs of such repairs and maintenance (*i.e.*, 10% for Landlord's overhead plus 10% for profit) that are performed satisfactorily on a monthly basis as performance of the work progresses, within thirty (30) days following Landlord's demand therefor. Tenant shall give Landlord prompt notice of any defects or damage to the structure of, or equipment or fixtures in, the Demised Premises or any part thereof that Landlord is required to maintain, repair or replace pursuant to the terms of this Lease of which Tenant obtains actual knowledge. Likewise, Landlord shall give Tenant prompt notice of any defect in, or damage to the structure of, or equipment or fixtures in, the Demised Premises or any part thereof of which Landlord obtains actual knowledge. Landlord represents that, to its knowledge, the existing HVAC system serving the Demised Premises serves the entire Demised Premises, excluding the Terrace Area, and only the Demised Premises (*i.e.*, such HVAC system does not serve any area of the Building other than the Demised Premises). In the event that it is determined that such existing HVAC system serves any area of the Building other than the Demised Premises, Landlord shall promptly modify such system, at Landlord's sole cost and expense, so that it exclusively serves only the Demised Premises and Landlord shall reimburse Tenant for all costs previously incurred by Tenant associated with the provision (*i.e.*, maintenance, repair, replacement and pro rata monthly usage) of HVAC service to areas outside of the Demised Premises by such system.

B. *Elevators and Escalators.* Notwithstanding the foregoing or any other term or condition of this Lease, in the event that any of the elevators or escalators within the Demised Premises, or

any material component thereof, needs to be replaced (as reasonably determined by a professional elevator or escalator technician), Landlord and Tenant shall equally share the cost of such replacement, unless it shall be conclusively determined that the applicable replacement was necessitated by (i) a casualty that Tenant is required to insure against under the terms of this Lease, (ii) Tenant's failure to properly maintain or repair such elevator or escalator or material component thereof, or (iii) Tenant's negligence or willful misconduct. It is understood and agreed that if Tenant obtains and maintains (and reasonably oversees and administers) during the Term a maintenance contract (which such contract is reasonably approved by Landlord) on the elevators and escalators within the Demised Premises, it shall be conclusively established that any replacement of an elevator or escalator or material component thereof was not necessitated by Tenant's failure to properly maintain or repair such elevator, escalator or component.

## **8. ALTERATIONS BY TENANT.**

A. *Alterations:* Tenant shall make no Alterations in or to the Demised Premises without Landlord's prior approval both as to whether the Alterations may be made and as to how and when they will be made, and shall make no Alterations to the Terrace Area except as provided by Section 44 hereof. Notwithstanding the foregoing, Landlord shall not unreasonably withhold, condition or delay its consent to any non-structural Alteration which Tenant may desire to make to the Demised Premises, excluding the Terrace Area; provided, however, that Landlord shall retain sole and absolute discretion to withhold its consent to any Alteration, which may, in the sole and absolute judgment of Landlord, (i) exceed the capacity of, hinder the effectiveness of, interfere with the electrical, mechanical, heating, ventilating, air conditioning, or plumbing systems of the Building or which will be connected to any of such systems, (ii) affect (for example, affect the structural integrity) the structural components of the Building (other than non-load-bearing partitions and electrical outlets), or (iii) be visible from outside of the Demised Premises (excluding the Terrace Area), unless the same satisfy the criteria set forth in Section 43 with respect to signage which is visible from outside of the Demised Premises. Notwithstanding the foregoing, Landlord's consent shall not be required for painting, carpeting and other Alterations of a cosmetic nature having no adverse impact on the structural, mechanical, electrical, or plumbing systems of the Building (collectively, the "Permitted Alterations"). Tenant shall, however, provide Landlord's Property Manager at the Building with prior written notice of Tenant's plan to perform Permitted Alterations and shall comply with all Building regulations with respect to Alterations.

In furtherance, and not in limitation, of the foregoing, Tenant shall not make any improvements to, or change, alter or affect any portion of the Building other than the Demised Premises, excluding the Terrace Area, hereunder. Tenant, at its sole cost and expense, must provide Landlord with copies of the original or revised full floor architectural, mechanical and electrical plans for the floor or floors on which the Alterations are to be made, revised by the Tenant's architect to show Tenant's proposed Alterations. Following completion of any Alterations, except with respect to cosmetic or decorative nonstructural Alterations, at Landlord's request, Tenant shall deliver to Landlord a complete set of "as built" plans showing the Alterations or, if Tenant shall fail to do so within sixty (60) days following the date of completion of the Alterations, shall reimburse Landlord for any expense incurred by Landlord in causing the Building plans to be modified to reflect the Alterations. If any Alterations (other than Permitted Alterations) are made without the prior written consent of Landlord, Landlord may require Tenant to correct or remove the same at its expense. All Alterations shall be made at

Tenant's sole expense, at such times and in such manner as Landlord may designate, and only by such contractors or mechanics as are approved in writing by Landlord, such approval not to be unreasonably withheld, conditioned or delayed. It is specifically agreed that in the event either a tenant in the Building complains to Landlord regarding the performance of Tenant's Alterations and such Alterations do in fact interfere with such tenant's business operations, or an agent of Landlord hears an unreasonable amount of noise or feels vibration outside the Demised Premises caused by the performance of Tenant's Alterations, Landlord's designation that Tenant's Alterations must not be performed during Business Hours shall be deemed reasonable. All Alterations undertaken by or on behalf of Tenant shall be completed (i) in accordance with the plans and specifications approved in advance by Landlord, if such approval is required hereby, and in compliance with all Applicable Law, and (ii) in a good and workmanlike manner. If Tenant elects to have Landlord perform such Alterations, Landlord shall solicit, and use commercially reasonable efforts to obtain, bids from at least three (3) qualified contractors and shall seek to require that the contract with the selected contractor includes an acknowledgement by the contractor that it has no mechanic's lien rights in connection with the work. In the event that Landlord performs any such work, Tenant shall reimburse Landlord for all costs of such work on a monthly basis, within thirty (30) days after each demand therefor from Landlord, which shall include payment to Landlord of a construction management fee equal to five percent (5%) of the hard costs of such Alterations based upon the Alterations performed as of each such payment date, as performance of such Alterations progress. All Alterations that would affect structural, electrical, mechanical or plumbing portions of base Building systems or the heating, ventilation and air conditioning system of the Building, or the roof of the Building, shall, at Landlord's election, be performed by Landlord's designated contractor or subcontractor at Tenant's expense, the costs of which work shall be chargeable by such contractor at rates which are not materially in excess of such rates as would be chargeable to Landlord by such contractor if the subject work were performed by such contractor directly for Landlord. Landlord shall have the right, but not the obligation, to supervise the making of any Alterations. If Landlord does not perform the Alterations, Tenant shall pay Landlord a construction oversight fee in an amount equal to one percent (1%) of the hard costs of such Alterations, which fee shall be payable to Landlord on a monthly basis as performance of such Alterations progress. Landlord shall also be reimbursed for its reasonable documented out-of-pocket architectural and engineering fees and costs incurred in connection therewith for professional services which are not generally performed by Landlord or Landlord's property management agent, which reimbursement shall be made within thirty (30) days after written request to Tenant with copies of applicable invoices; provided, however, that prior to incurring any architectural or engineering fees for which Tenant would be liable pursuant to this paragraph, Landlord shall advise Tenant of the estimated amount of such fees (which estimated amount shall be made in good faith but shall be non-binding). Tenant shall then have five (5) business days within which to either advise Landlord to proceed with obtaining the architectural and engineering services deemed necessary by Landlord or to advise Landlord that Tenant is withdrawing its request that Landlord perform the Alterations, it being agreed that the failure of Tenant to make any response within such five (5) business day period shall be deemed Tenant's election to withdraw its request to have Landlord perform the previously requested Alterations. Tenant shall not make any Alteration unless Tenant: (i) has obtained all necessary or applicable permits from governmental authorities having jurisdiction and has furnished copies thereof to Landlord and (ii) has

submitted to Landlord an architect's certificate that the Alterations will conform to all Applicable Law.

**B. *Ownership and Insurability:*** Any Alterations, installed in the Demised Premises at the sole expense of Tenant, other than Tenant's Personal Property, shall be and remain the property of Landlord and shall be insured by Tenant throughout the Term. In the event that Tenant removes any such Alterations (it being understood that Tenant shall have no right to remove any fixtures except as otherwise provided herein), Tenant agrees to repair any damage to the Demised Premises caused by said removal in order that the Demised Premises will be in the same condition as they are in on the Lease Commencement Date, reasonable wear and tear to the Demised Premises excepted. Any replacements of any property or improvements of Landlord, whether made at Tenant's expense or otherwise, shall be and remain the property of Landlord.

Notwithstanding anything to the contrary set forth in this Section 8.B, Tenant's obligations with respect to the removal of any Alterations (including fixtures) shall be as set forth in Section 10.B.

**C. *No Liens:***

(1) The Virginia mechanics' lien statutes do not apply to contracts in which Tenant, as a political subdivision of the Commonwealth, is a party, for construction of public improvements, including any Alterations. No lien can arise from sums due from Tenant to any contractor installing such improvements. Landlord affirmatively waives any statutory or common law lien against Tenant resulting from any improvement or alteration to the Building or the Demised Premises.

(2) Notwithstanding the foregoing, if mechanic's or materialmen's lien is recorded by Tenant's contractors or subcontractors against the Demised Premises, the Building or the Land as a result of Alterations made by Tenant or any of its assignees, subtenants or licensees, Tenant shall, within ten (10) business days after receiving notice thereof from Landlord, either: pay off and obtain a release of such lien; or file such judicial proceeding as is required in order to invalidate the lien; or permit the discharge of such mechanic's lien by bonding of same and thereafter diligently pursue obtaining the release sought in such judicial proceeding, all of which shall be at Tenant's expense. If such lien is not invalidated, but permission is given to discharge such lien by bonding it off, then Tenant shall discharge such lien within ten (10) business days following receipt of a final judicial order permitting such bonding by paying off or bonding the lien. If Landlord gives its consent to the making of any Alteration, such consent shall not be deemed to be an agreement or consent by Landlord to subject its interest in the Demised Premises or the Building to any liens which may be filed in connection therewith, nor shall Landlord's receipt of any fee in connection with any Alterations or Landlord's payment of any allowance to Tenant with respect to any work performed in or with respect to the Demised Premises by or on behalf of Tenant be deemed to constitute a basis for Landlord's interest in the Demised Premises or the Building to be subjected to any lien.

**9. EQUIPMENT.**

**A. *Prohibited Equipment:*** Tenant shall not install or operate in the Demised Premises any equipment or other machinery that, in the aggregate, will cause Tenant to use more than the Demised Premises' Standard Electrical Capacity, without: (i) obtaining the consent of Landlord, who may condition its consent upon the payment by Tenant of Additional Rent for additional

wiring or other expenses resulting therefrom, (ii) securing and maintaining throughout the Term all necessary and required permits from governmental authorities and utility companies and furnishing, if requested, copies thereof to Landlord, and (iii) complying with all other requirements concerning the installation or operation of the equipment or other machinery, which requirements are reasonably requested by Landlord. Tenant shall not install any equipment or machinery which may necessitate any changes, replacements or additions to or material changes in the use of water, heating, plumbing, mechanical, air conditioning or electrical systems, or to any other systems or services, of the base Building systems without obtaining the consent of Landlord.

*B. Payment For Excess Utility Usage:* If any portion or all of Tenant's equipment shall result in electrical demand in excess of the Demised Premises' Standard Electrical Capacity, Landlord shall have the right, in its sole discretion, to install additional transformers, distribution panels, wiring and other applicable equipment at the cost and expense of Tenant. None of the equipment so installed shall be deemed to be Tenant's Personal Property.

*C. Noise; Vibration; Floor Load:* Business machines and equipment belonging to Tenant, which cause noise during Building Hours in excess of the Permitted Noise Limit (as measured using the Noise Measuring Procedures), or vibration that may be transmitted to any part of the Building to such a degree as to be reasonably objectionable to Landlord or to any tenant of the Building, shall be installed and maintained by Tenant at Tenant's expense on devices that eliminate the noise and vibration. Tenant shall not place any load upon the floor of the Demised Premises which exceeds the per square foot load the floor was designed to carry (eighty (80) pounds per square foot for live loads and twenty (20) pounds per square foot for dead loads).

## **10. REMOVAL OF PROPERTY AT END OF TERM.**

*A. Landlord's Property:* Any Alterations and other improvements and any equipment, machinery, furnishings and other property, installed or located in the Demised Premises, the Building or the Land by or on behalf of Landlord or Tenant, except for Tenant's Personal Property: (i) shall immediately become the property of Landlord, and (ii) shall, at Tenant's option, be surrendered to Landlord with the Demised Premises as a part thereof at the end of the Term or removed from the Demised Premises by Tenant at its sole cost and expense; provided, however, Tenant shall be required to remove any Alterations installed by Tenant to the Terrace Area at the end of the Term.

*B. Removal of Alterations:* Tenant has no obligation to remove any Alterations from the Demised Premises which have been installed by Tenant in accordance with the provisions of Section 8 hereof; provided, however, that if Landlord, by notice given to Tenant not later than the sixtieth (60<sup>th</sup>) day prior to the Lease Expiration Date (or, in the case of an earlier termination of this Lease, within ten (10) days following such earlier termination) requests Tenant to remove any structural Alterations or slab cuts made by or on behalf of Tenant, then Tenant shall cause the same to be removed at Tenant's expense on or before the Lease Expiration Date (or the thirtieth (30<sup>th</sup>) day following the date of earlier termination of this Lease, as applicable) If Tenant does not remove or restore such Alterations as Tenant is required to remove or restore within the applicable time period, then Landlord shall have the right to do so and Tenant shall reimburse Landlord for the cost of such removal or restoration. If Landlord elects to require Tenant to restore any slab cuts made by or on behalf of Tenant, then Tenant shall restore the portions of the Demised Premises by reconstructing the floor where such slab cuts have been

made so that the floor load capacity for such reconstructed area is consistent with the floor load capacity of the rest of that floor and so that the fire rating of that portion of the floor is consistent with the fire rating for the rest of that floor of the Building, or, if Tenant does not do so within the applicable time set forth in this Section 10.B, Landlord shall have the right to do so and Tenant shall reimburse Landlord for the cost of such restoration work, as elected by Landlord.

*C. Removal of Tenant's Personal Property At End of Term:* Tenant shall remove all of Tenant's Personal Property (excluding the Existing Personalty, which Tenant may remove or leave at its option) from the Building and the Land on or before the Lease Expiration Date. If any personal property belonging to Tenant is left in the Building or on the Land after the date this Lease is terminated, Landlord shall have the right to store such property at Tenant's sole cost and/or to dispose of it in whatever manner Landlord considers appropriate, without waiving its right to claim from Tenant all expenses and damages caused by Tenant's failure to remove such property, and Tenant shall have no right to compensation from or any other claim against Landlord as a result.

## **11. LANDLORD'S ACCESS TO DEMISED PREMISES.**

*A. Access Generally and Installation of Facilities Within Demised Premises:* Landlord may at any reasonable time enter the Demised Premises, upon 24 hours prior notice to Tenant, to examine such Demised Premises, to make alterations or maintenance or repairs thereto pursuant to the terms of this Lease or to conduct inspections of the Demised Premises; however, in the case of any health or safety emergency or condition that if left uncured threatens immediate and substantial property damage, Landlord and its agents may enter the Demised Premises at any time and in any manner. Except as otherwise set forth herein, Landlord shall be obligated to repair any damage to the Demised Premises resulting from the entry into the Demised Premises by Landlord or its employees or agents. Tenant shall allow the Demised Premises to be exhibited by Landlord upon at least twenty-four (24) hours prior notice: (i) at any reasonable time to representatives of then existing or proposed lenders or investors or to prospective purchasers of the Building, and (ii) during the last eighteen (18) months of the Term, at any reasonable time to persons who may be interested in leasing the Demised Premises. Subject to the terms and conditions of the following paragraph, Landlord reserves the right and shall be permitted reasonable access to the Demised Premises to install, and shall have the right to install, pipes, conduits and other facilities within and through the Demised Premises and to install and service any systems reasonably deemed advisable by Landlord to provide services or utilities to any tenant of the Building or otherwise in connection with the Building. Landlord shall use commercially reasonable efforts to (a) minimize any interference with Tenant's use of the Demised Premises resulting from Landlord's exercise of its rights pursuant to this paragraph, and (b) install any such facilities above the ceiling, below the floor, behind the walls or within the columns of the Demised Premises, or adjacent to columns within the Demised Premises and furred out so as not to be visible, and, in the case of the Terrace Area, in as inconspicuous a location and manner as is practical. In no event, however, shall any such facilities installed within or through the Demised Premises which are visible to Tenant or to users of the Demised Premises be aesthetically inconsistent with the remainder of the Demised Premises, nor shall any such facilities materially reduce the useable area or ceiling heights of the Demised Premises. Prior to Landlord's installation of any facilities within and through the Demised Premises, Landlord shall consult with Tenant to advise Tenant of Landlord's planned installation

(including the nature and location thereof) and solicit Tenant's recommendation with respect to same for informational purposes.

Upon at least thirty (30) days prior written notice to Tenant, Landlord may make necessary alterations, additions or improvements, whether structural or otherwise, in and about the Building, or any part thereof as specifically permitted in this Lease, and for such purposes to enter the Demised Premises, at times, at locations and in a manner reasonably acceptable to Tenant, and, during the continuance of any such work, to temporarily close doors, entry ways, Common Areas or public spaces and corridors in the Building and to interrupt or temporarily suspend Building services and facilities, all without affecting any of Tenant's obligations hereunder, so long as the Demised Premises are reasonably accessible and are usable for Tenant's uses without material interference or interruption. Landlord agrees that in the exercise of its rights pursuant to this Section 11, Landlord shall not unreasonably interfere with Tenant's business operations in the Demised Premises and Landlord shall use reasonable efforts to limit the scope and duration of any such interference which does occur. Tenant's intended use of the Demised Premises is expected to include cultural uses such as, but not limited to, musical performances, lectures and readings that would, in Tenant's reasonable opinion, be adversely affected by construction noise emitted from either within or without the Demised Premises which is in excess of the Permitted Noise Limit (collectively, "Cultural Events"). Accordingly, Landlord shall not perform construction work upon the Land or within the Building during any time when the Demised Premises is used for Cultural Events if such construction work produces noise that is audible within the Demised Premises at a level above the Permitted Noise Limit (as measured using the Noise Measuring Procedures), other than during the period beginning at 7:00 a.m. and ending at 10:00 a.m. on any day. In order to facilitate non-interference with Tenant's Permitted Uses in the Demised Premises, Landlord may provide Tenant with written notices (a "Construction Work Notice") from time to time at Landlord's option, which such Construction Work Notice shall request that Tenant give Landlord notice of all then scheduled upcoming Cultural Events (including the time thereof) in the Demised Premises for the next sixty (60) days. Within fifteen (15) business days after receipt of Landlord's Construction Work Notice as aforesaid, Tenant shall provide Landlord with a written notice (a "Scheduled Performance Notice") that lists all then scheduled Cultural Events (including the times thereof) in the Demised Premises during the sixty (60)-day period following the date of the Scheduled Performance Notice. Landlord shall be entitled to rely upon such Scheduled Performance Notice in planning any alterations, additions or improvements which Landlord intends to make, and Landlord shall be entitled to perform work at any time that no Cultural Event is shown on such Scheduled Performance Notice. Additionally, Landlord shall be entitled to perform work at any time that a Cultural Event is scheduled on a Scheduled Performance Notice if, in fact, no such Cultural Event actually occurs at that time (e.g., because that scheduled Cultural Event is cancelled). A failure by Tenant to provide such Scheduled Performance Notice within fifteen (15) business days after Tenant's receipt of Landlord's Construction Work Notice shall be deemed to mean that no Cultural Events are scheduled for the sixty (60)-day period following the date of Landlord's Construction Work Notice.

B. *Secured Areas*: Notwithstanding anything to the contrary contained in this Lease, Tenant shall be permitted to maintain Secured Areas (which shall mean certain secure compartmentalized facilities, special access areas and limited access areas as designated by Tenant to Landlord in advance, provided that such areas are clearly defined, self-contained facilities that have been so designated in writing by Tenant to Landlord in advance), in which

case Landlord shall not enter such Secured Areas without being accompanied by a representative of Tenant, and, in consideration for such rights granted by Landlord, (i) Tenant hereby authorizes Landlord and any of its employees, agents and contractors to break any such locks and the doors and walls to which they are attached in the event of an emergency; (ii) in the event of the need to make inspections, repairs, maintenance or improvements and Tenant's refusal to provide access to such Secured Areas, Landlord shall have no responsibility for any such inspections, repairs, maintenance or improvements within said Secured Areas; provided, however, that if Tenant grants Landlord access into such Secured Areas, then Landlord shall again be responsible for such inspections, repairs, maintenance or improvements therein from and after the date on which such access is provided; and (iii) Landlord (including its members, shareholders, partners, employees, agents and contractors) shall not be liable for any property damage caused by the inability of Landlord to gain access to the Demised Premises, or any delay in gaining such access, because of the provisions of this Section 11.B. Notwithstanding anything herein to the contrary, except in the case of emergency, Landlord and all parties acting by, through or under Landlord, shall use diligent efforts to observe Tenant's reasonable security requirements, provided Tenant notifies Landlord in writing thereof.

## **12. PROVISION OF AND MAINTENANCE FOR SERVICES AND UTILITIES.**

A. *Services Provided:* Landlord shall provide the following to Tenant, without additional charge, except as otherwise provided herein (including as provided in Section 1.X and Section 5 in a manner consistent with the terms of this Lease and the level of services provided in Comparable Buildings:):

(1) Elevator service in Common Areas for common use in those portions of the Building in which elevators serve the Demised Premises (including without limitation, the Building's freight elevator (except when otherwise in use or previously reserved by one or more other parties) and elevators that connect the Building's parking garage to the main Building lobby serving the Demised Premises), subject to call at all times, including Sundays and Holidays, excepting any necessary repairs, maintenance or inspections, which may require a cessation in operation of the elevators from time to time except that at least one (1) elevator shall be available at all times.

(2) Cleaning and char services to the Demised Premises, excluding the Terrace Area (including trash removal from the Demised Premises), in Landlord's standard manner; provided, however, that upon at least thirty (30) days' notice to Landlord, Tenant may elect to perform its own cleaning and char services in the Demised Premises, at Tenant's sole cost and expense, using a contractor approved by Landlord, which approval shall not be unreasonably withheld, conditioned or delayed. If Tenant elects to perform its own cleaning and char services in the Demised Premises, then Landlord shall have no further obligation to perform such services, and in such event, only that portion of the charge for the cleaning and char services attributable to the Common Areas shall be included in Tenant's Share of Operating Expenses following the date on which Landlord ceases performance of cleaning and char services in the Demised Premises. It is recognized and agreed that, in light of (i) Tenant's intended use of the Demised Premises, (ii) the likely high volume of visitors to the Demised Premises, (iii) the likely peak usage of the Demised Premises being on weekends, Holidays and weekday evenings, and (iv) the non-standard facilities located in the Demised Premises (e.g., restrooms, elevators, escalators, etc.), Landlord's standard manner of cleaning and char services will likely be wholly insufficient to keep the Demised Premises in a good, clean and operable condition. Accordingly, Landlord

shall, provide, at Tenant's request and Tenant's expense, after-hours and above-standard cleaning and char services of such types and levels designed to meet the above-described special needs (e.g., a dedicated day porter during periods of peak usage). Landlord shall charge Tenant for such after-hours and above-standard cleaning and char services at the then current prevailing rate then being charged by Landlord to other Tenants in the Building for such services. To the extent that such after-hours and above-standard cleaning and char services are not then being provided by Landlord to other tenants of the Building, then Landlord's charge to Tenant therefor shall be consistent with the provisions of the contract between Landlord or Landlord's property management agent and the cleaning contractor for the Building. Landlord shall, upon Tenant's written request, provide Tenant with reasonable evidence of the consistency of such charge with the provisions of the contract with such cleaning contractor (which such evidence need not necessarily be a copy of Landlord's contract with such cleaning contractor).

(3) Electrical facilities to furnish electricity up to the Demised Premises' Standard Electrical Capacity. Tenant shall be responsible for the cost of such electrical use directly attributable to the Demised Premises and other areas over which Tenant has exclusive use and control as determined by sub-meters, as set forth in Section 12.D hereof. Tenant is responsible for the maintenance, repair and replacement of all necessary electrical meters and sub-meters and for the installation of any additional meters or sub-meters with respect to electrical supply to the Demised Premises. Tenant shall have the right to contract with any electrical utility providers of its choosing with respect to directly metered electrical supply to the Demised Premises only and with telecommunications providers of its choosing, without interference by, or payment obligations to, Landlord.

(4) Maintenance, repair and replacement of all lighting fixtures within the Common Areas and replacement of all light bulbs existing on and within the Common Areas and special service areas (including the loading dock, electrical closets and equipment rooms) in the Building, including light bulb replacement in the Parking Garage. Subject to the terms of this Lease, Landlord shall be responsible to maintain and repair or replace the Common Areas of the Building generally including, without limitation, the structure, roof, mechanical, electrical, plumbing, life safety systems, access control systems and Building elevators, all walls and wall coverings, all floors and floor coverings, all ceilings and ceiling systems, and all doors. Landlord shall maintain the Land and exterior and landscape improvements. Landlord shall, at Tenant's request, maintain, repair and replace lighting fixtures, bulbs and ballasts in the Demised Premises, excluding the Terrace Area, at an additional charge reflecting Landlord's actual documented out-of-pocket costs for providing such service, plus fifteen percent (15%) of such costs for such service provided by employees of Landlord or Landlord's property management agent for the Building or fifteen percent (15%) for such service provided by any third party contractor.

(5) Access for Tenant, its employees and its visitors to the Building (via the main Building lobby), the Demised Premises and the Parking Garage, at all times for Tenant and its employees (24 hours per day, 7 days per week), and at all times other than between 2:00 a.m. and 6:00 a.m. for Tenant's visitors, subject to such reasonable access control procedures, restrictions and other regulations, not inconsistent with any term of this Lease, as Landlord may promulgate and deliver by written notice to Tenant.

(6) A perimeter access control system for the Building, including equipment, systems and procedures, in accordance with the standards by which such access control equipment,

systems and procedures are provided in Comparable Buildings. Tenant shall be responsible for the installation, maintenance, and service costs for security systems installed by Tenant for the Demised Premises.

(7) Trash removal from the Building as well as snow and ice removal from the exterior of the Property.

(8) Heating, ventilation and air-conditioning to the Common Areas within the Building during Building Hours, in a manner comparable to the manner in which such services are provided in Comparable Buildings. Landlord shall provide heat and air conditioning at other times at Tenant's expense, provided that Tenant gives Landlord notice by 1:00 p.m. on weekdays for after-hour service on the next weekday and one (1) business day's notice before a Holiday, Saturday or Sunday. Landlord shall charge Tenant for such after-hour, Holiday and special weekend service at the then current prevailing rate then being charged by Landlord for such services, in which event all such amounts shall be reimbursed by Tenant to Landlord within ten (10) business days following Landlord's written demand therefor.

(9) Window cleaning at least twice annually, on a calendar year basis, of the inside and outside of exterior windows.

(10) Water facilities, in order to furnish water in commercially reasonable quantities at such points of access in existence as of the date of this Lease.

*B. Failure to Provide Services:* Landlord shall have no liability to Tenant or others based on any failure by Landlord to furnish the foregoing services under Section 12.A above, due to Unavoidable Delays, repair or maintenance work or any other reason (consistent with the operation of Comparable Buildings), and such failure shall neither render Landlord liable for damages to either person or property, nor be construed as an eviction of Tenant, nor cause a diminution or abatement of Rent nor relieve Tenant of any of Tenant's obligations hereunder. Notwithstanding the foregoing, in the event of the failure by Landlord to furnish any of the foregoing services that cause the Demised Premises, excluding the Terrace Area, to be inaccessible or reasonably unusable for Tenant's intended use for (a) more than five (5) consecutive days following notice thereof by Tenant to Landlord, if such failure is the result of any circumstance other than an Unavoidable Delay, or (b) more than thirty (30) consecutive days following notice thereof if such circumstance is the result of an Unavoidable Delay, then, commencing on the sixth (6th) day of such period of inaccessibility or reasonable unusability for Tenant's intended use or the thirty-first (31st) day of such inaccessibility or reasonable unusability for Tenant's intended use, respectively, (i) Base Rent and Additional Rent which is payable pursuant to Section 5 hereof shall be abated, or (ii) if Base Rent is not then payable under this Lease, Tenant shall receive a credit against Base Rent and Additional Rent due under Section 5 hereof next due and owing for the value of the Base Rent abated by Section 4.A hereof during such period, as such value is extrapolated on a per diem basis from the Abated Rent Schedule.

*C. Conservation:* Solely as to the Common Areas, Tenant hereby agrees to comply with all energy conservation procedures, controls and requirements instituted by Landlord, and required by government regulations, including controls on the permitted range of temperatures, light fixtures and lamps, or the volume of energy consumption. Institution by Landlord of such controls and requirements shall not entitle Tenant to terminate this Lease or to an abatement of any Rent payable hereunder.

D. *Payment for Utilities:* Tenant will reimburse Landlord, within thirty (30) days after receipt of each invoice from Landlord, for the cost of electricity and gas provided to the Demised Premises based upon submetered readings of the usage of gas and electricity in the Demised Premises. The costs of water and sewer usage for the Demised Premises shall be includable in Operating Expenses. In addition, in the event that Tenant requests of Landlord and Tenant receives additional capacity from Landlord for any utility in the Demised Premises, Tenant shall reimburse Landlord within thirty (30) days following Landlord's written request therefor from time to time, for all costs of usage of such additional capacity.

E. *Chiller Usage and Excess Condenser Water:* The Demised Premises, excluding the Terrace Area, is currently served by a dedicated chiller (the "Dedicated Chiller") located on a lower level Building roof that is accessible from the Terrace Area. Tenant shall be entitled to the exclusive use of the Dedicated Chiller during the Term and shall have full and unencumbered access thereto for servicing, maintenance and repair. Tenant shall, through the use of a qualified contractor, service, maintain and repair the Dedicated Chiller during the Term at its sole cost and expense. In the event that Tenant utilizes Tenant's contractor as aforesaid for the performance of such service, maintenance or repair work, Tenant shall require that such contractor maintain appropriate levels of commercial general liability insurance and be responsible for any damage caused to the Building's roof in the performance of such work. In the event that Tenant determines that the Demised Premises, excluding the Terrace Area, requires chiller usage in excess of the capacity of the Dedicated Chiller and/or excess condenser water, Tenant may request such additional capacity and/or condenser water from Landlord. Upon such request, Landlord may, if Landlord determines that the base Building chillers have the excess capacity required and that such excess capacity is unlikely to be needed by any other tenant, provide such additional chiller capacity and/or condenser water to the Demised Premises, excluding the Terrace Area, at no additional cost or charge to Tenant; provided, however, Tenant shall pay Landlord, as and for Additional Rent hereunder, for any reasonable "tap fee" charged by Landlord to accommodate Tenant's requested additional capacity. The amount of such "tap fee" shall be the same as charged by Landlord to other tenants in the Building or, if no other tenants have been charged such a "tap fee," then same shall be consistent with "tap fees" then being charged by landlords in Comparable Buildings.

### **13. RULES AND REGULATIONS.**

Tenant shall abide by and observe the rules and regulations attached hereto and made a part hereof as Exhibit D and such other reasonable rules and regulations as may be made by Landlord from time to time and delivered to Tenant by written notice, provided that such rules and regulations shall not be materially inconsistent with the provisions of this Lease. Nothing contained in this Lease or in any rules and regulations shall be interpreted to impose upon Landlord any obligations to enforce against any tenant its rules and regulations, or the provisions of any lease with any other tenant, and Landlord shall not be liable to Tenant or any other entity for any violation by others of said rules, regulations or lease provisions. Landlord shall not enforce any rule or regulation in a manner which unreasonably discriminates against Tenant. In the event of any inconsistency between the terms and conditions of this Lease and the terms and conditions of the rules and regulations, the terms and conditions of this Lease shall control.

#### **14. REPAIR OF DAMAGE CAUSED BY TENANT.**

Except as otherwise expressly provided in this Lease (including without limitation, by Sections 16.A and 17.C hereof) all injury, breakage and damage to the Land, the Building or the Demised Premises, caused by any act or omission of Tenant shall be repaired by and at the sole expense of Tenant. If Tenant fails to do so within thirty (30) days after receipt of notice from Landlord (or such shorter period as Landlord reasonably determines is necessary to protect the Property, any of the people or property located therein or any member of the public from imminent harm), then Landlord may have the right, at its option, to make such repairs and to charge Tenant for all costs and expenses incurred in connection therewith as Additional Rent payable within thirty (30) days after the rendering of a bill therefor. Tenant shall notify Landlord promptly of any injury, breakage or damage caused by Tenant to the Land, the Building, or elements of the Demised Premises for which Landlord is responsible to maintain, repair or replace pursuant to the terms of this Lease. Except as otherwise expressly provided in this Lease (including Sections 16.A and 17.C hereof), all injury, breakage and damage to the Demised Premises or the Personal Property therein caused by any act or omission of Landlord shall be repaired by and at the sole expense of Landlord. If Landlord fails to do so within twenty-five (25) days after receipt of notice from Tenant and such failure continues for ten (10) days following Landlord's receipt of a second notice from Tenant which advises Landlord, in bold font, that it has not made repairs which it is required to make pursuant to this Section 14 and that if such failure continues for such additional ten (10) day period, Tenant shall have the right to do so and to charge Landlord for the costs and expenses thereof, then Tenant shall have the right, at its option, to make such repairs and to charge Landlord for all costs and expenses incurred in connection therewith.

#### **15. COVENANT OF SUFFICIENT EQUITY; LIMITATION ON LIABILITY; LIABILITY FOR CONSEQUENTIAL DAMAGES.**

A. Landlord hereby covenants that at all times during the first twelve (12) Lease Years of the Initial Term, Landlord shall maintain an equity interest in the Building and the Land in excess of the amount of any debt secured by the Building or the Land or any interest therein of a value equal to at least one hundred fifty percent (150%) (the "Minimum Equity Interest") of the balance of the remaining abated rent as provided in the schedule of Base Rental Revenue for the Demised Premises attached hereto and made a part hereof as Exhibit E (the "Abated Rent Schedule"), based upon the then fair market value of the Building and the Land as demonstrated by a Qualified Appraisal (as hereinafter defined) provided by Landlord to Tenant. (For example, if the then balance of the remaining abated rent is Four Million Dollars (\$4,000,000.00), then the Minimum Equity Interest shall be Six Million Dollars (\$6,000,000.00), and the Qualified Appraisal and Debt Certification (as defined in Section 22.A below) must demonstrate that the fair market value of the Building and the Land is at least Six Million Dollars (\$6,000,000.00) greater than the total amount of the debt maintained by Landlord.) For purposes of this Lease, a "Qualified Appraisal" shall mean an appraisal prepared in conformity with the Uniform Standards of Professional Appraisal Practice (which incorporates FIRREA) and the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute (collectively, the "Appraisal Standards"), with a valuation date no more than six (6) months prior to the date that the appraisal is provided to Tenant pursuant to the terms of this Lease, prepared by an independent MAI appraiser, who is designated in the Commonwealth of Virginia as a Certified General Real Estate Appraiser.

B. In order to demonstrate its compliance with the foregoing covenant of Minimum Equity Interest, Landlord shall deliver to Tenant a Qualified Appraisal and a Debt Certification, executed by Landlord, on the first (1<sup>st</sup>) day of each of the first twelve (12) Lease Years of the Initial Term, starting with the second (2<sup>nd</sup>) Lease Year; provided, however, if Landlord has provided a Qualified Appraisal to Tenant within the immediately prior twelve (12) month period, and the appraiser who prepared such Qualified Appraisal believes that the fair market value of the Building and the Land has not changed since the effective date of such Qualified Appraisal, then Landlord shall be entitled to satisfy such requirement for a new Qualified Appraisal by providing Tenant with a letter from such appraiser (in lieu of a full appraisal document) in a form and with such detail as is consistent with the Appraisal Standards, that references the prior Qualified Appraisal and states the appraiser's professional opinion that no change has occurred with respect to the fair market value of the Building and the Land since the effective date of such prior Qualified Appraisal. In the event that the Qualified Appraisal and Debt Certification provided for any Lease Year do not demonstrate Landlord's compliance with the covenant of Minimum Equity Interest, Landlord shall, within sixty (60) days after the first (1<sup>st</sup>) day of such Lease Year, provide Tenant with Landlord Security (as hereinafter defined) in an amount equal to (1) the amount of the then applicable Minimum Equity Interest, less (2) the amount of Landlord's then actual equity interest in the Building and the Land in excess of the amount of any debt secured by the Building or the Land or any interest therein (the "Equity Interest Shortfall"). (For example, if the then Minimum Equity Interest is Six Million Dollars (\$6,000,000.00) and the Qualified Appraisal and Debt Certification provided demonstrate that the fair market value of the Building and the Land is only Five Million Dollars (\$5,000,000.00) greater than the total amount of the debt maintained by Landlord, then the Equity Interest Shortfall shall be One Million Dollars (\$1,000,000.00) and Landlord shall provide Tenant with One Million Dollars (\$1,000,000.00) of Landlord Security.) Tenant shall be entitled to draw upon the Landlord Security in the event that Landlord fails to timely pay Tenant the balance of the remaining abated rent as provided in the Abated Rent Schedule pursuant to the terms of this Lease. For purposes of this Lease, the term "Landlord Security" shall mean either (i) a clean, unconditional, irrevocable standby letter of credit meeting the following terms and conditions: (a) in form and substance satisfactory to Tenant in its sole but reasonable discretion, (b) at all times in the stated face amount equal to the Equity Interest Shortfall, (c) issued by a commercial bank acceptable to Tenant and located in the Washington, D.C. metropolitan area for the account of Landlord, (d) made payable to Tenant, (e) payable at sight upon presentation to a Washington, D.C. metropolitan branch of the issuer, (f) of a term not less than one year, and shall on its face state that the same shall be renewed automatically, without the need for any further written notice or amendment, for successive minimum one-year periods, unless the issuer notifies Tenant in writing, at least sixty (60) days prior to the expiration date thereof, that the issuer has elected to not renew the letter of credit (which will thereafter entitle Tenant to draw on the letter of credit), and (g) at least thirty (30) days prior to the then-current expiration date of such letter of credit, either (I) renewed (or automatically and unconditionally extended) from time to time through the sixtieth (60<sup>th</sup>) day after the expiration of the twelfth (12<sup>th</sup>) Lease Year of the Initial Term, or (II) replaced by Landlord with a substitute letter of credit meeting the requirements of this Section, in the full amount of the Equity Interest Shortfall; or, at Tenant's option, (ii) a cash deposit in the amount of the Equity Interest Shortfall posted with an independent escrow agent, acceptable to Tenant in its sole but reasonable discretion, pursuant to the terms of an escrow agreement entered into by Landlord, Tenant and such approved escrow agent in form and

substance acceptable to Tenant in its sole but reasonable discretion. In the event that Landlord fails to provide a Qualified Appraisal and Debt Certification by the first day of a Lease Year, the Equity Interest Shortfall shall be deemed to be the entire amount of the then applicable Minimum Equity Interest, and Landlord shall provide Tenant with Landlord Security in the amount of such Minimum Equity Interest.

C. So long as Landlord maintains the Minimum Equity Interest, it is expressly understood and agreed that, barring Landlord's fraud or a fraudulent conveyance the total liability of Landlord arising out of or in connection with this Lease, the relationship of Landlord and Tenant hereunder and/or Tenant's use of the Demised Premises, shall be limited to the estate of Landlord in the Building and the Land, including without limitation, insurance proceeds in connection therewith and any and all condemnation awards or settlement amounts or sales proceeds arising from any condemnation proceeding or sale in lieu of condemnation. In no event shall Landlord be liable for consequential damages. No other property or assets of Landlord or any partner or owner of Landlord shall be subject to levy, execution, or other enforcement proceedings or other judicial process for the satisfaction of any judgment or any other right or remedy of Tenant arising out of or in connection with this Lease, the relationship of Landlord and Tenant hereunder and/or Tenant's use of the Demised Premises.

D. Notwithstanding any other provision of this Lease, in no event shall Tenant or any Tenant Transferee be liable for consequential damages, except such as become payable as a result of Tenant's or a Tenant Transferee's failure to perform its obligations under Section 21 hereof, subject to the terms of such Section. Without limiting the foregoing, in no event shall Tenant or any Tenant Transferee be liable for consequential damages in connection with any failure to perform its obligations under Section 39 hereof.

## **16. FIRE AND OTHER CASUALTY**

A. If the Demised Premises shall be damaged by fire or other casualty, other than as a result of the gross negligence or willful misconduct of Tenant, this Lease shall not terminate and, upon adjustment of insurance claims, Landlord shall promptly proceed to repair the damage, provided that Landlord shall have no obligation to repair damage to or replace Tenant's Personal Property or any Alterations. Except as otherwise provided herein, if all or any part of the Demised Premises, excluding the Terrace Area, are rendered untenable by reason of any such damage, (i) Base Rent and Additional Rent payable pursuant to Section 5 shall abate from the date of the damage to the date the damage is repaired, as reasonably determined by Landlord (the "Period of Untenability"), in the proportion that the area of the untenable part bears from time to time to the total area of the Demised Premises, excluding the Terrace Area, and (ii) unless either party terminates this Lease pursuant to this Section 16, the Term shall be extended for a period of time equal to the Period of Untenability at the same rental terms as would have prevailed during the Period of Untenability. No compensation or reduction of Rent shall be paid or allowed for inconvenience, annoyance or injury to Tenant or Tenant's business arising from any damage to or repair of the Demised Premises or the Building.

B. Notwithstanding anything herein to the contrary, if (a) (i) zoning or other Applicable Law does not permit the repair and restoration of the Demised Premises, excluding the Terrace Area, or (ii) the Building is damaged by fire or casualty (whether or not the Demised Premises has been damaged) to such an extent that Landlord decides, in its sole and absolute discretion, not to rebuild or reconstruct the Building, then Landlord, at its option, may give Tenant, within ninety

(90) days after the casualty, written notice of termination of this Lease, and this Lease and the Term shall terminate (whether or not the Term has commenced) upon the expiration of thirty (30) days from the date of the notice, with the same effect as if the new expiration date had been the Lease Expiration Date, and all Base Rent and Additional Rent payable pursuant to Section 5 shall be apportioned as of such date, and (b) if Landlord's licensed architect reasonably estimates to Tenant in writing that the restoration of the Demised Premises and those elements of the Building necessary for access to or use of the Demised Premises cannot be completed by the expiration of the fifteenth (15<sup>th</sup>) full calendar month, subject to extension for any Unavoidable Delay, following the date of the casualty, then either Landlord (provided it terminates the leases of all similarly situated tenants which it has a right to terminate) or Tenant may terminate this Lease by written notice to the other of them, which notice shall be given by Tenant, if at all, within the later of (a) thirty (30) days following the date Tenant receives such written estimate or (b) ninety (90) days following the date of the casualty. Such written estimate from Landlord's licensed architect shall be given to Tenant within ninety (90) days following the date of the casualty. Finally, if the restoration of the Demised Premises and such portions of the Building has not been completed by the expiration of the fifteenth (15<sup>th</sup>) full calendar month, subject to extension for any Unavoidable Delay, following the date of the casualty, Tenant may terminate this Lease by written notice to Landlord, which notice shall be given by Tenant, if at all, within ten (10) business days following the expiration of such fifteenth (15<sup>th</sup>) full calendar month, subject to extension for any Unavoidable Delay.

C. If the Demised Premises or the Building shall be damaged by fire or other casualty due to the gross negligence or willful misconduct of Tenant: (i) Landlord shall have no obligation to repair the Demised Premises or the Building, except to the extent Landlord receives insurance proceeds (or would have received insurance proceeds had Landlord carried the requisite insurance), (ii) this Lease shall, at Landlord's option, not terminate, and (iii) Landlord may pursue any legal and equitable remedies available to it, except litigation to recover the costs of any repairs.

D. If either Landlord or Tenant terminates this Lease pursuant to this Section 16, then, Landlord shall, within the later to occur of (i) the date Tenant vacates the Demised Premises, or (ii) ninety (90) days after the effective date of termination, pay to Tenant the balance of the remaining abated rent as provided in the Abated Rent Schedule. Such abated rent shall accrue interest at the rate of twelve percent (12%) per annum (the "Default Rate") from the date when payment is due until the date when fully paid. This obligation shall survive the expiration or earlier termination of this Lease. In the event that Landlord timely pays the remaining abated rent as aforesaid, and this Lease is terminated (y) by Tenant pursuant to the terms of Section 16.B above, or (z) by Landlord pursuant to the terms of clause (a)(i) or clause (b) of Section 16.B (but not pursuant to the terms of clause (a)(ii) of Section 16.B), Landlord may exercise the Conversion Option pursuant to Section 45 below.

## **17. INSURANCE.**

A. *General Insurance Provisions:* Landlord and Tenant agree that their respective obligations regarding damage, loss or injury to persons and property, except as otherwise provided by the terms of this Lease, shall be governed by Applicable Law. Landlord and Tenant will each obtain and maintain the following minimum insurance coverages protecting their respective insurable interests in the Building.

**B. *Tenant's Insurance:***

(a) Throughout the Term, Tenant shall obtain and maintain (1) commercial general liability insurance (written on an occurrence basis) including, contractual liability coverage insuring the obligations assumed by Tenant under this Lease (including those set forth in Sections 39.C and 33.B), premises and operations coverage, broad form property damage coverage and independent contractors coverage, and containing an endorsement for personal injury, (2) business interruption insurance, (3) special cause of loss business property insurance covering Tenant's Personal Property and Alterations and the elevators and escalators located in the Demised Premises, (4) automobile liability insurance (covering automobiles owned by Tenant, if any), (5) worker's compensation insurance and employer's liability insurance, and (6) terrorism insurance. Such commercial general liability insurance shall be in minimum amounts typically carried by prudent tenants engaged in similar operations, but in no event shall be in an amount less than One Million Dollars (\$1,000,000.00) per occurrence and in the annual aggregate, and Tenant shall also obtain and maintain umbrella excess liability insurance with a policy limit of not less than Ten Million Dollars (\$10,000,000.00). Such business interruption insurance shall be in an amount not less than Ten Million Dollars (\$10,000,000.00). Such property insurance shall be in an amount not less than that required to replace all Alterations and all other contents of the Demised Premises (including Tenant's trade fixtures, decorations, furnishings, equipment and personal property), as well as the elevators and escalators within the Demised Premises. Such automobile liability insurance shall be in an amount not less than One Million Dollars (\$1,000,000.00) bodily injury and property damage for each accident. Such worker's compensation insurance shall carry minimum limits as defined by the law of the jurisdiction in which the Building is located (as the same may be amended from time to time) but not less than Five Hundred Thousand Dollars (\$500,000.00) for each accident. Such employer's liability insurance shall be in an amount not less than One Hundred Thousand Dollars (\$100,000.00) for each accident, Five Hundred Thousand Dollars (\$500,000.00) per person for illness or disease policy limit, and One Hundred Thousand Dollars (\$100,000.00) disease each employee. Such terrorism insurance shall be pursuant to the Terrorism Risk Insurance Program Reauthorization Act of 2007.

(b) The purchased insurance carried by Tenant pursuant to Section 17.B(a) above shall: (1) be issued by a company that is authorized to do business in the jurisdiction in which the Building is located, that has been approved in advance by Landlord and that has a rating equal to or exceeding A:IX from Best's Insurance Guide; (2) name Landlord, Landlord's property management agent for the Building and the holder of any Mortgage as additional insureds with respect to Tenant's commercial general liability insurance and its special cause of loss business property insurance; (3) with respect to such property insurance, contain an endorsement that such policy shall remain in full force and effect notwithstanding that the insured may have waived its right of action against any party prior to the occurrence of a loss (Tenant hereby waiving its right of action and recovery against and releasing Landlord and its employees and agents (including Landlord's managing agent) from any and all liabilities, claims and losses for damage to property for which they may otherwise be liable to the extent Tenant is covered by property insurance carried or would have been covered by property insurance it is required to carry under this Lease); (4) provide that the property insurer waives all right of recovery by way of subrogation against Landlord, its partners, agents (including Landlord's managing agent), employees, and representatives, in connection with any loss or damage covered by such property insurance policy; (5) be in form and content substantially similar to the form and content of

insurance policies customarily maintained by local governments in Northern Virginia; (6) be primary and non contributory; (7) contain an endorsement for cross liability and severability of interests; and (8) contain an endorsement prohibiting cancellation, failure to renew, reduction of amount of insurance or change in coverage without the insurer first giving Landlord and any other additional insureds thirty (30) days' prior notice (by certified or registered mail, return receipt requested) of such proposed action. No property insurance policy shall contain any deductible provision except as otherwise approved by Landlord, which approval shall not be unreasonably withheld. Landlord hereby approves a property insurance deductible of up to One Hundred Thousand Dollars (\$100,000.00). Tenant shall deliver a certificate (on ACCORD Form 27) or, for coverages being self-insured hereunder, a letter from Tenant's Risk Manager, of all such insurance to Landlord concurrently with Tenant's execution of this Lease and at least annually thereafter within five (5) days from the date of expiration of each such policy. Tenant shall give Landlord prompt notice in case of fire, theft or accident in the Demised Premises, and in the case of fire, theft or accident in the Building if involving Tenant, its agents, employees or Invitees. Neither the issuance of any insurance policy required under this Lease nor the minimum limits specified herein shall be deemed to limit or restrict in any way Tenant's liability, or, subject to the limitation set forth in Section 15 above, Landlord's liability arising under or out of this Lease. Tenant shall provide a copy of any notice sent to Landlord under this Section 17 to Landlord's Mortgagee pursuant to Section 29 of this Lease.

(c) Notwithstanding any term or condition of this Lease to the contrary, Tenant shall, for so long as Tenant is The County Board of Arlington County, Virginia, a body politic, be entitled to meet all of Tenant's insurance requirements of this Section 17, of up to a Five Million Dollar (\$5,000,000.00) coverage limit, by self-insurance; with the exception of the property insurance specified herein. (In the event that Tenant defaults hereunder by endeavoring to self-insure in excess of the Five Million Dollar (\$5,000,000.00) self-insurance cap set forth above, Tenant shall be entitled to the most extensive notice and cure rights provided under Section 19A(2), rather than any truncated or reduced notice and cure rights.)

*C. Landlord's Insurance:*

(a) Throughout the Term, Landlord shall obtain and maintain (1) commercial general liability coverage providing coverage against claims or losses resulting from bodily injury, advertising injury, personal injury and property damage caused by or arising out of the operations under this Lease, and without any right of contribution from any self-insurance plan or program of insurance carried by any of the parties to this Lease, (2) property insurance insuring against fire and lightning, extended coverage, rent, vandalism and such other perils as are usually available under a broad form property policy, insuring one hundred percent (100%) of the current replacement cost of the Building, including structures, Building service equipment, fixtures and supplies related to the Building, and all fixtures and improvements existing within the Demised Premises as of the date of this Lease, or replacements thereof (but specifically excluding the elevators and escalators located within the Demised Premises), with a deductible not to exceed One Hundred Thousand Dollars (\$100,000.00), (3) boiler and machinery insurance, maintained on a one hundred percent (100%) replacement cost basis with a deductible not to exceed One Hundred Thousand Dollars (\$100,000.00), and (4) worker's compensation insurance and employer's liability insurance. Such commercial general liability insurance shall be in minimum amounts typically carried by prudent landlords of Comparable Buildings, but in no event in an amount less than One Million Dollars (\$1,000,000.00) per occurrence and in the

aggregate annually, with a deductible of no more than \$25,000.00 for bodily injury, personal injury and property damage, and Landlord shall also obtain and maintain umbrella excess liability insurance with a policy limit of not less than Twenty Million Dollars (\$20,000,000.00) in the aggregate, with at least Ten Million Dollars (\$10,000,000.00) per occurrence. Such property insurance shall not contain a coinsurance provision and, if the property direct damage coverage is provided by a different insurance company than the boiler and machinery coverage, each policy shall include a joint loss agreement, loss adjustment agreement, or similar agreement to assure timely resolution of claims. Such worker's compensation insurance shall carry minimum limits as defined by the law of the jurisdiction in which the Building is located (as the same may be amended from time to time) and will cover all employees of Landlord working at the Building and those persons working under Landlord's control or direction. This coverage will be obtained with no deductible amount. If a self-insurance retention is in place, then Landlord will provide to Tenant satisfactory evidence for adequate financing of this exposure. The employer's liability coverage shall provide coverage limits of at least One Million Dollars (\$1,000,000.00) for each accident and each employee.

(b) The insurance carried by Landlord pursuant to this Section 17.C hereof shall: (1) name Tenant, its elected and appointed officers, officials and employees, as additional insureds by endorsement to the commercial general liability (including property liability), and umbrella/excess liability insurance policies; provided, however, the applicability of such additional insured status shall be limited to claims arising with respect to the Common Areas of the Building or the Land and in connection with Landlord's obligations hereunder with respect to the Demised Premises and/or Landlord's entries into the Demised Premises, (2) contain an endorsement that such policy shall remain in full force and effect notwithstanding that the insured may have waived its right of action against any party prior to the occurrence of a loss (Landlord hereby waiving its right of action and recovery against and releasing Tenant and its employees and agents from any and all liabilities, claims and losses for damage to property for which they may otherwise be liable to the extent Landlord is covered by property insurance carried or would have been covered by property insurance it is required to carry under this Lease), (3) provide that the property insurer waives all right of recovery by way of subrogation against Tenant, its elected and appointed officers and officials, employees, and Tenants' assignees, subtenants and licensees, if any, in connection with any loss or damage covered by such property insurance policy, and (4) contain an endorsement prohibiting cancellation, failure to renew, reduction of amount of insurance or change in coverage without the insurer first giving Tenant and any other additional insureds thirty (30) days prior written notice (by certified or registered mail, return receipt requested) of such proposed action. Landlord shall deliver a certificate to Tenant concurrently with Landlord's execution of this Lease and at least annually thereafter within five (5) days from the date of expiration of each such policy.

*D. Effect of Tenant's Activities on Insurance:* Tenant shall not conduct or permit to be conducted any activity, or place any equipment in or about the Land, the Building or the Demised Premises which will increase the rate of, or make void or voidable, any fire or other insurance maintained or required to be maintained by Landlord or any Mortgagee on the Building, the Land or the property kept thereon or therein, which will conflict with the provisions of any such insurance policy or which will make it impracticable for Landlord to obtain insurance covering any risks against which Landlord reasonably deems it advisable to obtain insurance. In the event any increases in the rates of such insurance are due to any activity conducted or property installed or placed by Tenant on or about the Land, the Building or the

Demised Premises or to Alterations installed by Tenant or at Tenant's request without Landlord's consent, and Tenant does not cease such activity or remove such property or Alterations within ten (10) days after Tenant's receipt of written notice from Landlord specifying the offending activity, property or Alteration, then, Tenant shall reimburse Landlord for the amount of such increases within thirty (30) days after written demand therefor. Contemporaneous written statements by the applicable insurance company or insurance rating bureau that such increases are due to any of Tenant's activity, property or improvements shall be conclusive for the purposes of determining Tenant's liability hereunder is same are provided to Tenant simultaneously with Landlord's notice. The foregoing provisions of this Section 17.D shall not be applicable if Tenant is conducting only the permitted use pursuant to Section 6.A of this Lease at the Demised Premises and such use is being conducted in accordance with all Applicable Law and in accordance with the provisions of this Lease.

## **18. CONDEMNATION**

A. If the whole or a Substantial Part of the Demised Premises, excluding the Terrace Area, or the Building, shall be condemned by any governmental authority for any public or quasi-public use or purpose, then Landlord shall have the right in its sole discretion to terminate this Lease by written notice to Tenant, and upon the giving of such notice, the Term shall cease and this Lease shall terminate as of the date when title vests in such governmental authority. In such event, Landlord shall, within the later of (i) the earlier of (a) the date that is six (6) months after the date that title vests in such governmental authority, or (b) ten (10) days following Landlord's receipt of all condemnation proceeds relating to such condemnation, or (ii) ten (10) days following the date upon which Tenant vacates the Demised Premises and surrenders possession thereof to Landlord, pay to Tenant the balance of the remaining abated rent as provided in the Abated Rent Schedule. Such abated rent shall accrue interest at the Default Rate from the date when payment is due until the date when fully paid. This obligation shall survive the expiration or earlier termination of this Lease. In the event that Landlord timely pays the remaining abated rent as aforesaid, Landlord may exercise the Conversion Option pursuant to Section 45 below. For purposes of this Section 18.A the term "Substantial Part" shall mean forty percent (40%) or more of the Demised Premises, excluding the Terrace Area, or the Building, as applicable. Notwithstanding the foregoing, in the event of a condemnation of the Building (as distinct from the Demised Premises), Landlord shall only have the right to terminate this Lease if Landlord also terminates the leases of all other tenants which it has a right to terminate. Further notwithstanding the foregoing, Landlord shall not be entitled to exercise its right to terminate this Lease under this Section 18.A in connection with any temporary taking unless such temporary taking is of the entire Demised Premises and is for a term, stated when the temporary taking commences, that is longer than the then unexpired Term of this Lease. For purposes of this Section, the aforementioned phrase "unexpired Term of this Lease" shall be deemed to include the Renewal Term, unless, at the time of such taking, Tenant's right to extend this Lease for the Renewal Term shall have expired without having been exercised.

B. If forty percent (40%) or more of the entire Demised Premises, excluding the Terrace Area, is condemned or acquired in lieu of condemnation, or if (a) less than forty percent (40%) of the entire Demised Premises, excluding the Terrace Area, is taken and (b) the portion of the Demised Premises, excluding the Terrace Area, taken, renders the entire Demised Premises, excluding the Terrace Area, not reasonably useable for Tenant's use of the Demised Premises as reasonably determined by Tenant, then Tenant shall have the right to terminate this Lease

without penalty by providing written notice to Landlord of its intent to terminate. Such notice must be given, if at all, within ten (10) business days following the date Tenant receives written notice of such condemnation, and upon the giving of such notice, the Term shall terminate as of the date title vests in the condemning authority. In such event, Landlord shall, within the later of (i) the earlier of (a) the date that is six (6) months after the date that title vests in such governmental authority, or (b) ten (10) days following Landlord's receipt of all condemnation proceeds relating to such condemnation, or (ii) ten (10) days following the date upon which Tenant vacates the Demised Premises and surrenders possession thereof to Landlord, pay to Tenant the balance of the remaining abated rent as provided in the Abated Rent Schedule. Such abated rent shall accrue interest at the Default Rate from the date when payment is due until the date when fully paid. This obligation shall survive the expiration or earlier termination of this Lease. In the event that Landlord timely pays the remaining abated rent as aforesaid, Landlord may exercise the Conversion Option pursuant to Section 45 below. Tenant shall provide a copy of any notice sent to Landlord under this Section 18 to Landlord's Mortgagee pursuant to Section 29 of this Lease.

C. If less than all of the Demised Premises, excluding the Terrace Area, is condemned by any governmental authority for any public or quasi-public use or purpose and neither Landlord nor Tenant terminates this Lease pursuant to Section 18.A or 18.B, respectively, then Base Rent and Additional Rent under Section 5 due hereunder shall be equitably adjusted on the date when title vests in such governmental authority and this Lease shall otherwise continue in full force and effect, and Landlord shall, within the later of (i) the earlier of (a) the date that is six (6) months after the date that title vests in such governmental authority, or (b) ten (10) days following Landlord's receipt of all condemnation proceeds relating to such condemnation; or (ii) ten (10) days following the date upon which Tenant vacates the Demised Premises and surrenders possession thereof to Landlord, pay to Tenant that portion of the balance of the remaining abated rent as provided in the Abated Rent Schedule equal to the portion of the Demised Premises so condemned. Such abated rent shall accrue interest at the Default Rate from the date when payment is due until the date when fully paid.

D. *Division of Award, Settlement Amount or Sale Proceeds:* If a part of the Demised Premises, excluding the Terrace Area, the Building or the Land is taken or condemned by any governmental or quasi-governmental authority for any purpose or is granted to any authority in lieu of condemnation (collectively, a "taking"), prior to the expiration of the twelfth (12<sup>th</sup>) Lease Year, in addition to the right to receive from Landlord the amount of abated rent payable by Landlord under Sections 18.A, B and/or C above, as applicable, Tenant may assert any claim it may have against the condemning authority for compensation for Tenant's Personal Property and for any relocation expenses. In the event of such a taking after the expiration of the twelfth Lease Year (*i.e.*, when there is no remaining abated rent provided for in the Abated Rent Schedule), then Tenant shall have no claim against Landlord arising out of, or related to, any taking, or for any portion of the amount that may be awarded as a result, damages or compensation attributable to damage to the Demised Premises, excluding the Terrace Area, value of the unexpired portion of the Term, loss of profits or goodwill, leasehold improvements or severance damages, and Tenant hereby assigns to Landlord all its rights, title and interest in and to any such award; provided, however, that Tenant may assert any claim it may have against the condemning authority for compensation for Tenant's Personal Property and for any relocation expenses.

E. Landlord's payment obligations under the terms of this Section 18 shall survive the expiration or earlier termination of the Lease.

## **19. DEFAULT.**

A. *Tenant's Default.* The following events shall be a default by Tenant (a "Default") under this Lease:

(1) Failure of Tenant to pay Rent as and when due, if the failure continues for five (5) business days after notice from Landlord specifying the failure, and such failure continues uncured for an additional period of five (5) business days following the initial five (5) business day notice and cure period and Landlord's delivery of a second (2<sup>nd</sup>) notice to Tenant specifying Tenant's failure and making reference to Landlord's initial notice of default; provided, however, that Landlord shall not be required to deliver a second notice to Tenant for a particular default more than twice during any calendar year and, following the delivery of a second notice to Tenant twice in any calendar year, a Default shall exist if Tenant does not pay Rent as and when due and such failure continues for five (5) business days after notice from Landlord to Tenant specifying the failure.

(2) Failure of Tenant to comply with or perform any covenant or obligation of Tenant under this Lease, if the failure continues for thirty (30) days after notice from Landlord to Tenant specifying the failure and such failure continues uncured for an additional period of thirty (30) days following the initial thirty (30)-day notice and cure period and Landlord's delivery of a second (2<sup>nd</sup>) notice to Tenant specifying Tenant's failure and making reference to Landlord's initial notice of default, other than (i) those concerning the payment of Rent, (ii) those set forth in any of Sections 8.C, 17 (other than Section 17.B(c), with respect to Tenant self-insuring a risk in excess of the Five Million Dollar (\$5,000,000.00) self-insurance cap), 21, 22, 25, 33 and 39 hereof, as to which a specific timeframe for the performance of such covenant or obligation is set forth therein and for which Tenant shall only be entitled to an additional notice and cure period, as follows: With respect to Sections 8.C, 33 and 39, five (5) business days; with respect to Sections 22 and 25, three (3) business days; with respect to Section 17 (other than Section 17.B(c), with respect to Tenant self-insuring a risk in excess of the Five Million Dollar (\$5,000,000.00) self-insurance cap), two (2) business days; and with respect to Section 21, no additional notice and cure period; and (iii) any Default arising under subsections (4) or (5) of this Section 19.A; provided, however, that if the failure on the part of Tenant is not capable of being cured within such thirty (30)-day period but Tenant expeditiously commences to cure same and diligently proceeds with such cure, Tenant's time to cure such failure shall be extended for the time necessary to cure same, but in no event longer than ninety (90) days, inclusive of the original thirty (30)-day period, it being agreed that the proviso in this clause (iii) shall be inapplicable to any failure by Tenant to comply with or perform any covenant or obligation of Tenant under this Lease which is described in clause (ii) of this Section 19.A(2).

(3) [*Intentionally omitted.*]

(4) If Tenant, any Guarantor or, if Tenant is a partnership, any partner of Tenant ("Partner"), shall file a voluntary petition in bankruptcy or insolvency, shall be adjudicated bankrupt or insolvent or shall file a petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or other Applicable Law, or shall make an assignment for the benefit of creditors, or shall seek or acquiesce in the appointment of any trustee, receiver or liquidator of Tenant or of

any Guarantor or Partner or of all or any part of the property of Tenant or of such Guarantor or Partner.

(5) If, within thirty (30) days after the commencement of any proceeding against Tenant or any Guarantor or Partner, whether by the filing of a petition or otherwise, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future applicable federal, state or other Applicable Laws such proceeding shall not have been dismissed or if, within thirty (30) days after the appointment of any trustee, receiver or liquidator of Tenant or any Guarantor or Partner, or of all or any part of the property of Tenant or of any Guarantor or Partner, without the acquiescence of such individual or entity, such appointment shall not have been vacated or otherwise discharged, or if any execution or attachment shall have been issued against the property of Tenant or of any Guarantor or Partner, pursuant to which the Demised Premises shall be taken or occupied or attempted to be taken or occupied.

(6) Failure of Tenant to comply with or perform any covenant or obligation under Sections 8.C, 17, 21, 22, 25, 33 or 39 hereof within the notice and cure periods set forth with respect to each such covenant or obligation in Section 19.A(2) hereof.

*B. Landlord's Remedies Upon Tenant's Default:*

(a) Upon the occurrence of a Default, Landlord shall have the right, then or at any time thereafter to exercise either or both of the following remedies:

(1) Without demand or notice, to reenter and take possession of all or any part of the Demised Premises, to expel Tenant and those claiming through Tenant and to remove any property therein, either by summary proceedings or by any other action at law, in equity or otherwise, with or without terminating this Lease, without being deemed guilty of trespass and without prejudice to any other remedies of Landlord for breach of this Lease, and/or

(2) To terminate this Lease by notice to Tenant, whereupon this Lease shall terminate on the date specified in Landlord's notice, and Tenant's right to possession of the Demised Premises shall cease as of such date.

(b) If Landlord elects to terminate this Lease in connection with a Default as aforesaid, everything contained in this Lease on the part of Landlord to be done shall cease, without prejudice to Landlord's right to recover from Tenant all Rent, as set forth in Sections 19.C and 19.D. If Landlord elects to reenter pursuant to Section 19. B(a)(1), Landlord may terminate this Lease, or, from time to time without terminating this Lease, may relet all or any part of the Demised Premises as the agent of Tenant, for such term, at such rental and upon such other provisions as Landlord deems acceptable, with the right to make any alterations and repairs to the Demised Premises that Landlord deems appropriate, at Tenant's expense. No such reentry or taking of possession of the Demised Premises shall be construed as an election to terminate this Lease, unless notice of such intention is given pursuant to Section 19.B(a)(2), or unless termination be decreed by a court of competent jurisdiction at the instance of Landlord. Landlord shall in no event be under any obligation to relet any part of the Demised Premises.

Upon termination of this Lease by Landlord because of a Default by Tenant, Landlord shall, within the later to occur of (a) ninety (90) days after the date of Landlord's termination of this Lease or (b) ten (10) days following the date upon which Tenant vacates the Demised Premises and surrenders possession thereof to Landlord, pay to Tenant the balance of the

remaining abated rent as provided in the Abated Rent Schedule. Such abated rent shall accrue interest at the Default Rate from the date when payment is due until the date when fully paid. Landlord's obligation as aforesaid shall survive the expiration or earlier termination of the Term of this Lease.

C. *Liability of Tenant:* If Landlord terminates this Lease or reenters the Demised Premises (with or without terminating this Lease), Landlord shall take commercially reasonable actions to mitigate its damages. Landlord will be conclusively deemed to have fulfilled its obligation to do so if it lists the Demised Premises (excluding the Terrace Area) for lease with a real estate broker having experience in the Market Area with respect to commercial office leasing of at least five (5) years upon the terms recommended by such broker. Landlord will not be obligated to: (i) accept less than the then current market rent for the Demised Premises (based upon whatever concessions are then being actually offered by Landlord, if any); (ii) lease (or accept an assignment or sublease) to a then existing tenant of the Building to the extent Landlord has available and is then offering to such tenant space in the Building for lease; (iii) lease the Demised Premises or any portion thereof prior to leasing other than vacant space in the Building; (iv) deviate from Landlord's then established guidelines for tenants, including, without limitation, use, experience, reputation, and creditworthiness; or (v) expand or contract the Demised Premises. Subject to such obligation, Tenant shall remain liable (in addition to all other liabilities of Tenant accrued at the time of the Default) for the sum of (i) any unpaid Rent accrued prior to the time of termination and/or reentry, as the case may be, plus interest thereon from the due date at the Default Rate, (ii) all Base Rent and Additional Rent provided for in this Lease as and when due and payable under this Lease from the time of termination and/or reentry, as the case may be, until the date this Lease would have expired had a Default not occurred, plus interest thereon from the due date at the Default Rate, and (iii) any and all reasonable expenses (including brokerage fees, but, except as otherwise provided by Section 36.T below, excluding attorneys' fees) incurred by Landlord in reentering and repossessing the Demised Premises, in correcting any default, in painting, altering or repairing the Demised Premises in order to place the Demised Premises in first-class rentable condition for the Permitted Use (whether or not the Demised Premises are relet), in protecting and preserving the Demised Premises and in reletting or attempting to relet the Demised Premises; minus the net proceeds (after deducting any rental abatements, tenant improvement allowances and other concessions and inducements) actually received by Landlord, if any, from any reletting to the extent attributable to the period prior to the date this Lease would have expired had a Default not occurred. Landlord shall have the option to recover any damages sustained by Landlord either at the time of reletting, if any, or in separate actions from time to time as said damages shall have been made more easily ascertainable by successive relettings or, at Landlord's option, to defer any such recovery until the date this Lease would have expired in the absence of a Default, in which event Tenant hereby agrees that the cause of action shall be deemed to have accrued on the aforesaid date.

D. *[Intentionally Omitted]*

E. *[Intentionally Omitted]*

F. *No Lien on Personal Property:* Landlord hereby fully waives any lien for Rent on the Personal Property or any other right or interest of Tenant under any Applicable Law.

G. *No Right of Distress:* Landlord hereby fully waives any right of distress for Rent under any Applicable Law.

H. *Right of Landlord to Cure*: If Tenant defaults in the making of any payment or in the doing of any act required to be made or done by Tenant pursuant to the explicit terms of this Lease and such failure continues for more than ten (10) days after receipt of a written notice from Landlord specifying such failure and advising Tenant of Landlord's intention to make such payment or do such act, or such shorter period of time as Landlord reasonably determines to be appropriate under the circumstances in order to avert, abate or limit any existing or imminent injury to people or damage to property, then Landlord may, at its option, make such payment or do such act, and the expenses thereof, with interest thereon at the Default Rate, from the date paid by Landlord, shall constitute Additional Rent hereunder due and payable by Tenant within thirty (30) days following Landlord's written therefor.

I. *Intentionally Omitted*

J. *Survival*: Tenant's liability pursuant to this Section 19 shall survive the expiration or earlier termination of this Lease, the institution of summary proceedings and/or the issuance of a warrant thereunder.

K. *Conversion Option as Remedy; Payment of Abated Rent*: If it is finally determined by a court of competent jurisdiction that Tenant is in Default under Section 19.A(1) hereof or is a Default with respect to the provisions of Section 6 of this Lease, then, after the date upon which such judicial order becomes unappealable (i.e., the timeframe for filing appeals has expired, without an appeal having been filed, or if an appeal has been filed, such appeal and the underlying case has been finally ended), Landlord may exercise the Conversion Option (as defined in Section 45 below). If Landlord elects to so exercise the Conversion Option pursuant to the terms of this Section 19.K, then exercise of the Conversion Option shall be Landlord's sole and exclusive remedy for any damages or other recovery for such particular Default by Tenant under this Lease arising prior to exercise of the Conversion Option. Notwithstanding anything contained in this Lease to the contrary, from and after the date on which Landlord's exercise of the Conversion Option becomes effective, Tenant shall pay Base Rent for the entire Demised Premises as determined by the process described within Section 45 below for so long as Tenant remains in possession of the Demised Premises pursuant to the terms of this Lease.

In the event that Landlord terminates this Lease because of a Default on the part of Tenant which is other than a Default with respect to which Landlord is entitled to exercise the Conversion Option in accordance with the immediately preceding paragraph of this Section 19.K, Landlord shall be entitled to all damages for Tenant's Default as are available under Section 19.C hereof.

L. *Landlord Default*: A "Landlord Default" shall occur under this Lease if Landlord fails to either (i) pay any sum of money required to be paid by Landlord to Tenant under this Lease and such failure continues uncured for a period of thirty (30) days following notice thereof from Tenant, and such failure continues uncured for an additional period of ten (10) days following the initial 30-day notice and cure period and Tenant's delivery of a second notice to Landlord specifying Landlord's failure and making reference to Tenant's initial notice of default; or (ii) perform or observe any matter required to be performed or observed by it under this Lease within thirty (30) days after Landlord's receipt of notice from Tenant specifying Landlord's failure to perform, and such failure continues uncured for an additional period of thirty (30) days following the initial 30-day notice and cure period and Tenant's delivery of a second notice to Landlord specifying Landlord's failure and making reference to Tenant's initial notice of default;

provided, however, that if the nature of Landlord's obligation is such that more time is required for its performance, then a Landlord Default shall not be deemed to have occurred so long as Landlord shall commence such performance expeditiously after its receipt of notice from Tenant and thereafter diligently proceed with such cure.

*M. Tenant's Remedies Upon Landlord Default:* In the event a continuing Landlord Default exists, Tenant shall have the right to terminate this Lease by providing written notice of termination to Landlord (which notice shall specify an effective date for such termination), upon which effective date of termination Tenant shall surrender possession of the Demised Premises in accordance with the provisions of this Lease, and this Lease shall terminate with respect to the Demised Premises as if the Termination Date were the Lease Expiration Date originally set forth in this Lease; provided, however, that, so long as Landlord provides Tenant with written notice of Landlord's dispute of Tenant's termination of this Lease within ten (10) business days after Landlord's receipt of Tenant's notice of termination, such termination shall be without prejudice to Landlord's right to dispute such termination or Landlord's right to damages under Section 19.C hereof in the event that such termination is finally judicially determined, after all appeal periods have ended, to have been invalid; further provided, that if a Landlord Default occurs and is continuing, and, if Tenant terminates this Lease as aforesaid, then Tenant may, at its sole option, require Landlord to pay to Tenant within ninety (90) days following Tenant's demand therefor, the balance of the remaining abated rent as provided in the Abated Rent Schedule. Such abated rent shall accrue interest at the Default Rate from the date when payment is due until the date when fully paid. Landlord's obligation as aforesaid shall survive the expiration or earlier termination of the Term of this Lease.

In addition, Tenant shall be entitled to exercise all remedies available under law to recover all other damages it may be entitled to as a result of a Landlord Default.

Landlord's liability pursuant to this Section shall survive the expiration or earlier termination of this Lease, the institution of summary proceedings and/or the issuance of a warrant thereunder.

## **20. NO WAIVER.**

No failure or delay by one party to this Lease in enforcing its right to strict performance by the other party to this Lease of every provision of this Lease, or in exercising any right or remedy hereunder, and no acceptance by either party to this Lease of full or partial payment during the continuance of any default, shall constitute a waiver of the provision or the default. No provision of this Lease shall be waived or modified except by a written amendment to this Lease executed by the parties to this Lease. No payment by Tenant, or receipt by Landlord, of a lesser amount than the full Rent shall be deemed to be other than a payment on account, notwithstanding any endorsement or statement on any check or letter accompanying any payment of any Rent. No waiver of any default and no settlement of any claimed default shall otherwise alter this Lease or constitute a waiver of any other rights of the parties to this Lease hereunder.

## **21. HOLDING OVER.**

A. Upon the Expiration Date or earlier termination of this Lease, Tenant, at Tenant's sole cost and expense, shall peacefully vacate and surrender the Demised Premises. The foregoing notwithstanding, in the event that Tenant shall not immediately surrender the Demised Premises

on the Expiration Date, or earlier termination of this Lease, Tenant shall, by virtue of this Section of this Lease, become a tenant at sufferance and hereby agrees to pay to Landlord as holdover rent for each month or portion thereof of such holdover occupancy Base Rent equal to one-twelfth ( $\frac{1}{12}$ <sup>th</sup>) of an amount (1) for each month of the first three (3) months of such an holdover, equal to one hundred fifty percent (150%), and (2) for each month of any holdover after such first three (3) months of such an holdover, equal to two hundred percent (200%), of the amount of annual Base Rent in effect for the last full month of the Term, plus the one-twelfth ( $\frac{1}{12}$ <sup>th</sup>) payment of the then estimated annual Additional Rent pursuant to Section 5 of this Lease (collectively, "Holdover Rent"). Such tenancy at sufferance shall be subject to all of the conditions and covenants of this Lease, and shall commence with the first day next after the expiration of the Term of this Lease or earlier termination. In the event of any holding over by Tenant, Tenant shall give to Landlord at least thirty (30) days' written notice of any intention to quit the Demised Premises. All amounts payable to Landlord during the holdover period shall be paid on the first (1<sup>st</sup>) day of any such holdover and thereafter on the first (1<sup>st</sup>) day of each calendar month during the holdover period until Tenant has vacated and surrendered the Demised Premises in accordance with the terms of this Lease. In no event shall holdover be deemed a permitted extension or renewal of the Term, and nothing contained herein shall be construed to be Landlord's consent to any holdover or to give Tenant any right with respect thereto. Landlord's acceptance of such rent shall not in any manner adversely affect Landlord's other rights and remedies, including Landlord's right to evict Tenant and to recover damages. Notwithstanding the foregoing, Landlord agrees that the Holdover Rent shall be deemed to be liquidated damages for the first six (6) calendar months of any such holdover period, which period begins after the Expiration Date or effective date of any earlier termination. Landlord shall have no right to seek or obtain consequential or other damages in connection with, or as a result of, any such six (6)-month holdover.

B. In addition to Tenant's responsibilities set forth in Section 21.A, in the event that Tenant shall hold over after the expiration or the early termination of the Term, then Landlord, at its option, may exercise any and all remedies for Default and at law and in equity, including an action against Tenant for wrongfully holding over and/or proceed to recover possession of the Demised Premises. The rights afforded Landlord pursuant to this Section shall be in addition to any other rights of Landlord pursuant this Lease.

## **22. SUBORDINATION.**

### *A. Subordination.*

(1) Subject to the terms of Section 22.A(2) below, this Lease shall be subject and subordinate to the lien of any and all Mortgages and to any Ground Leases, and any and all renewals, extensions, modifications, recastings and refinancings thereof. Notwithstanding the foregoing, Landlord shall by no later than ten (10) business days after the date that Landlord enters into any Mortgage or Ground Lease, deliver to Tenant an Acceptable SNDA (as hereinafter defined) with Landlord and Landlord's Mortgagee or Ground Lessor, by which Tenant shall agree to confirm the subordination of this Lease to the lien of the applicable Mortgage or Ground Lease, at no cost to Tenant. Tenant shall, within ten (10) business days after receipt of an Acceptable SNDA, a Qualified Appraisal and Debt Certifications (as hereinafter defined), execute and deliver such Acceptable SNDA, so long as Landlord provides Tenant with documents demonstrating that Landlord is then maintaining the Minimum Equity Interest and that any then impending sale, transfer, financing, re-financing and/or Ground Lease

transaction with respect to the Land and/or the Building or any interest therein shall not threaten Landlord's maintenance of the Minimum Equity Interest. Tenant acknowledges that a Qualified Appraisal, coupled with signed Debt Certifications (as hereinafter defined) from Landlord and any proposed transferee (but excluding any mortgage lender or its trustees under a deed of trust) in connection with such transaction, shall, if such documents demonstrate the continued existence of the Minimum Equity Interest, shall be deemed to be satisfactory to Tenant. For purposes of this Lease, "Debt Certifications" shall mean signed statements for the benefit of Tenant, under oath, by the signing entity's chief executive officer, chief financial officer or chief operating officer that certify to the amount of debt (whether mortgage debt, mezzanine debt or otherwise) maintained or to be maintained in connection with the Land and/or the Building or any interest therein, in form reasonably acceptable to Tenant. Tenant agrees that, if any Mortgage is foreclosed or Ground Lease terminated that is the subject of an Acceptable SNDA executed by Tenant, upon request by the purchaser at the foreclosure sale or Ground Lessor, as the case may be, Tenant shall attorn to and recognize the purchaser or Ground Lessor as the landlord under this Lease and shall make all payments required hereunder to such new landlord without any deduction or set-off of any kind whatsoever. Tenant agrees that it will not exercise the provisions of any Applicable Laws, now or hereafter in effect, which may give or purport to give Tenant any right to terminate or otherwise affect this Lease or the obligations of Tenant hereunder in the event that any such foreclosure, termination or other proceeding is filed, prosecuted or completed. Notwithstanding anything herein to the contrary, any Mortgagee may at any time subordinate the lien of its Mortgage to the operation and effect of this Lease without Tenant's consent, by giving Tenant notice of such subordination, in which event this Lease shall be deemed to be senior to such Mortgage, and thereafter such Mortgagee shall have the same rights as it would have had if this Lease had been executed, delivered and recorded before said Mortgage.

(2) Notwithstanding anything in this Lease to the contrary, Landlord shall, as a condition to Tenant's subordination of this Lease, obtain from the holder of any Mortgage or Ground Lease, as applicable, which encumbers the Building and/or the Land, and provide Tenant, a fully executed subordination, non-disturbance and attornment agreement for the benefit of Tenant which is in the Mortgagee's or Ground Lessor's usual form, so long as such form satisfies all of the criteria set forth in the following sentence (an "Acceptable SNDA"). An Acceptable SNDA shall contain, without limitation, provisions that (i) provide that the Mortgagee or Ground Lessor, as applicable, shall not disturb or restrict Tenant's possession of the Demised Premises or any of Tenant's other rights under this Lease as long as no Default shall have occurred and be continuing, (ii) confirm that such Mortgagee, Ground Lessor or successor landlord in the event a foreclosure sale or deed in lieu thereof, as the case may be, shall remain obligated to pay Tenant the balance of the remaining abated rent as provided in the Abated Rent Schedule pursuant to the terms of this Lease, and (iii) do not create, impose additional, change or expand any obligations of Tenant under this Lease or otherwise (except possibly to modify the notice provisions hereof) or adversely affect any of Tenant's rights under this Lease or otherwise. Notwithstanding any other term or provision of this Lease to the contrary, this Lease shall not be subordinate to the lien of any future Mortgage or future Ground Lease unless Tenant receives from the Mortgagee or Ground Lessee, as applicable, an Acceptable SNDA. In the event that Tenant does not receive an Acceptable SNDA from any Mortgagee or Ground Lessee, as applicable, this Lease shall be deemed to be senior to and have priority over the lien of any such Mortgage or Ground Lease. Tenant acknowledges and agrees that the form of SNDA attached to and made a part of this

Lease as Exhibit F is approved by the Tenant and constitutes an example of an Acceptable SNDA.

B. *Modifications to Lease:* If any of Landlord's insurance carriers or any Mortgagee requests modifications to this Lease, then provided that the County Manager reasonably determines that such modifications do not materially adversely affect Tenant's use of the Demised Premises as herein permitted, increase the rentals or other sums payable by Tenant hereunder, or materially impair or diminish the Tenant's rights under this Lease, the County Manager shall forward such modifications to the County Board in order for the County Board to consider whether or not to approve the execution of a written amendment incorporating such requested modifications within thirty (30) days after the same has been submitted to Tenant by Landlord.

C. *Mortgage Holder's Opportunity to Cure:* If (i) the Building is at any time subject to a Mortgage that is the subject of an Acceptable SNDA executed by Tenant, (ii) this Lease and Rent payable hereunder is assigned to the holder of the Mortgage, and (iii) Tenant is given notice of such assignment, including the name and address of the assignee, then, in that event, Tenant shall not terminate this Lease or make any abatement or offset in the Rent payable hereunder, in each case for any default on the part of Landlord without first giving notice, in the manner provided elsewhere in this Lease for the giving of notices, to the holder of such Mortgage, specifying the default in reasonable detail, and affording such holder a reasonable opportunity to make performance, at its election, for and on behalf of Landlord, except that: (a) such holder shall have at least thirty (30) days to cure the default; (b) if such default, by its nature, cannot be cured with reasonable diligence and continuity within thirty (30) days, such holder shall have any additional time as may be reasonably necessary to cure the default with reasonable diligence and continuity, not to exceed ninety (90) days in the aggregate; and (c) if the default cannot reasonably be cured without such holder having obtained possession of the Building, such holder shall have such additional time as may be reasonably necessary under the circumstances to obtain possession of the Building and thereafter to cure the default with reasonable diligence and continuity, not to exceed one hundred fifty (150) days in the aggregate (provided Tenant is able to conduct its business in the Demised Premises without material disruption during such extended cure period). If more than one (1) such holder makes a written request to Landlord to cure the default, the holder making the request whose lien is the most senior shall have such right. Any cure of Landlord's default by such holder shall be treated as performance by Landlord. Any notice to Tenant from the holder of any Mortgage with whom Tenant has entered into an SNDA, from any purchaser at foreclosure, or from the recipient of a deed in lieu of foreclosure, directing Tenant to make payment of Rent and any other sums due and payable to Landlord to a person or entity other than Landlord shall have the same effect under this Lease as notice to Tenant from Landlord hereunder and any such payment made to such designee shall be deemed payment, to the extent so made, in satisfaction of Tenant's obligations to Landlord under this Lease, notwithstanding the existence or nonexistence of any default under any Mortgage or any dispute with respect thereto, and Landlord shall have no claim against Tenant in respect thereof. In the event of any inconsistency between a notice from Landlord and/or a notice from any such Mortgagee, any purchaser at foreclosure, or the recipient of a "deed in lieu of foreclosure" directing payment of any sums due and payable to Landlord by Tenant, the first such notice from any such person or entity shall govern until Tenant receives subsequent written instructions jointly executed by all such persons or entities.

### 23. ASSIGNMENT AND SUBLETTING.

A. *No Transfer Without Consent*: Subject to the terms of this Lease and further subject to Landlord's review and approval, which approval shall not be unreasonably withheld, conditioned, or delayed, Tenant shall be entitled to assign this Lease or to sublet or license up to One Hundred percent (100%) of the Demised Premises to persons or entities (a) for the permitted and ancillary uses as described in Section 6.A, and (b) that the County determines shall provide services to the public with or through Tenant. Tenant shall not, without the consent of Landlord in each instance (which consent may be withheld in Landlord's sole and absolute discretion) (i) mortgage or otherwise encumber this Lease or any of its rights hereunder; or (ii) permit the assignment of this Lease or any of Tenant's rights hereunder by operation of law. In no event shall Tenant be entitled to sublet or license the Terrace Area separate and apart from an interior portion of the Demised Premises. Any attempted assignment, mortgaging or encumbering of this Lease or any of Tenant's rights hereunder and any attempted subletting, licensing or grant of a right to use or occupy all or a portion of the Demised Premises in violation of the provisions of this Section 23.A shall be void. Landlord shall consider any assignment or sublease proposed by Tenant to a person or entity that does not meet the criteria in clauses (a) or (b) of this paragraph above, but in such instance wherein the criteria are not met, Landlord shall have the right, in its sole and absolute discretion, to determine whether to consent to such proposed assignment or sublease. In the event that Landlord denies its consent to any proposed assignment, subletting or licensing, Landlord shall provide Tenant with a written notice setting forth Landlord's rationale for denying its consent as aforesaid. As to any approved or deemed approved sublease or license, Landlord hereby agrees that Tenant shall have the right, at its option, to grant to the subtenant or licensee thereunder the ability to pay any rent or license fee due to Tenant thereunder directly to Landlord. In such event, Landlord shall accept such payment of rent or license fee as a payment of Rent for the account of Tenant hereunder, and such acceptance of rent or license fee shall not be considered or construed to establish contractual privity of or between Landlord and such subtenant or licensee.

B. *Process to Obtain Consent*. If Tenant desires to assign, sublet or license the Demised Premises, or any portion thereof, then Tenant shall give Landlord prior written notice of the proposed assignee, subtenant or licensee and its particular proposed use of the Demised Premises (the "Consent Request"). Landlord's consent to a proposed assignment, subletting or license by Tenant shall not be unreasonably withheld, conditioned or delayed by Landlord if the following conditions have been satisfied:

(1) Tenant is not released from its obligations as Tenant under this Lease;

(2) the assignee's, sublessee's or licensee's proposed use of the Demised Premises (or portion thereof) is consistent with Section 6 above and the sublessee or licensee agrees in writing that it shall not violate any provisions of this Lease governing use or occupancy of the Demised Premises; and

(3) such assignee, sublessee or licensee agrees in writing that the terms of Section 33.B and Section 39.B of this Lease shall be applicable to such sublessee or licensee.

In the event that Landlord fails to respond to a Consent Request with respect to which Landlord was obligated pursuant to Section 23.A hereof to be reasonable in its consideration, within twenty (20) days after its submission to Landlord by Tenant and such failure continues for ten (10) days following Landlord's receipt from Tenant of a notice that specifies that Landlord

has not responded to the Consent Request within said twenty (20)-day period and that if such failure continues for ten (10) additional days, Landlord's consent shall be deemed to have been granted to such Consent Request, then Landlord's consent shall be deemed to have been granted to such Consent Request. After a Consent Request is approved or deemed to have been approved, Tenant shall furnish to Landlord a copy of the proposed instrument of assignment, sublet or license under the terms of this Section for Landlords' review and approval (an "Instrument Approval Request"), which approval shall not be unreasonably withheld, conditioned or delayed. In the event that Landlord fails to respond to an Instrument Approval Request with respect to a proposed assignment, sublease or license with respect to which Landlord was required pursuant to Section 23.A hereof to be reasonable in its consideration, within ten (10) days after its submission to Landlord by Tenant and such failure continues for five (5) days following Landlord's receipt from Tenant a notice that specifies that Landlord has not responded to the proposed Instrument Approval Request within said ten (10)-day period and that if such failure continues for five (5) additional days, Landlord's consent shall be deemed to have been granted to such proposed Instrument Approval Request, then Landlord's consent shall be deemed to have been granted to such instrument. Any consent or deemed consent by Landlord to any assignment, subletting or licensing shall not be construed as a waiver or release of Tenant from the terms of any covenant or obligation contained in this Lease, nor shall such assignment, sublet or license be construed to relieve Tenant from obtaining the consent in writing of Landlord to any further assignment, subletting or licensing. In the event that Tenant defaults under this Lease beyond any applicable notice and cure periods, Tenant hereby assigns to Landlord the rent due from any subtenant, assignee or licensee of Tenant and hereby authorizes each such subtenant, assignee or licensee to pay said rent directly to Landlord.

*C. Expenses and Profits/Recapture:* Tenant shall not be obligated to share with Landlord any revenue or profits received by Tenant from any assignee or any sublessee or licensee of the Demised Premises approved or deemed approved pursuant to Section 23.A. Tenant shall be responsible for the reasonable out-of-pocket costs and expenses actually incurred by Landlord in connection with any proposed or purported assignment, license or sublease as demonstrated by detailed invoices or other documents provided by Landlord to Tenant, up to a maximum amount of Five Thousand Dollars (\$5,000.00) per transaction. In the event of any such assignment, sublet or licensee, Landlord shall not have the right to recapture the assigned or sublet space.

*D. Conditions of Assignment, License or Sublease:* All restrictions and obligations imposed pursuant to this Lease on Tenant shall be deemed to extend to any subtenant, assignee, licensee, concessionaire or other occupant or transferee, and Tenant shall use diligent efforts to cause such person to comply with such restrictions and obligations. Any assignee shall be deemed to have assumed obligations as if such assignee had originally executed this Lease and at Landlord's request shall execute promptly a document confirming such assumption. Each sublease and license is subject to the condition that if the Term is terminated or Landlord succeeds to Tenant's interest in the Demised Premises by voluntary surrender or otherwise, at Landlord's sole option, the subtenant shall be bound to Landlord for the balance of the term of such sublease and shall attorn to and recognize Landlord as its landlord under the then executory terms of such sublease or license, or, at Landlord's sole option, the subtenant or licensee shall execute a direct agreement with Landlord on Landlord's then current standard form.

#### **24. TRANSFER BY LANDLORD.**

Landlord (and any successor or affiliate of Landlord) may freely sell, assign or transfer all or any portion of its interest in this Lease or the Demised Premises, the Building or the Land, and, in the event of any such sale, assignment or transfer, shall be relieved of any and all obligations that first arise under this Lease from and after the date of the sale, assignment or transfer. From and after the date of any such sale, assignment, or transfer, Tenant shall be bound to such purchaser, assignee or other transferee, as the case may be, as though the latter had been the original Landlord hereunder, provided that the purchaser, assignee or transferee agrees to assume the obligations of Landlord hereunder first arising on and after the date of the sale, assignment or transfer. Notwithstanding the foregoing, such purchaser, assignee or other transferee shall be obligated to pay Tenant, as and when due and payable pursuant to the terms of this Lease, the balance of the remaining abated rent as provided in the Abated Rent Schedule, even if such obligation arose prior to the date of the sale, assignment or transfer.

#### **25. ESTOPPEL CERTIFICATES.**

A. So long as Landlord provides Tenant with (a) a Qualified Appraisal as to the then fair market value of the Building and the Land, and (b) an acceptable Debt Certification from Landlord and, in the event an estoppel certificate is requested in connection with a proposed sale of the Building and/or the Land, or any direct or indirect equity interest therein, an acceptable Debt Certification from the proposed purchaser or transferee, which such Qualified Appraisal and Debt Certification(s) demonstrate to Tenant's reasonable satisfaction that Landlord is then maintaining the Minimum Equity Interest and that any then impending sale, transfer, financing, re-financing and/or ground lease transaction shall not threaten Landlord's maintenance of the Minimum Equity Interest, Tenant agrees, upon not less than twenty (20) days' prior written notice by Landlord, and not more than two (2) times during any calendar year (unless in connection with any proposed sale or financing of the Building or the Land, or any direct or indirect transfer of any equity interest in the Building or the Land), to execute, acknowledge and deliver to Landlord a statement in writing (i) stating that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect as modified and stating the modifications), (ii) stating the dates to which the Rent, if any, and other charges hereunder have been paid by Tenant, (iii) stating whether or not Tenant has provided Landlord with a notice that Landlord is in default under this Lease, (iv) stating the address to which notices to Tenant should be sent, (v) agreeing not to pay Rent more than thirty (30) days in advance, and (vi) that Tenant has no knowledge (without investigation or document review) of any then uncured defaults by Landlord under this Lease (or, if Tenant has knowledge of any such defaults, specifying the same in a reasonable detail), it being agreed that as used in this clause (vi) the term "knowledge" shall mean, so long as Tenant is The County Board of Arlington County, Virginia, a body politic, only the Real Estate Bureau Chief of the Engineering and Capital Projects Division of the Department of Environmental Services, also known as the Real Estate Manager of Arlington County, Virginia. Any such certificate may be relied upon by any owner of the Building, any prospective purchaser of the Building or the Land, any Mortgagee or prospective Mortgagee of the Building or the Land or of Landlord's interest therein, any holder or potential purchaser of any indirect or direct equity interest in the Building or the Land, any Ground Lessor or prospective Ground Lessor or any prospective assignee of any such mortgage or ground lease.

B. Landlord agrees, upon not less than twenty (20) days' prior written notice by Tenant, and not more than two (2) times during any calendar year (unless in connection with an assignment of this Lease or a sublease of all or a substantial portion of the Demised Premises), to execute, acknowledge and deliver to Tenant a statement in writing stating (i) that this Lease is unmodified and in full force or effect (or, if there have been modifications, that this Lease is in full force and effect as modified and stating the modifications), (ii) the dates to which the Rent, if any, and other charges hereunder have been paid by Tenant, (iii) whether or not Landlord has provided Tenant with a notice that Tenant is in default under this Lease, (iv) the address to which notices to Landlord should be sent, and (v) that Landlord has no knowledge (without investigation or document review) of any then uncured defaults by Tenant under this Lease (or, if Landlord has knowledge of any such defaults, specifying the same in reasonable detail), it being agreed that as used in this clause (v) the term "knowledge" shall mean only the knowledge of the Landlord's Executive Vice President for the D.C. Market and its Property Manager for the Building. Any such certificate may be relied upon by Tenant or any prospective assignee, subtenant or licensee of Tenant.

## **26. COVENANT OF QUIET ENJOYMENT.**

Landlord covenants that it has the right to make this Lease and that, if Tenant shall pay all Rent, if any, and perform all of Tenant's other obligations under this Lease, Tenant shall have the right, during the Term and subject to the provisions of this Lease, to quietly occupy and enjoy the Demised Premises without hindrance by Landlord or its successors and assigns.

## **27. BROKERS.**

Landlord and Tenant each represent and covenant one to another that, except as herein set forth, neither has employed any broker or leasing agent in carrying on the negotiations, or had any dealings with any broker, relating to this Lease. Landlord recognizes only the Broker (as set forth in Section 1.D) as Landlord's broker with respect to this Lease and agrees to be responsible for the payment of any leasing commissions owed to said broker pursuant to a separate agreement between Landlord and such broker.

## **28. CERTAIN RIGHTS RESERVED BY LANDLORD.**

Landlord reserves the following rights, exercisable without notice to Tenant except as otherwise provided in this Section 28, without liability for damage or injury to property, person or business and without effecting an eviction, constructive or actual, or disturbance of Tenant's use or possession of the Demised Premises or giving rise to any claim for set-off, abatement of Rent or otherwise:

A. To change the Building's name, provided that Landlord shall give Tenant not less than thirty (30) days' prior notice of such change;

B. To affix, maintain and remove signs on the exterior and interior of the Building pursuant to the applicable zoning ordinance (except that Landlord shall not affix any sign on the exterior of the Building in the location shown on the drawings attached hereto and made a part hereof as Exhibits K-1 and K-2 and Landlord shall not disturb Tenant's signs permitted herein as long as such signs comply with all Applicable Law and the terms of this Lease);

C. To construct improvements (including kiosks) on the Land and in the Common Areas of the Building only as specifically permitted by this Lease, the applicable Site Plan, and Applicable Law;

D. To prohibit smoking in the entire Building or portions thereof (including the Demised Premises) and on the Land, so long as such prohibitions are in accordance with Applicable Law;

E. If any excavation or other substructure work shall be made or authorized to be made upon land adjacent to the Building or the Land, to enter the Demised Premises for the purpose of doing such work as is required to preserve the walls of the Building and to preserve the land from injury or damage and to support such walls and land by proper foundations;

F. To designate and approve, prior to installation, all window shades, blinds, drapes, awnings, window ventilators, lighting and other similar equipment to be installed by Tenant that may be visible from the exterior of the Demised Premises or the Building;

G. To decorate and make repairs, alterations, additions and improvements, whether structural or otherwise, in, to and about the Building and any part thereof, and for such purposes to enter and to perform work in and from the Demised Premises, and, during the continuance of any such work, to close temporarily doors, entry ways, Common Areas and to interrupt or temporarily suspend Building services and facilities, all without affecting Tenant's obligations hereunder, as long as the Demised Premises, excluding the Terrace Area, remain tenantable;

H. To alter, relocate, reconfigure, reduce and withdraw the Common Areas, including parking, as long as the Demised Premises remain reasonably accessible and Tenant's parking rights under this Lease are preserved;

I. Notwithstanding anything contained in this Section 28 and/or elsewhere in this Lease to the contrary, Landlord may at any time elect to alter, rehabilitate or renovate all or any portion of the Building, so long as such construction does not substantially and unreasonably interfere with Tenant's access to the Demised Premises or substantially and unreasonably interfere with Tenant's use of the Demised Premises. Tenant's intended use of the Demised Premises is expected to include Cultural Events. Accordingly, Landlord shall not perform any construction work upon the Land or within the Building during any time when the Demised Premises is used for Cultural Events if such construction work produces noise that is audible within the Demised Premises at a level above the Permitted Noise Limit (as measured using the Noise Measuring Procedures), other than during the period beginning at 7:00 a.m. and ending at 10:00 a.m. on any day. In order to facilitate non-interference with Tenant's Permitted Uses in the Demised Premises, Landlord may provide Tenant with a Construction Work Notice from time to time at Landlord's option, which such Construction Work Notice shall request that Tenant give Landlord a Scheduled Performance Notice of all then scheduled upcoming Cultural Events (including the time thereof) in the Demised Premises for the next sixty (60) days. Within fifteen (15) business days after receipt of Landlord's Construction Work Notice as aforesaid, Tenant shall provide Landlord with a Scheduled Performance Notice that lists all then scheduled Cultural Events (including the times thereof) in the Demised Premises during the sixty (60)-day period following the date of the Scheduled Performance Notice. Landlord shall be entitled to rely upon such Scheduled Performance Notice in planning any alterations, additions or improvements which Landlord intends to make and to perform work at any time that no Cultural Event is shown on such Scheduled Performance Notice. Additionally, Landlord shall be entitled to perform work at a time that any Cultural Event is scheduled on a Schedule Performance Notice if, in fact, no such Cultural Event actually occurs at that time (*e.g.*, because the scheduled Cultural Event is cancelled). A failure by Tenant to provide such Scheduled Performance Notice within fifteen (15) business days after Tenant's receipt of Landlord's Construction Work Notice

shall be deemed to mean that no Cultural Events are scheduled for the sixty (60)-day period following the date of Landlord's Construction Work Notice. Tenant acknowledges that Landlord has the right to undertake major renovations (including work with respect to the exterior façade of the Building) with respect to the Building and that Landlord may hereafter perform additional work, improvements and renovations with respect to the Building. In connection with any such work, improvements and renovations, Landlord may erect scaffoldings, sidewalk bridges and other such appurtenances. Tenant agrees not to interfere with such work, improvements and renovations and further agrees that such work, improvements and renovations (and the construction appurtenances which Landlord may place at or near the Demised Premises) shall not constitute an eviction or constructive eviction of Tenant, in whole or in part, and the Base Rent and all other items of Additional Rent hereunder shall not abate while such work, improvements and renovations are being made by reason of loss or interruption of the business of Tenant or otherwise, nor shall Tenant have any claims against Landlord by reason of such work.

In the event that Landlord desires to exercise any of its rights under this Section 28 in a manner that requires entry to the Demised Premises or that would affect Tenant's conduct of its business operations in the Demised Premises, for purposes other than an emergency repair, Landlord shall provide advance notice to Tenant of such entry, such notice of entry to be made in conformity with the requirements of Section 11. Landlord agrees that in the exercise of its rights pursuant to this Section 28, Landlord shall not unreasonably interfere with Tenant's business operations in the Demised Premises and Landlord shall use reasonable efforts to limit the scope and duration of any such interference which does occur. Landlord acknowledges that Tenant's intended use of the Demised Premises may include cultural uses such musical performances, lectures and readings that would be adversely affected by construction noise emitted from within or outside the Demised Premises which is in excess of the Permitted Noise Limit (as measured using the Noise Measuring Procedures). Accordingly, Landlord shall not perform construction work upon the Land or within the Building during such uses which produces noise that is audible within the Demised Premises at a level above the Permitted Noise Limit (as measured using the Noise Measuring Procedures), other than during the period beginning at 7:00 a.m. and ending at 10:00 a.m. on Mondays through Fridays (excluding Holidays). In order to facilitate non-interference with Tenant's Permitted Uses in the Demised Premises, Landlord shall provide Tenant with a Construction Work Notice at least ninety (90) days in advance of any planned performance by Landlord of any material construction work upon the Land or within the Building, which such Construction Work Notice shall request that Tenant give Landlord a Scheduled Performance Notice of all then scheduled upcoming performances and other events (including the time thereof) in the Demised Premises in the next sixty (60) days. Within ten (10) business days after receipt of Landlord's Construction Work Notice as aforesaid, Tenant shall provide Landlord with a Scheduled Performance Notice that lists all then scheduled upcoming performances and other events (including the times thereof) in the Demised Premises during the sixty (60) day period following the date of the Scheduled Performance Notice. Landlord shall be entitled to rely upon such Scheduled Performance Notice in planning any alterations, additions or improvements, which Landlord intends to make and to perform work at any time that no performance or other event is shown on such Scheduled Performance Notice. A failure by Tenant to provide such Scheduled Performance Notice within ten (10) business days after receipt of Landlord's Construction Work Notice shall be deemed to mean that no performances or other

events are scheduled for the sixty (60)-day period with respect to which such Scheduled Performance Notice was not provided.

## **29. NOTICES.**

No notice, request, approval, consent, waiver, demand or other communication which may be or is required or permitted to be given under this Lease shall be effective unless the same is in writing and hand-delivered, sent by registered or certified mail, return receipt requested, first-class postage prepaid, or sent with charges prepaid by a nationally recognized air courier service, addressed to Landlord at the Landlord Notice Address or to Tenant at the Tenant Notice Address, as applicable, or at any other address of which either party shall notify the other in accordance with this Section 31. Such communications, if delivered by hand, shall be deemed given when delivered, or if sent by registered or certified mail, shall be deemed to have been given two (2) days after the date of mailing, or if sent by a nationally recognized air courier service, shall be deemed to have been given one (1) business day after the date of deposit of the notice with such service. Notwithstanding the foregoing, if such party's address has changed and the other party has not been given notice of such change in accordance with the requirements of this Section 31, a communication shall be deemed to have been given (a) upon the first refusal of receipt thereof and (b) upon the first attempted delivery to the address for a party set forth in this Lease. If any Mortgagee shall notify Tenant that it is the holder of a Mortgage affecting the Demised Premises, no notice pertaining to an alleged default by Landlord under this Lease and no notice pursuant to Sections 17 entitled "INSURANCE," Section 18 entitled "CONDEMNATION," Section 45 entitled "CONVERSION OPTION," or Section 46 entitled "OPTION TO EXTEND" thereafter sent by Tenant to Landlord shall be effective until a copy of same shall be sent to such Mortgagee in the manner prescribed in this Section 29 at such address as such Mortgagee shall designate.

## **30. TENANT'S APPROPRIATION OF FUNDS.**

A. All references to Tenant in this Section 30 shall refer to, apply to and be for the benefit only of The County Board of Arlington County, Virginia, a body politic, or any assignee of Tenant's interest in this Lease which is a State, local government, political subdivision or public authority (collectively, a "Governmental Entity").

B. Notwithstanding any other term or condition of this Lease to the contrary, all of Tenant's obligations under this Lease are subject to appropriation of funds by The County Board of Arlington County, Virginia for the specific purpose of satisfying the payment and performance of such obligations. In the event that funds are not appropriated for the specific purpose of satisfying the obligations of the Tenant under this Lease and Tenant fails to timely pay Rent due under this Lease as a result thereof, then this Lease shall become null and void and shall terminate on the last day of the Term hereof for which Rent has been paid pursuant to appropriations made for such purpose, without any termination fee or other liability whatsoever to the Tenant. If funds for the Tenant's obligations under this Lease are not appropriated, then the Tenant shall vacate the Demised Premises as of the last day of the Term hereof for which Rent has been paid. Notwithstanding anything contained herein to the contrary, upon the termination of this Lease for non-payment of Rent as a result of the non-appropriation of funds, as aforesaid, Landlord shall pay to Tenant, within ninety (90) days after the termination of this Lease, the balance of the remaining abated rent as provided in the Abated Rent Schedule. Such abated rent shall accrue interest at the Default Rate from the date when payment is due until the

date when fully paid. Landlord's obligation as aforesaid shall survive the expiration or earlier termination of the Term of this Lease. In the event that Landlord timely pays the remaining abated rent as aforesaid, Landlord may exercise the Conversion Option pursuant to Section 45.

C. It is agreed by both Landlord and Tenant that, notwithstanding any provision in this Lease to the contrary, this clause shall supersede any and all obligations imposed by any other provision of this Lease or the Exhibits attached hereto or any addenda hereto. No subsequent amendment of, or addendum to, this Lease shall compromise the full legal implication of this Section between the parties hereto or their respective successors or assigns.

D. Tenant agrees to provide Landlord with written notice in the event the County Manager does not recommend to the County Board the appropriation of funds for this Lease. Additionally, Tenant also agrees to provide Landlord with written notice, within five (5) business days after the adoption of Tenant's budget for a fiscal year, if such budget does not include an appropriation of funds for the satisfaction of Tenant's obligations under this Lease.

### **31. ROLE OF TENANT/TENANT DECISIONS.**

Tenant's execution of this Lease shall not constitute the granting of governmental approval to Landlord for any governmental approval or consent required to be obtained by Landlord.

### **32. NO WAIVER OF SOVEREIGN IMMUNITY BY TENANT.**

Notwithstanding any other provision of this Lease to the contrary, nothing in this Lease nor any action taken by Tenant pursuant to this Lease nor any document which arises out of this Lease shall constitute or be construed as a waiver of either the sovereign immunity or governmental immunity of Tenant, or of its elected and appointed officials, officers and employees; provided, however, that Tenant hereby agrees and acknowledges that in no event shall this provision serve to relieve Tenant of any of its obligations to pay Base Rent or Additional Rent pursuant to Section 5 above as and when due under this Lease unless otherwise specifically provided in this Lease.

### **33. INDEMNIFICATION AND HOLD HARMLESS.**

A. No provision of this Lease shall be construed as Tenant, explicitly or implicitly, agreeing to indemnify or hold harmless Landlord or any third party or parties from liability of any nature. This Section 33.A shall be applicable only for so long as Tenant is The County Board of Arlington County, Virginia, a body politic, or an assignee of Tenant's interest in this Lease that is a Governmental Entity. With respect to damages for which Tenant is not immune under Section 32 hereof and for which Tenant is otherwise obligated to pay under the terms of this Lease, the foregoing provisions of this Section 33.A shall not obviate Tenant's obligation thereto.

B. Any assignee, sublessee or licensee of Tenant (other than any Governmental Entity which may not provide indemnity protection to Landlord under Applicable Law), with respect to any portion of the Demised Premises or this Lease (collectively, "Tenant's Transferees") shall indemnify and hold Landlord and its shareholders, members, partners, contractors, licensees, invitees, Ground Lessors and Mortgagees, and their respective employees, agents, officers and directors, harmless from and against all costs, damages, claims, liabilities and expenses, including attorneys' fees, suffered by or claimed against Landlord, directly or indirectly, based on, arising out of or resulting from: (i) such Tenant's Transferee's use and occupancy of the

Demised Premises or the business conducted by Tenant therein or such Tenant's Transferee's presence in the Building or on the Land, (ii) the making by such Tenant's Transferee's of any Alterations, (iii) any act or omission of such Tenant's Transferee's or its employees, agents or invitees, and (iv) any breach or default by such Tenant's Transferee's in the observance or performance of this Lease.

#### **34. NO RIGHTS IN THIRD PARTIES.**

The parties hereto mutually agree that no provision of this Lease shall create in the public, or in any person or entity other than those signing this Lease as parties hereto, rights as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for personal injury, property damage, or breach of contract pursuant to the terms of this Lease or otherwise.

#### **35. COUNTY BOARD APPROVAL.**

The execution of this Lease and its delivery to Tenant shall constitute a revocable offer by Landlord. If such offer is not accepted by Tenant by execution and delivery of this Lease to Landlord on or before November 21, 2008, following the approval of the County Board of this Lease, then Landlord shall have the right to revoke such offer by notice to Tenant, in which event no liability whatsoever shall accrue to Landlord or Tenant, and Landlord and Tenant shall have no obligations whatsoever to each other.

#### **36. MISCELLANEOUS PROVISIONS.**

A. *Benefit and Burden:* The provisions of this Lease shall be binding upon, and shall inure to the benefit of, the parties hereto and each of their respective successors and permitted assigns.

B. *Headings:* The Section headings contained in this Lease are for convenience only and shall not enlarge or limit the scope or meaning of the various and several articles hereof. Words in the singular shall be read to include the plural, unless the context otherwise requires.

C. *Governing Law:* This Lease shall be construed and enforced in accordance with the law of the Commonwealth of Virginia.

D. *No Partnership:* Nothing contained in this Lease shall be deemed to create a partnership or joint venture between Landlord and Tenant, or to create any other relationship between the parties other than that of Landlord and Tenant.

E. *Delegation by Landlord:* Wherever Landlord has the authority to take any action under this Lease, Landlord shall have the right to delegate such authority to others, and Landlord shall be responsible for the authorized actions of such agents, employees and others, to the same extent as if Landlord had taken such action itself.

F. *Severability; Invalidity of Particular Provisions:* If any provision of this Lease or the application thereof to any person, entity or circumstance shall, to any extent, be held invalid or unenforceable, the remaining provisions and the application of such invalid or unenforceable provisions to persons, entities and circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby. Each provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

G. *Tenant's Role:* Landlord hereby acknowledges that Tenant has entered into this Lease in its role as tenant under this Lease and not as a governing authority. Accordingly, Tenant's

execution of this Lease shall neither constitute nor be deemed to be governmental approval for any actions or interests contemplated herein, including without limitation, for the construction of any Alterations or the construction and occupancy of the Demised Premises, or for any other governmental approval or consent required to be obtained by Landlord. Whenever in this Lease Tenant is required to join in, consent, give its approval, or otherwise act under this Lease, it is understood that such obligations are meant to apply to Tenant acting in its capacity as a tenant and not in its capacity as a governing authority. Further, Landlord hereby acknowledges that any and all decisions, determinations, consents, notifications or any other actions taken or to be taken by Tenant pursuant to this Lease, whether or not specifically contemplated hereunder, may be taken by the County Manager or by another Arlington County official or body pursuant to any means, mechanism or process as determined by Arlington County in its sole discretion. Landlord shall have no right to question or challenge the propriety, authority or legality of any such Arlington County official or body, or means, mechanism or process by which any such decision, determination, consent, notification, or other action is taken or to be taken hereunder by Tenant; provided such decision, determination, consent, notification, or other action by Tenant is taken in accordance with all Applicable Law and the terms of this Lease. Notwithstanding the foregoing, nothing in this Lease shall be construed to waive any of Tenant's powers, rights or obligations as a governing authority or local governing body, whether or not affecting the Property or the Demised Premises, including, but not limited to its police power, right to grant or deny permits, right to collect taxes or other fees, or any other power, right or obligation whatsoever.

H. *Counterparts*: This Lease may be executed in several counterparts, all of which shall constitute one and the same document.

I. *Survival*: The obligations of Landlord and Tenant that accrue during the Term but that have not been satisfied prior to the expiration of the Term, shall survive the Expiration Date or earlier termination of the Term.

J. *Entire Agreement*: This Lease, and any Exhibits and addenda attached hereto, embody the entire agreement of the parties hereto, and no representations, inducements or agreements, oral or otherwise, between the parties not contained in this Lease or in the Exhibits or addenda shall be of any force or effect. No rights, privileges, easements or licenses are granted to Tenant hereby, except as expressly set forth herein.

K. *Amendments*: This Lease may not be modified in whole or in part in any manner other than by an agreement in writing, executed by persons authorized to bind the parties to this Lease.

L. *Mortgagee's Performance*: Tenant shall accept performance of any of Landlord's obligations hereunder by any Mortgagee, provided that such performance is in accordance with Landlord's obligations pursuant to this Lease.

M. *[Intentionally Omitted]*

N. *Remedies Cumulative*: All rights and remedies of Landlord and Tenant shall be cumulative and shall not be exclusive of any other rights or remedies of Landlord or Tenant, as the case may be, hereunder or now or hereafter existing at law or in equity.

O. *Authority*: Landlord and the person executing and delivering this Lease on Landlord's behalf, each represent and warrant that such person is duly authorized to so act; that Landlord is duly organized, is qualified to do business in the Commonwealth of Virginia, is in good standing

under the laws of the state of its organization and of the Commonwealth of Virginia, and has the power and authority to enter into this Lease; and that all action required to authorize Landlord and such person to execute this Lease has been duly taken. Tenant and the person executing and delivering this Lease on Tenant's behalf, each represent and warrant that such person is duly authorized to so act under the laws of the state of the Commonwealth of Virginia; that Tenant has the power and authority to enter into this Lease; and that all action required to authorize Tenant and such person to execute this Lease has been duly taken.

P. *Appointment of Resident Agent:* For purposes of §55-218.1 of the Code of Virginia, Landlord appoints as its resident agent National Corporate Research Ltd., 13354 Midlothian Turnpike, Midlothian, Virginia 23113-0000.

Q. *Deed of Lease:* This Lease, for purposes of Applicable Law, shall be deemed a deed of lease executed under seal.

R. *Exhibits:* All Exhibits attached hereto are incorporated into and made a part of this Lease.

S. *Tenant's Delegation to Individuals or Entities:* Subject to the provisions of Section 32 above, as between Tenant and Landlord, no provision of this Lease shall be deemed or construed to allow Tenant to absolve itself from its contractual obligations to Landlord under this Lease, by delegation or subcontracting such contractual obligations to individuals or entities.

T. *Attorney's Fees:* In the event of any litigated dispute arising between Landlord and Tenant with respect to any term or condition of this Lease or in any manner involving or arising from Tenant's use or occupancy of the Demised Premises, the substantially non-prevailing party in such litigated dispute shall pay to the substantially prevailing party in such litigated dispute all of the substantially prevailing party's reasonable attorneys' fees incurred in connection with such litigated dispute, to the extent finally determined by a court of competent jurisdiction. For purposes of this Section 36.T, the term "substantially prevailing party" shall mean the party that (i) in the case of litigation pursuant to which monetary damages are sought, prevails in such litigation to the extent of at least eighty percent (80%) of the monetary amounts in dispute (as evidenced by the amounts prayed for in the pleadings) thereunder (*i.e.*, including all claims and counterclaims however described therein), or (ii) in the case of litigation pursuant to which non-monetary remedies are sought, prevails in such litigation to the extent the party seeking non-monetary remedies is awarded the entire relief prayed for in such litigation, or the party defending against such claim for non-monetary relief prevails in such litigation by having the entire relief prayed for denied. In the event that this provision is judicially determined to be inapplicable to The County Board of Arlington County, Virginia, a body politic, as the Tenant hereunder, then it shall automatically be deemed inapplicable to Landlord, as well.

U. *Qualified Leases:* The parties intend that all payments made to Landlord under this Lease will qualify as rents from real property for purposes of Sections 512(b)(3) and 856(d) of the Internal Revenue Code of 1986, as amended ("Qualified Rents"). If Landlord, in its sole discretion, advises Tenant that there is any risk that all or part of any payments made under this Lease will not qualify as Qualified Rents, Tenant agrees that, provided such proposed restructuring or assignment of this Lease does not adversely affect Tenant's use of the Demised Premises as herein permitted, increase the rentals or other sums payable by Tenant hereunder, or materially impair or diminish Tenant's rights under this Lease, the County Manager shall forward to the county Board in order for the County Board to consider whether or not to approve

Landlord's proposed (i) restructuring of this Lease in such manner as may be necessary to enable such payments to be treated as Qualified Rents subject to the approval of any amendment to this Lease by the County Board, and (ii) assignment of this Lease by Landlord not in conjunction with a sale of the Building.

*V. Use of Certain Terms:* Whenever the terms "including" or "include" are used herein, such terms shall mean "including, but not limited to," and "include, but not be limited to," respectively. Whenever an action, decision or similar right is described herein as being at Landlord's option, such action, decision or similar right shall be at Landlord's sole option. References to Sections shall mean sections of this Lease, and use of the terms "hereunder," "herein," "hereof," or similar terms shall refer to this Lease in its entirety, as opposed to the specific sentence, subsection or section of this Lease in which such term appears.

*W. Consents and Approvals:* Whenever in this Lease the consent or approval of Landlord is required, such requirement shall mean the prior written consent or approval of Landlord. In addition, whenever in this Lease Landlord is required to be reasonable in the granting of any consent or approval or otherwise, Landlord shall not be deemed to have been unreasonable in the refusal to give its consent or approval or otherwise if: (a) Landlord is not permitted to do so under the terms of any superior Mortgage as of the date of this Lease, or (b) the consent or approval of any superior Mortgagee as of the date of this Lease is required and has been denied or not given, it being agreed that the circumstances described in the immediately preceding clauses (a) and (b) are illustrative and not exhaustive.

*X. Time of the Essence:* Time is of the essence with respect to each of Landlord's and Tenant's respective obligations hereunder.

### **37. INABILITY TO PERFORM.**

This Lease and the obligations of Landlord and Tenant hereunder shall in no way be affected, impaired or excused, nor shall either party have any claim against the other party for damages, because a party, due to Unavoidable Delays, is unable to fulfill any of its obligations under this Lease, including any obligations to provide any services, repairs, replacements, alterations or decorations or to supply any improvements, equipment or fixtures; provided, however, nothing set forth in this Section 37 shall relieve either party from its payment obligations to the other party set forth in this Lease.

### **38. PARKING.**

#### *A. Use of Parking.*

(1) During the Term, Tenant, its approved or deemed approved assignees, subtenants and licensees shall have the right to use (on a non-exclusive first-come, first-serve basis) all or any portion of the Parking Permits (as defined in Section 1.W above) for the unreserved parking of passenger automobiles in the unreserved permit parking spaces to designated in the parking garage serving the Building (the "Parking Garage"), which means that, at all times, for each Parking Permit that Tenant holds, Tenant will be entitled to park one (1) automobile in a location (but not any particular location) in the Garage where parking is permitted on a non-reserved basis, no matter how crowded the Garage is. In addition, Landlord shall at all times comply with the requirement of the Site Plan to provide one (1) parking space for visitors to the Building for every 734 rentable square feet of space in the Building. Notwithstanding the foregoing, Tenant shall, at any time, have the right to convert any or all of such unreserved Parking Permits to

specifically designated parking spaces (the "Reserved Spaces") for the reserved parking of passenger automobiles in the Parking Garage upon at least sixty (60) days' notice to Landlord. The Reserved Spaces shall be marked and designated by Landlord as reserved. Landlord's designation of spaces which are defined as the Reserved Spaces shall in no way be construed to impose upon Landlord any obligation to monitor or police the restriction contained in the notices which are to be displayed on such parking spaces or to impose any liability upon Landlord for any failure to do so. However, if Tenant notifies Landlord of any violators of the reserved parking, Landlord shall promptly take, or cause to be taken, reasonable action with respect to enforcing Tenant's exclusive parking rights, including the towing of vehicles which are impermissibly parked in any of the Reserved Spaces. Notwithstanding the foregoing provisions of this Section 38.A, Landlord does not guarantee the availability of such monthly Parking Permits to Tenant during the twenty-fifth (25<sup>th</sup>) or any subsequent month of the Term if and to the extent that Tenant does not purchase such monthly Parking Permits during each subsequent month of the Term. Further notwithstanding the foregoing provisions of this Section 38.A, if Tenant purchases fewer than the entire number of Parking Permits to which Tenant is entitled under this Lease, Tenant shall have the right to purchase one or more of the Parking Permits that Tenant has elected not to purchase upon not less than thirty (30) days' notice from Tenant to Landlord. So long as the same neither limits, obviates, nor materially diminishes the parking rights of Tenant or any provision of this Lease, Landlord reserves the right to institute either a valet parking system or a self parking system. Landlord reserves the right to close the Parking Garage for repairs, provided that Landlord first provides Tenant with at least thirty (30) days prior written notice of Landlord's intent to repair the Parking Garage (or such shorter period as Landlord reasonably determines is necessary under the circumstances), and Landlord's plan therefore; and further provided that such notice describes, and Landlord agrees to provide to Tenant, temporary replacement parking for the Parking Permits which Tenant is then currently using in the Rosslyn submarket of Arlington, Virginia. At all times when the Parking Garage is closed, monthly permit holders shall be afforded access to the Parking Garage by means of a magnetic card or other procedure provided by Landlord or the operator of the Parking Garage (the "Garage Operator"). Tenant shall have the right to access such Parking Garage by means of an electronic access gate currently operated by electronic access cards, and Tenant shall deposit with Landlord twenty dollars (\$20.00) for each access card requested by Tenant, which amount is subject to increase from time to time, based upon charges for such access cards in Comparable Buildings. Landlord reserves the right to modify in any way Landlord deems appropriate the manner in which the Parking Garage is accessed during the Term. Tenant shall be prohibited from using the Parking Garage for purposes other than for parking registered vehicles. The storage or repair of vehicles in the Parking Garage shall be prohibited. Tenant shall not assign, sublet, license, or transfer any Parking Permits to other than an approved assignee of this Lease or approved subtenants or licensees without Landlord's written consent, any attempted assignment, sublet, license or other transfer without Landlord's written consent shall be void.

(2) Subject to reasonable operational limitations imposed thereon from time to time by Landlord and/or the Garage Operator, Tenant shall have the right to use all then available, but in no event less than fifty-five (55), spaces in the Parking Garage for the purpose of visitor parking for Tenant's visitors to the Demised Premises, at all times on all days other than between the hours of 2:00 a.m. and 6:00 a.m.; provided, however, that Tenant shall not have the right to use more than fifty-five (55) spaces in the Parking Garage for visitor parking between the hours of 8:00 a.m. to 5:00 p.m. on weekdays (other than Holidays) and Landlord shall not be precluded from leasing any other parking spaces to any party, except as provided in Sections 38.A(1) and (2) hereof. Such parking shall be without charge by Landlord other than between the hours of 8:00 a.m. to 5:00 p.m. on weekdays (other than Holidays). With respect to any visitor parking on weekdays between the

hours of 8:00 a.m. to 5:00 p.m. (other than Holidays), such visitors shall pay the then current market hourly parking fees in the Rosslyn submarket of Arlington, Virginia as established by Landlord and/or the Garage Operator, and as adjusted from time to time, for the privilege of using the Parking Garage.

(3) Landlord's granting of parking rights hereunder does not create a bailment between the parties, it being expressly agreed that the only relationship created between Landlord and Tenant hereby is that of right grantor and right grantee. All motor vehicles, (including all contents thereof) shall be in the Parking Garage at the sole risk of their owners (including Tenant in its capacity as the owner of motor vehicles in the Parking Garage, if applicable). Neither Landlord nor any agent, employee or contractor of Landlord shall have any liability for any damage or loss to any automobile or personal property in or about the Parking Garage or for any injury sustained by any person in or about the Parking Garage, unless arising from a deficiency in the physical condition of the Parking Garage.

(4) Tenant and its employees shall observe reasonable precautions in the use of the Parking Garage and shall at all times abide by all reasonable rules and regulations, not inconsistent with the terms of this Lease enacted by Landlord with respect to the Building and by Landlord or the Garage Operator with respect to the Parking Garage for which Tenant receives written notice. Landlord shall have the right to terminate the parking privilege of any employee or agent of Tenant or any subtenant of Tenant who violates any applicable Rules or Regulations or fails to pay the parking fees for his or her Parking Permit as and when due, after having been given a single notice of default and a reasonable opportunity to cure.

(5) Notwithstanding any other term or provision of this Lease, if: (i) all or a portion of the Parking Garage is damaged by fire or other casualty or taken by power of eminent domain or purchased in lieu thereof by any governmental authority, (ii) the insurance proceeds payable as a result of a casualty to the Parking Garage are applied to a Mortgage, or (iii) there is any material uninsured loss to the Parking Garage, and, in any of such events, Landlord determines not to rebuild or restore the Parking Garage, Landlord may terminate Tenant's parking rights under this Lease by providing written notice of such termination to Tenant. If Landlord elects to so terminate Tenant's parking rights, then Tenant shall have the right to terminate this Lease by providing written notice of such termination to Landlord, and, if Tenant exercises its right to terminate this Lease, Landlord shall, within the later to occur of (a) ninety (90) days following the termination of this Lease, or (b) ten (10) days following the date upon which Tenant vacates the Demised Premises and surrenders possession thereof to Landlord, pay to Tenant the balance of the remaining abated rent as provided in the Abated Rent Schedule. Such remaining abated rent shall accrue interest at the Default Rate from the date when due until the date fully paid. This obligation shall survive the expiration or earlier termination of this Lease. In the event of the termination of this Lease by Tenant as aforesaid, if Landlord can demonstrate to the reasonable satisfaction of Tenant (within ten (10) days after the date of termination) that there is insufficient alternate parking available within four (4) blocks of the Building to accommodate Tenant's parking rights hereunder at a parking rate no more than one hundred fifty percent (150%) of the parking rate charged by Landlord in the Parking Garage as of the date of such casualty or condemnation, then, so long as Landlord shall have timely paid to Tenant the remaining abated rent as provided in the Abated Rent Schedule, Landlord shall have the right to exercise the Conversion Option.

(6) If Landlord does not so elect to terminate such parking rights of Tenant pursuant to the provisions of Section 38.A(5) above, then Landlord will either (a) proceed to restore the Parking Garage (and Landlord shall provide alternative parking while such restoration is being

performed, within thirty (30) days following the date on which the Parking Garage becomes unavailable because of a casualty, in one (1) or more buildings that are within four (4) blocks of the Building), or (b) not restore the Parking Garage, but provide Tenant, at Tenant's sole cost and expense, with alternate parking throughout the remainder of the Term in one (1) or more buildings that are within two (2) blocks of the Building. Any alternative parking provided by Landlord pursuant to this Section 38.A(6) shall meet all of the criteria set forth in this Section 38, including the rates for parking spaces being consistent with the rates prevailing in parking garages serving Comparable Buildings within four (4) blocks of the Building, the number of reserved spaces to which Tenant is entitled, access to parking spaces for Tenant's visitors and the right to obtain Parking Permits which Tenant is not using at any time in accordance with the terms and conditions of Section 38.A(1) hereof. In the event that Landlord fails to provide such alternative parking, Tenant shall have the right to terminate this Lease by providing written notice of such termination to Landlord, and, if Tenant exercises its right to terminate this Lease, Landlord shall, within the later to occur of (x) ninety (90) days following the termination of this Lease, or (y) ten (10) days after Tenant vacates the Demised Premises and surrenders possession thereof to Landlord, pay to Tenant the balance of the remaining abated rent as provided in the Abated Rent Schedule. Such remaining abated rent shall accrue interest at the Default Rate from the date when due until the date fully paid. This obligation shall survive the expiration or earlier termination of this Lease. In the event of the termination of this Lease by Tenant as aforesaid, if Landlord can demonstrate to the reasonable satisfaction of Tenant (within ten (10) days after the date of termination) that there is insufficient alternate parking available within four (4) blocks of the Building to accommodate Tenant's parking rights hereunder at a parking rate no more than one hundred fifty percent (150%) of the parking rate charged by Landlord in the Parking Garage as of the date of such casualty or condemnation, then, so long as Landlord shall have timely paid to Tenant the remaining abated rent as provided in the Abated Rent Schedule, Landlord shall have the right to exercise the Conversion Option.

B. *Parking Permit Rates.* Landlord reserves the right for itself or the Garage Operator (if any) to establish rates and fees for the use of the Parking Garage and to establish and modify and amend reasonable rules and regulations not inconsistent with the terms of this Lease governing the use of the Parking Garage so long as same are provided to Tenant by written notice. The charge for the Parking Permits shall be the prevailing then current rates with respect to monthly unreserved and reserved parking spaces (as applicable) at the Building as established by Landlord and/or the Garage Operator, and as adjusted from time to time, at all times consistent with the rates prevailing in parking garages serving Comparable Buildings within four (4) blocks of the Building. Landlord has the right to revoke the user's parking privileges if such user fails to abide by the rules and regulations governing the use of the parking areas and such failure continues after written notice and a reasonable opportunity to cure.

### **39. HAZARDOUS MATERIALS.**

A. *Definition.* As used in this Lease, the term "Hazardous Material" means any flammable items, explosives, radioactive materials, hazardous or toxic substances, material or waste or related materials, including any substances defined as or included in the definition of "hazardous substances", "hazardous wastes", "infectious wastes", "hazardous materials" or "toxic substances" now or subsequently regulated under any Applicable Laws including oil, petroleum-based products, paints, solvents, lead, cyanide, DDT, printing inks, acids, pesticides, ammonia compounds and other chemical products, asbestos, PCBs and similar compounds, and including

any different products and materials which are subsequently found to have adverse effects on the environment or the health and safety of persons. For purposes of this Lease, Hazardous Materials shall include, but are not limited to, asbestos or asbestos containing materials.

*B. Payment of Damages:*

(1) Notwithstanding anything contained in this Lease to the contrary, but subject to the provisions of Sections 15.D and 32 hereof, Tenant agrees that it will pay to Landlord (including any of Landlord's partners, members, employees or agents) all direct monetary damages for personal injury or property damage plus any statutory liability arising from Tenant's acts or omissions which constitutes a breach of this Section 39 by Tenant within fifteen (15) days following the issuance by a court of competent jurisdiction of a final unappealable judgment or order for same.

(2) Subject to the provisions of Sections 15.D and 32 hereof and (but only in the event that Tenant's Transferee is a Governmental Entity), all Tenant's Transferees shall indemnify, defend and hold harmless Landlord, Landlord's managing agent and all Mortgagees from and against any and all actions (including remedial or enforcement actions of any kind, administrative or judicial proceedings, and orders or judgments arising out of or resulting therefrom), costs, claims, damages (including attorneys', consultants', and experts' fees, court costs and amount paid in settlement of any claims or actions), fines, forfeitures or other civil, administrative or criminal penalties, injunctive or other relief (whether or not based upon personal injury, property damage, or contamination of, or adverse effects upon, the environment, water tables or natural resources), liabilities or losses arising from a breach of this Section 39 by such Tenant's Transferee or any of its agents, employees or contractors.

*C. General Prohibition.* Except for paint and adhesives which Tenant is specifically permitted to store in locked, appropriately rated cabinets within the Demised Premises, excluding the Terrace Area, neither Tenant nor Landlord shall cause or permit any Hazardous Material to be generated, produced, brought upon, used, stored, treated, discharged, released, spilled or disposed of on, in under or about the Demised Premises, the Building, or the Land (hereinafter referred to collectively as the "Property") by Tenant or Tenant's Transferees. Notwithstanding the foregoing, Landlord recognizes and acknowledges that Tenant or its agents may use and store within the Building reasonable quantities of customary office and cleaning supplies, paint and adhesives, and other materials commonly used in connection with the uses of the Demised Premises permitted by this Lease; provided such items are stored, used and disposed of in accordance with Applicable Laws.

*D. Notice.* In the event that Hazardous Materials are discovered upon, in, or under the Property, and any governmental agency or entity having jurisdiction over the Property requires the removal or other treatment of such Hazardous Materials, Tenant shall be responsible for the removal or other treatment of those Hazardous Materials arising out of or related to the use or occupancy of the Property by Tenant or Tenant's Transferees but not those of its predecessors, including the disturbance of any pre-existing Hazardous Materials. Likewise, in the event that Hazardous Materials are discovered upon, in, or under the Property, and any governmental agency or entity having jurisdiction over the Property requires the removal or other treatment of such Hazardous Materials, Landlord shall be responsible for the removal or other treatment of those Hazardous Materials arising out of or related to the use or occupancy of the Property by Landlord or Landlord's other tenants (but specifically excluding Tenant and any of Tenant's

Transferees), employees, or agents, including the disturbance of any pre-existing Hazardous Materials. Notwithstanding the foregoing, neither Tenant nor Landlord shall take any remedial action in or about the Property or any portion thereof without first notifying the other party to this Lease of its intention to do so and affording the other party to this Lease the opportunity to protect the other parties' interest with respect thereto. Landlord and Tenant immediately shall notify the other party to this Lease of: (i) any spill, release, discharge or disposal of any Hazardous Material in, on or under the Property or any portion thereof; (ii) any enforcement, cleanup, removal or other governmental or regulatory action instituted, contemplated, or threatened (if Tenant has notice thereof) pursuant to any laws respecting Hazardous Materials; (iii) any claim made or threatened by any person against Landlord or Tenant, as the case may be, or the Property or any portion thereof relating to damage, contribution, cost recovery, compensation, loss or injury resulting from or claimed to result from any Hazardous Materials; and (iv) any reports made to any governmental agency or entity arising out of or in connection with any Hazardous Materials in, on under or about or removed from the Property or any portion thereof, including any complaints, notices, warnings, reports or asserted violations in connection therewith. Landlord and Tenant also shall supply to the other party to this Lease as promptly as possible, and in any event within five (5) business days after Landlord or Tenant first receives or sends the same, copies of all claims, reports, complaints, notices, warnings or asserted violations relating in any way to the Demised Premises, the Property or Landlord's or Tenant's use or occupancy thereof.

E. *Survival.* The respective rights and obligations of Landlord and Tenant under this Section shall survive the expiration or earlier termination of this Lease.

**40. [INTENTIONALLY OMITTED.]**

**41. RECORDATION OF MEMORANDUM OF LEASE.**

Simultaneously with the execution and delivery of this Lease by Landlord, Landlord shall execute and deliver to Tenant, for recordation by Tenant at Tenant's expense, the memorandum of this Lease attached hereto and made a part hereof as Exhibit H. Tenant hereby agrees that, upon the expiration or earlier termination of this Lease, Tenant shall, within ten (10) days after Landlord's written request, execute, and Landlord shall have the right to record, a memorandum of lease termination in the form attached hereto and made a part hereof as Exhibit I (the "Memorandum of Lease Termination"). The County Manager of Arlington County, Virginia at the time of Landlord's request as aforesaid after the expiration or earlier termination of this Lease is hereby authorized to execute and deliver the Memorandum of Lease Termination on behalf of Tenant.

**42. [INTENTIONALLY OMITTED.]**

**43. SIGNS.**

Tenant shall have the exclusive right to install signage within the interior of the Demised Premises, excluding the Terrace Area, and on the exterior of the Building in the locations set forth on Exhibit K attached hereto and made a part hereof, at Tenant's sole cost and expense, including but not limited to procuring any Site Plan amendments and/or amendments to the approved comprehensive sign plan, subject, in the case of exterior signage or interior signage that is visible from the exterior of the Building, to the reasonable review and approval of Landlord as to the size, materials, content, method of fabrication, color, configuration, font and

method of installation, which review and approval shall not be unreasonably withheld, conditioned, or delayed. At Tenant's request and at Tenant's sole cost and expense, Landlord shall join in and/or, at Tenant's option, act as the applicant under any such Site Plan amendments or amendments to the approved comprehensive sign plan sought by Tenant, provided that the application for such Site Plan amendment does not request that the amendment impose any liability or monetary obligations on Landlord. Without limiting the foregoing, Landlord shall, at Tenant's request, apply for a Site Plan amendment in order to allow Tenant to install temporary banners at the exterior of the Building near the entrance to the Demised Premises. Landlord, at Landlord's sole cost and expense, shall provide Tenant with a reasonable number of lines on the Building lobby directory for Tenant and/or its approved assignees, subtenants, or licensees. Except as specifically provided above, no other sign, advertisement or notice shall be inscribed, painted, affixed or otherwise displayed by Tenant on any part of the exterior or interior of the Building (including windows and doors); provided, however, that the foregoing prohibition shall not apply, and Landlord's consent shall not be required, to (a) signage located on the interior of the Demised Premises, excluding the Terrace Area, which is at least two (2) feet from the exterior glass of the Demised Premises, or (b) marketing or advertising materials with respect to Tenant's scheduled events at the Demised Premises, provided that such marketing or advertising materials are consistent with the first-class quality of the Building and the exterior aesthetics of the Building and are in compliance with all Applicable Law (including, but not limited to, applicable Site Plan requirements). If any such item that has not been approved by Landlord (unless Landlord's approval is not required pursuant to the foregoing provisions of this Section 43) is so displayed, then Landlord shall have the right to remove such item at Tenant's expense or to require Tenant to do the same.

Subject to Tenant's sign rights above, in strict accordance with the applicable zoning ordinance and Site Plan requirements, Landlord reserves the right to install and display signs, advertisements and notices on any part of the exterior or interior of the Building, except that Landlord shall not affix any sign within the Demised Premises or on the exterior of that portion of the Building that abuts the Demised Premises, including without limitation, the area shown on Exhibit K attached hereto and made a part hereof. Upon the expiration or earlier termination of the Term, Tenant shall remove all of Tenant's signage from the Building and restore the portion of the Building where the signage was located to its condition prior to the installation of such signage. Tenant shall be responsible for the installation, maintenance, repair and replacement of Tenant's signage and shall bear all costs thereof. Tenant shall ensure, at its sole cost and expense, that Tenant's signage complies with all Applicable Law.

#### **44. TERRACE AREA.**

Notwithstanding anything contained herein to the contrary, Tenant's right to use and occupy the Terrace Area shall at all times be conditioned upon and subject to each of the following requirements:

A. The Terrace Area shall not be included in the calculation of square footage of the Demised Premises for the purposes of determining Base Rent or Additional Rent.

B. Tenant shall not be responsible for the performance or cost of maintenance or repair of the Terrace Area, unless (subject to the terms of Sections 17.C(b) and 32 of this Lease) the need for any maintenance or repair is due to Tenant's negligent act or omission or willful misconduct in its use of the Terrace Area.

C. Any use of the Terrace Area must be in compliance with all Applicable Law at all times and Tenant shall comply strictly at all times with all provisions thereof.

D. Subject to Section 44.C above, Tenant may use the Terrace Area for any purpose and may, in connection therewith, place furniture and other items thereon, so long as Tenant's use of the Terrace Area does not (1) exceed the load limit of the Building's roof, (2) exceed the Permitted Noise Limit requirements set forth in Section 6.A above, (3) materially obstruct the view of park areas from the windows of the Building's office tenants, or (4) cause a breach of Landlord's roof warranty.

E. Except as provided in Section 44.D above, Tenant shall not make any Alterations to the Terrace Area.

F. Tenant shall be responsible for keeping the Terrace Area and any furniture thereon in a clean and sanitary condition and free of trash at all times.

G. Landlord, subject to reimbursement pursuant to Sections 1.X and 5, shall make repairs to the Terrace Area; provided, however, that Tenant shall, subject to the terms of Section 17, be responsible for the repair of any damage to the Terrace Area caused by Tenant's grossly negligent act or omission or willful misconduct in its use of the Terrace Area.

#### **45. CONVERSION OPTION.**

*Landlord's Option to Convert Use Restriction:* It is understood and agreed that nothing in this Section 45 shall abrogate the terms and conditions of SP #18 Ordinance or SP #89 Ordinance, as the same may be amended. Any time during the last 18 months of the Initial Term or as otherwise may be specifically provided herein, Landlord shall have the right, by delivery of a written notice to the County Manager of Arlington County, Virginia, to convert the Restricted Space and Bonus Space portions of the Demised Premises to unrestricted use by Landlord pursuant to the terms of this Section 45 ("Conversion Option"). For purposes of this Lease, "Use Restriction" or "Restriction" mean the use limitations, but only to the extent applicable to the Demised Premises, previously enacted by the County Board of Arlington County, Virginia, by Site Plan Amendments to Site Plan #89, which Amendments were enacted by the County Board of Arlington County, Virginia, on March 20, 1993, April 15, 1993, June 5, 1993, and November 16, 1999.

Landlord may exercise the Conversion Option by payment from Landlord to Tenant of the existing full fair market FAR value of the square footage of the Restricted Space and the Bonus Space, as of the date of delivery of the written notice to the County Manager of Arlington County, Virginia, for unrestricted Class A office space in the Rosslyn - Ballston corridor for the square footage of the Restricted Space and Bonus Space portions of the Demised Premises ("Conversion Option Payment"). If Tenant and Landlord are unable to agree upon the amount of the Conversion Option Payment within thirty (30) days of the receipt of Landlord's notice by the County Manager of Arlington County, Virginia ("Negotiation Period"), then such value shall be determined by a "Three Appraiser Method," as follows:

A. Within ten (10) days after the expiration of the thirty (30) day Negotiation Period, each party shall give written notice to the other setting forth the name and address of an Appraiser (as hereinafter defined) selected by such party who has agreed to act in such capacity, to determine the Conversion Option Payment. If either party shall fail to select an Appraiser as aforesaid and such failure shall continue for a period of ten (10) days after receipt of written notice from the

other party, then the Conversion Option Payment shall be determined by the Appraiser selected by the other party.

B. If each party has selected an Appraiser, then each Appraiser shall thereupon independently make his/her determination of the Conversion Option Payment within sixty (60) days after the appointment of the second Appraiser. If the two Appraisers' determinations of the Conversion Option Payment are within five percent (5%) of each other, then the average of such two determinations shall be deemed to be the full fair market FAR value for unrestricted Class A office space in the Rosslyn – Ballston corridor. If the two Appraisers' determinations are not the same, but the higher of such two determinations is more than one hundred five percent (105%) of the lower of them, then the two Appraisers shall jointly appoint a third Appraiser within ten (10) days after the second of the two determinations described above has been rendered. The third Appraiser shall independently make his/her determination of the Conversion Option Payment within thirty (30) days after his/her appointment. In such event, the highest and the lowest determinations of value among the three Appraisers shall be disregarded and the remaining determination shall be deemed to be the Conversion Option Payment for the purpose of the exercise of the Conversion Option. Each party shall pay for the cost of its Appraiser and one-half of the cost of the third Appraiser. Tenant shall provide a copy of any notice sent to Landlord under this Section 45 to Landlord's Mortgagee pursuant to Section 29 of this Lease.

Within forty-five (45) days after an agreement on, or a determination of, the amount of the Conversion Option Payment, Landlord may effectuate the Conversion Option by completing the following requirements:

(1) Landlord shall prepare and submit to Tenant, within thirty (30) days after an agreement on, or a determination of, the amount of the Conversion Option Payment, a Release of Restrictions and all other necessary documents, which documents shall be subject to the review and approval by the County Manager of Arlington County, Virginia, or designee, and approval as to form by the County Attorney of Arlington County, Virginia (Landlord and Tenant hereby agreeing to endeavor in good faith to agree upon the form of the Release of Restrictions document within ninety (90) days after the Lease Commencement Date);

(2) Landlord shall make payment to Tenant of the Conversion Option Payment;

(3) Landlord shall pay all applicable fees, including the fees for review, approval and recording of the Release of Restrictions; and

(4) Landlord shall record the Release of Restrictions upon satisfaction of the above requirements. Such Release of Restrictions shall be effective upon recordation thereof among the land records of Arlington County, Virginia.

If the above requirements are not fully satisfied within such forty-five (45) day period, then the Conversion Option shall terminate automatically, without the requirement for any further acts of Landlord or Tenant.

If Landlord does not exercise the Conversion Option by the timely delivery of the notice and payment of the Conversion Option Payment, then at the expiration of this Lease, the Demised Premises, excluding the Terrace Area, shall remain as Bonus Space, Restricted Space, and Unrestricted Space, as provided in Site Plan #89, as amended.

#### **46. OPTION TO EXTEND.**

Provided that Tenant is not then in default at the time of exercise of the Renewal Option, as hereinafter defined, and at the time of the commencement of the Renewal Term, as hereinafter defined, Tenant shall have one (1) option (the "Renewal Option") to extend the Term for one (1) additional five (5) year period (the "Renewal Term") after the expiration of the Initial Term. Notwithstanding the foregoing, in the event that Tenant is in default at the time of the exercise of the Renewal Option or at the time of the commencement of the Renewal Term, but (i) such default has not then continued beyond any applicable notice and cure period, and (ii) such default does not remain uncured beyond the expiration of any applicable notice and cure period, then Tenant's exercise of the Renewal Option or the commencement of the Renewal Term shall not be negated or in any way affected by the fact that Tenant had been in default at such time, as applicable. The Renewal Option shall be exercisable only by notice given by Tenant to Landlord not later than eighteen (18) months prior to the expiration of the Initial Term (the "Renewal Notice"). Tenant shall provide a copy of any notice sent to Landlord under this Section 46 to Landlord's Mortgagee pursuant to Section 29 of this Lease. If Tenant does not timely exercise the Renewal Option, then the Renewal Option shall be null and void and of no further force or effect, time being of the essence in the exercise of the Renewal Option and it being acknowledged and agreed by Tenant that Landlord shall be entitled to rely on any failure by Tenant to give the Renewal Notice by the date set forth herein for exercise of the Renewal Option. All terms and conditions of this Lease shall be applicable during the Renewal Term except that the amount of Base Rent charged for the Renewal Term shall be the then FMV Rental Rent for each portion of the Demised Premises, excluding the Terrace Area (inclusive of the Bonus Space). If within thirty (30) days following delivery of the Renewal Notice (such 30-day period being hereinafter referred to as the "Renewal Rent Negotiation Period"), Landlord and Tenant have not mutually agreed on the FMV Rental Rent for the Renewal Term, then within ten (10) days after the expiration of such thirty-day period, each party shall give written notice to the other setting forth the name and address of a Broker selected by such party who has agreed to act in such capacity, to determine the FMV Rental Rent. If either party fails to select a Broker as aforesaid, and such failure continues for more than ten (10) days after receiving a notice from the other party detailing such failure, the FMV Rental Rent shall be determined by the Broker selected by the other party. Each Broker shall thereupon independently make his or her determination of the FMV Rental Rent within twenty (20) days after the appointment of the second Broker. If the two Brokers' determinations are not the same, but the higher of such two values is not more than one hundred five percent (105%) of the lower of them, then the FMV Rental Rent shall be deemed to be the average of the two values. If the higher of such two values is more than one hundred five percent (105%) of the lower of them, then the two Brokers shall jointly appoint a third Broker within ten (10) days after the second of the two determinations described above has been rendered. If the two Brokers do not agree upon the third Broker within such ten (10) day period, then the third Broker shall be selected by arbitration in Arlington, Virginia, in accordance with the then current commercial rules of the AAA. The third Broker shall independently make his or her determination of the FMV Rental Rent within thirty (30) days after his or her appointment. The highest and the lowest determinations of value among the three Brokers shall be disregarded and the remaining determination shall be deemed to be the FMV Rental Rent.

Notwithstanding the foregoing, Tenant shall have the right to revoke the exercise of its option to extend the Term to include the Renewal Term, without penalty, by providing Landlord

with written notice of such revocation within ninety (90) days following the expiration of the Renewal Rent Negotiation Period, failing which Tenant and Landlord shall be bound by the determination of the Brokers or the third Broker, as applicable.

Within ninety (90) days after the FMV Rental Rent is determined as aforesaid, the parties shall execute an amendment to this Lease setting forth the new Base Rent to be paid for the Renewal Term. Each party shall pay for the cost of its Broker and one-half (1/2) of the cost of the third Broker. During the Renewal Term, Base Rent shall increase annually based upon the same Annual Percentage Increase established by the parties prior to the expiration of the tenth (10<sup>th</sup>) Lease Year of the Initial Term.

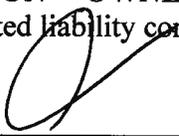
**IN WITNESS WHEREOF**, Landlord and Tenant have executed this Deed of Lease under seal as of the day and year first above written.

**WITNESS:**

**LANDLORD:**

**1101 WILSON OWNER, LLC**, a Delaware limited liability company

By: \_\_\_\_\_

By:  \_\_\_\_\_

Name: Anthony Westrich  
Its: President

**WITNESS:**

**TENANT:**

**THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA**, a body politic

By: \_\_\_\_\_

By: \_\_\_\_\_

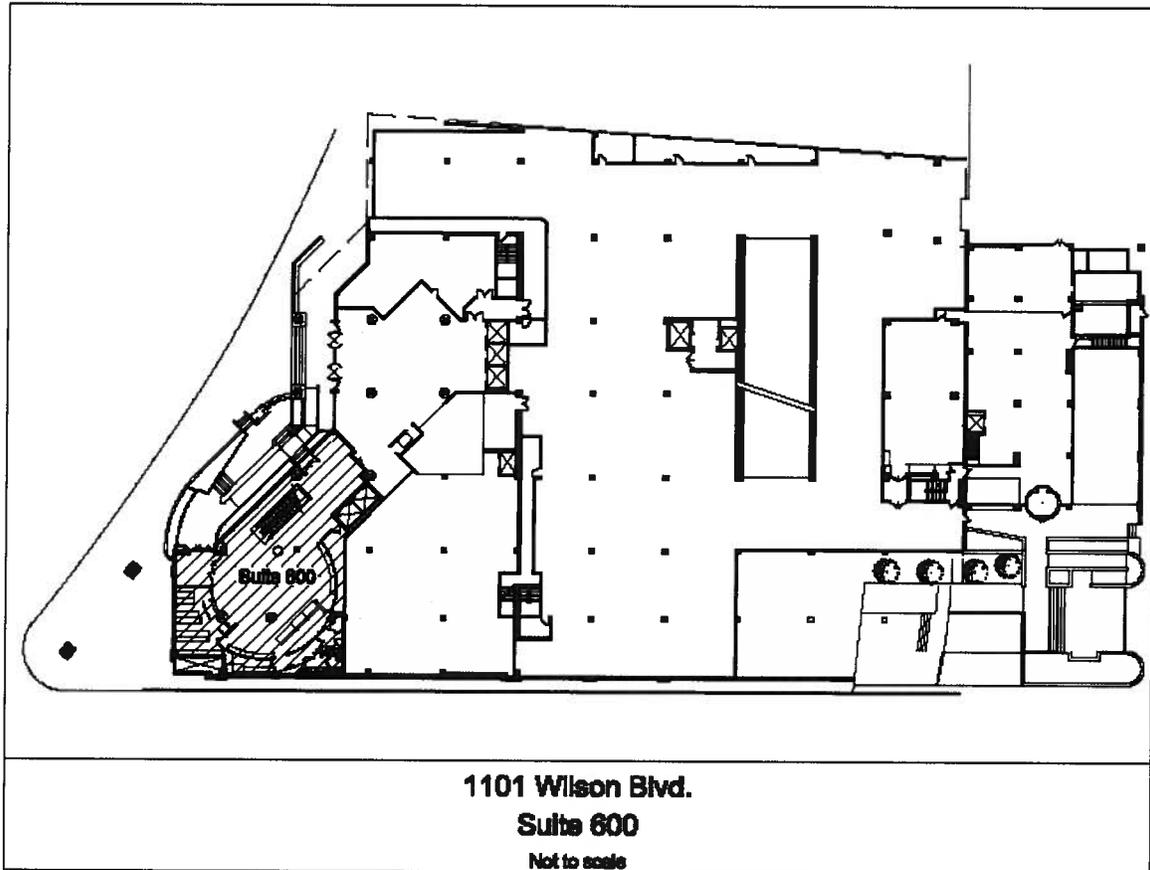
Name:  
Its:

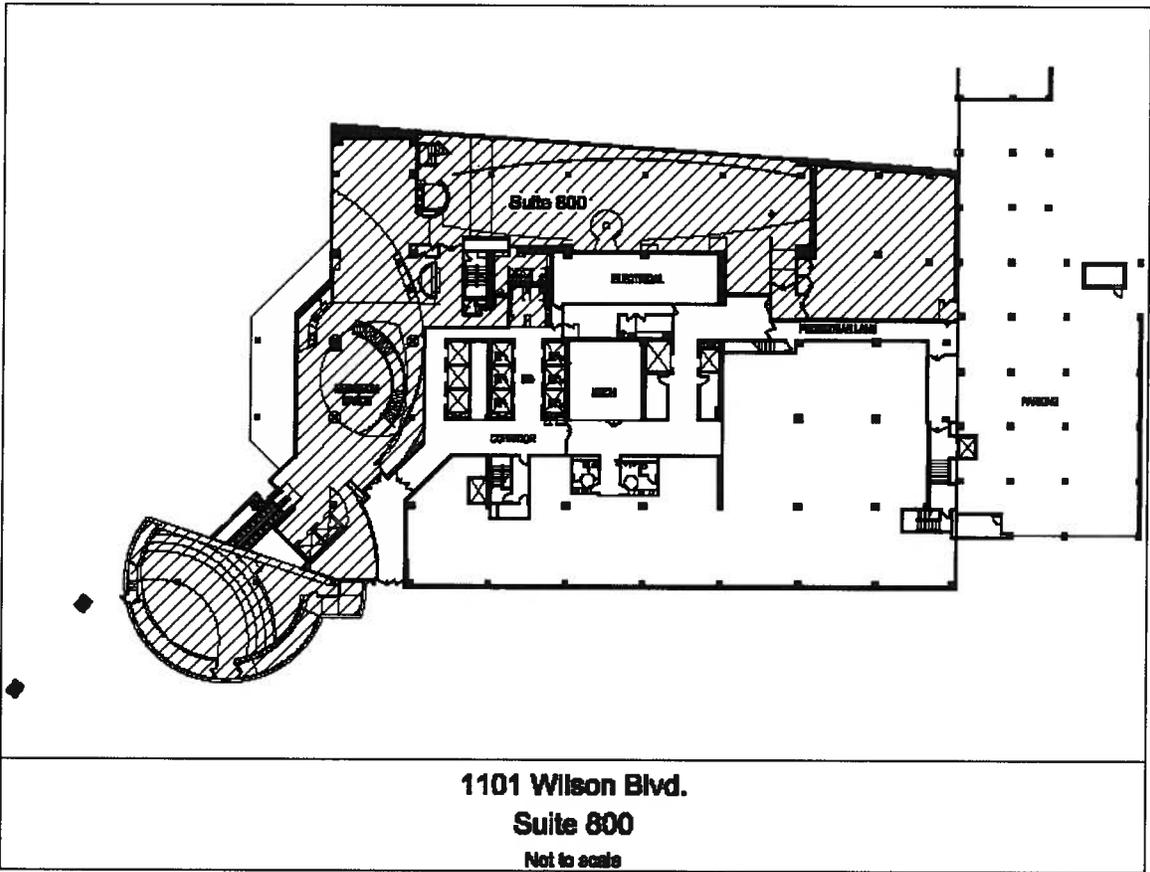
**APPROVED AS TO FORM:**

\_\_\_\_\_  
County Attorney

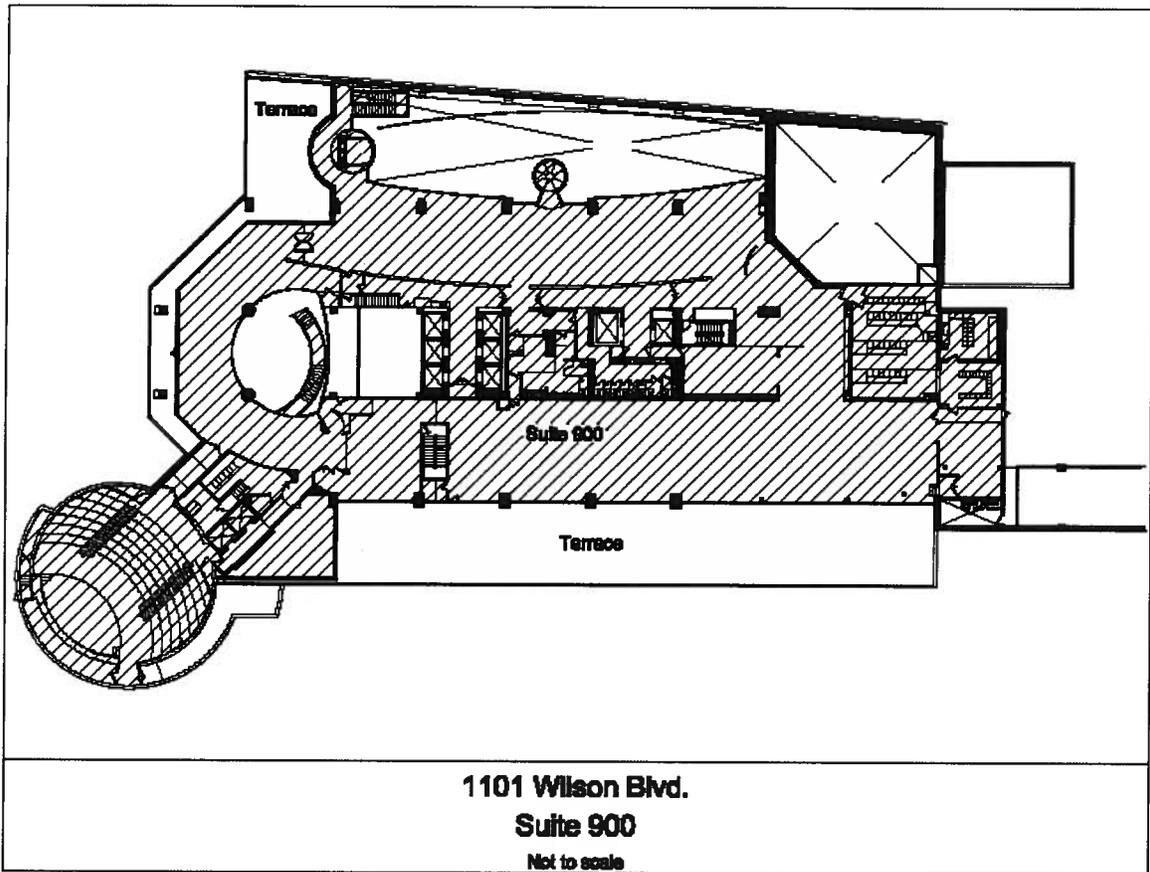
**EXHIBIT A**

**PLANS SHOWING DEMISED PREMISES**





1101 Wilson Blvd.  
Suite 800  
Not to scale



1101 Wilson Blvd.  
Suite 900  
Not to scale

**EXHIBIT B**

**DECLARATION BY LANDLORD AND TENANT  
AS TO DATE OF DELIVERY AND ACCEPTANCE OF  
POSSESSION, LEASE COMMENCEMENT DATE, ETC.**

THIS DECLARATION made this \_\_\_\_ day of \_\_\_\_\_ 2008 is hereby attached to and made a part of the Deed of Lease dated the \_\_\_\_ day of \_\_\_\_\_ 20\_\_ (the "Lease"), entered into by and between 1101 WILSON OWNER, LLC, a Delaware limited liability company, as Landlord, and THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, a body politic, as Tenant. All terms used in this Declaration have the same meaning as they have in the Lease.

(i) Landlord and Tenant do hereby declare that Tenant accepted possession of the Demised Premises on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_;

(ii) As of the date hereof, the Lease is in full force and effect, and Landlord has fulfilled all of its obligations under the Lease required to be fulfilled by Landlord on or prior to said date;

(iii) The Effective Date is hereby established to be \_\_\_\_\_, 20\_\_;

(iv) The Lease Commencement Date is hereby established to be \_\_\_\_\_, 20\_\_;

(v) The Lease Expiration Date is hereby confirmed to be April 20, 2023, unless the Lease is sooner terminated pursuant to any provision thereof; and

(vi) The Demised Premises' Standard Electrical Capacity is \_\_\_\_ watts per square foot.

WITNESS:

LANDLORD:

1101 WILSON OWNER, LLC, a Delaware limited liability company

By: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Its:

WITNESS:

TENANT:

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, a body politic

By: \_\_\_\_\_

By: \_\_\_\_\_

Name:

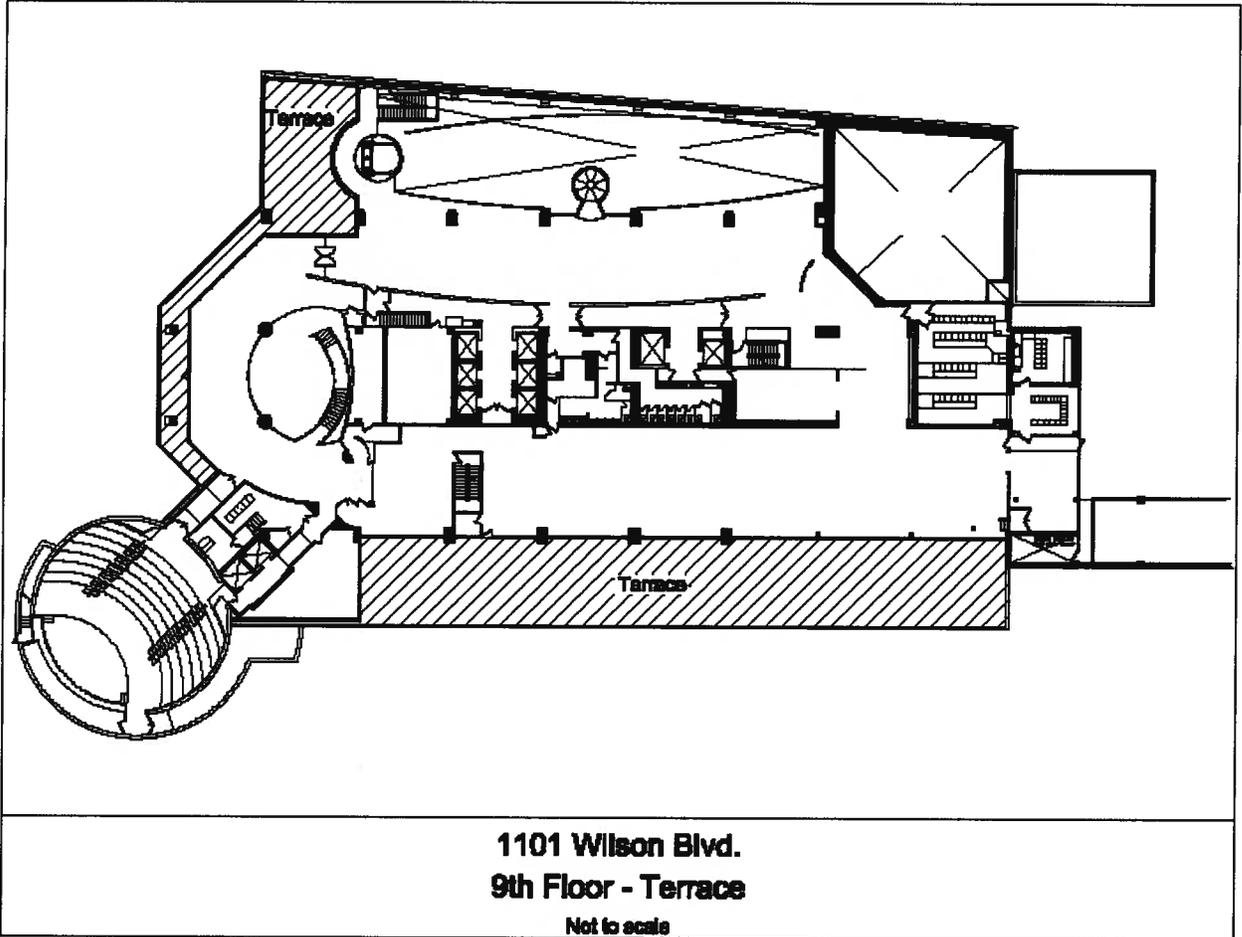
Its:

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney

[NOTE: NOT TO BE EXECUTED AT TIME OF EXECUTION OF LEASE]

**EXHIBIT C**  
**TERRACE AREA PLAN**



## **EXHIBIT D**

### **RULES AND REGULATIONS**

The following rules and regulations have been formulated for the safety and well-being of all the tenants of the Building. Adherence to these rules and regulations by each and every tenant contributes to safe occupancy and quiet enjoyment of the Building. Unless otherwise provided in the Lease, any violation of the following rules and regulations by Tenant which continues after notice from Landlord pursuant to Section 19 of the Lease shall, at the option of Landlord, be a Default by Tenant under the Lease.

Landlord may, upon request by any tenant, waive compliance by such tenant of any of the following rules and regulations, provided that (a) no waiver shall be effective unless signed by Landlord or Landlord's authorized agent, (b) no such waiver shall relieve any tenant from the obligation to comply with such rule or regulation in the future, unless expressly consented to by Landlord, and (c) no such waiver granted to any tenant shall relieve any other tenant from the obligation of complying with said rule or regulation unless such other tenant has received a similar waiver in writing from Landlord.

1. The Common Areas (which does not include the ramp and stairs to the exterior entrance to the Demised Premises) shall not be obstructed or encumbered by any tenant or used for any purposes other than ingress and egress to and from the tenant's premises
2. Except in connection with the Terrace Area (pursuant to Section 44 of the Lease), no awnings or other projections shall be attached to the outside walls of the Building without the consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. No drapes, blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of a tenant's premises, without the consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. Such curtains, blinds, screens and other fixtures shall be of a quality, type, design and color acceptable to Landlord and shall be attached in a manner approved by Landlord.
3. Except as otherwise provided in Section 43 of the Lease, no sign, advertisement, notice or other lettering shall be exhibited, inscribed, painted or affixed by any tenant on any part of the outside or inside of the Demised Premises or in the Building (other than signs inside the Demised Premises that are not visible from the exterior of the Building) without the consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed so long as Tenant is in compliance with all Applicable Laws. In the event of any violation of the foregoing by any tenant, Landlord may, after five (5) business days prior written notice, remove the same without any liability and may charge the expense incurred by such removal to the tenant or tenants responsible for violating this rule. All signs on the exterior of any entry door to the Demised Premises and the directory tablet of the Building shall be inscribed, painted or affixed by Landlord at the expense of each tenant, and shall be of a size, color and style acceptable to Landlord.
4. No show cases or other articles shall be put in front of or affixed to any part of the exterior of the Building, nor placed in the Common Areas without the consent of Landlord. Landlord shall not unreasonably withhold, condition or delay its consent in connection with any proposed public art treatment at Tenant's exterior entrance to the Demised Premises.

5. The water and wash closets and other plumbing fixtures shall not be used for any purposes other than those for which they were constructed, and no sweepings, rubbish, rags or other substances shall be thrown therein. No tenant shall throw anything out of the doors or windows or down any corridors of stairs.
6. Except as otherwise permitted by the provisions of the Lease, there shall be no marking, painting, drilling into or other form of defacing of or damage to any part of the Common Areas or the exterior of the Building. No boring, cutting or stringing of wires shall be permitted other than a conduit feed to a permitted electrical device or system that is installed by a qualified contractor that is approved by Landlord, such approval not to be unreasonably withheld, conditioned or delayed. Except as otherwise provided in the Lease, Tenant shall not construct, maintain, use or operate on the exterior of the Building, any electrical device, wiring or apparatus in connection with a loud speaker system or other sound system, except on public sidewalks or the public right-of-way, during regular business hours of any weekday (*i.e.*, before 6:00 p.m.). Additionally, subject to Landlord's prior written consent (given or withheld at Landlord's sole and absolute discretion), Tenant shall be entitled to play music via speakers at the exterior of the Building near the entrance to the Demised Premises.
7. Subject to the terms of the Lease (including, without limitation, Section 6.A), Tenant shall not make or permit to be made any disturbing noises or disturb or interfere with other occupants of the Building or neighboring buildings or premises or those having business with them, whether by the use of any musical instrument, radio, tape recorder, whistling, singing or any other way. Nothing herein shall limit Tenant's right to use the Demised Premises consistent with its intended purposes, including use of sound amplification systems related to musical, theatre, or other cultural and social events.
8. Other than theatre props or service animals, no bicycles, vehicles, animals, birds or pets of any kind shall be brought into or kept in or about the Demised Premises or in the Building. Landlord shall provide forty-five (45) bicycle parking spaces in the parking facility serving the Building designated for use by employees of the tenants of the Building and their subtenants, licensees, guests and customers.
9. Tenant shall not buy or keep in the Building or the Demised Premises any inflammable, combustible or explosive fluid, chemical or substance, unless otherwise provided in the Lease.
10. Except as otherwise provided by the Lease, no additional locks or bolts of any kind shall be placed upon any of the doors or windows by Tenant without providing a key for same to Landlord, nor shall any changes be made in existing locks or the mechanisms thereof without providing notice to Landlord. The doors leading to the corridors or main halls shall be kept closed during business hours except as they may be used for ingress and egress. Tenant shall, upon the termination of its tenancy, return to Landlord all keys used in connection with the Demised Premises, including any keys to the Demised Premises, to rooms and offices within the Demised Premises, to storage rooms and closets, to cabinets and other built-in furniture, and to toilet rooms, whether or not such keys were furnished by Landlord or procured by Tenant, and in the event of the loss of such keys, Tenant shall pay to Landlord the cost of replacing the locks. On termination of the Lease, Tenant shall disclose to Landlord the combination of all locks for safes, safe cabinets and vault doors, if any, remaining in the Demised Premises.

11. All removals, or the carrying in or out of any safes, freight, furniture or bulky matter of any description through the main Building lobby, must take place in such manner and during such hours as Landlord may reasonably require upon advance written notice to Tenant. Tenant shall be entitled to communicate and coordinate with the Building's property manager or building engineer in connection with the removal or carrying in or out of such items. Landlord reserves the right (but shall not have the obligation) to inspect all freight brought into the Building and to exclude from the Building all freight which violates any of these rules and regulations or any provision of any tenant's lease.
12. The requirements of Tenant will be attended to only upon application at the office of the Building. Building employees have been instructed not to perform any work or do anything outside of their regular duties, except with special instructions from the management of the Building.
13. Except with respect to the Demised Premises and Tenant's activities therein, canvassing, soliciting and peddling in the Building is prohibited. The foregoing shall not prohibit Tenant from handing out flyers or other advertisements in the main Building lobby with respect to Cultural Events or other Tenant activities in the Demised Premises.
14. No hand trucks, except those equipped with rubber tires and side guards, shall be used to deliver or receive any merchandise in any space or in the Common Areas of the Building, either by Tenant or its agents or contractors.
15. Access plates to under floor conduits shall be left exposed. Where carpet is installed, carpet shall be cut around the access plates.
16. Mats, trash and other objects shall not be placed in the public corridors.
17. At least once a year, Tenant at its own expense shall clean all drapes installed by Landlord for the use of Tenant and any drapes installed by Tenant which are visible from the exterior of the Building.
18. No smoking shall be permitted in any of the Common Areas of the Building or the Demised Premises. All cigarettes and related trash shall be disposed of in trash receptacles and not on the sidewalk, parking lot or grass.
19. No space in or about the Building shall be used for the manufacture, storage, sale or auction of merchandise goods or property of any kind, except that Tenant shall be entitled to use the Demised Premises, consistent with the terms of Section 6.A of the Lease, for the creation and sale of fine arts and crafts, for the intermittent sale or auction of articles before, during or after gala events or dinners, for the sale of food and beverages, for the operation of a theatre store, including the sale of promotional materials, and for artists' demonstrations.
20. Landlord shall have the right to prohibit any advertising by any tenant that constitutes a defamatory statement with respect to Landlord (or Landlord's Building) or any other tenant in the Building and, upon written notice from Landlord, such tenant shall refrain from and discontinue such advertising.

**EXHIBIT E**  
**BASE RENTAL REVENUE FOR THE DEMISED PREMISES**  
*[Attached hereto]*

1101 Wilson Boulevard  
 Proposed Arlington County Lease

Arlington County Assumption Summary

| Year   | Year 1    | Year 2      | Year 3      | Year 4      | Year 5      | Year 6      | Year 7      | Year 8      | Year 9      | Year 10     | Year 11     | Year 12     | Year 13   | Year 14   | Year 15   | TOTAL       |
|--|-----------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-----------|-----------|-----------|-------------|
| Year Ending                                    | Dec-08    | Dec-09      | Dec-10      | Dec-11      | Dec-12      | Dec-13      | Dec-14      | Dec-15      | Dec-16      | Dec-17      | Dec-18      | Dec-19      | Dec-20    | Dec-21    | Dec-22    |             |
| Space A - Existing Converted Museum Only Space |           |             |             |             |             |             |             |             |             |             |             |             |           |           |           |             |
| Base Rent                                      |           |             |             |             |             |             |             |             |             |             |             |             |           |           |           |             |
| Escalations                                    |           |             |             |             |             |             |             |             |             |             |             |             |           |           |           |             |
| Space B - Unrestricted Space (Previous Retail) |           |             |             |             |             |             |             |             |             |             |             |             |           |           |           |             |
| Base Rent                                      |           |             |             |             |             |             |             |             |             |             |             |             |           |           |           |             |
| Escalations                                    |           |             |             |             |             |             |             |             |             |             |             |             |           |           |           |             |
| Space C - Bonus Space                          |           |             |             |             |             |             |             |             |             |             |             |             |           |           |           |             |
| Base Rent                                      |           |             |             |             |             |             |             |             |             |             |             |             |           |           |           |             |
| Escalations                                    |           |             |             |             |             |             |             |             |             |             |             |             |           |           |           |             |
| Total Space                                    |           |             |             |             |             |             |             |             |             |             |             |             |           |           |           |             |
|  |           |             | 53,826      |             |             |             |             |             |             |             |             |             |           |           |           |             |
| Base Rental Revenue - Space A                  | \$217,426 | \$223,949   | \$230,667   | \$237,587   | \$244,715   | \$252,056   | \$259,618   | \$267,407   | \$275,429   | \$283,692   | \$292,202   | \$300,968   | \$309,907 | \$319,287 | \$328,876 |             |
| Base Rental Revenue - Space B                  | \$383,020 | \$394,511   | \$406,346   | \$418,536   | \$431,092   | \$444,025   | \$457,346   | \$471,066   | \$485,198   | \$499,754   | \$514,747   | \$530,189   | \$546,095 | \$562,478 | \$579,352 |             |
| Base Rental Revenue - Space C                  | \$0       | \$0         | \$0         | \$0         | \$0         | \$0         | \$0         | \$0         | \$0         | \$0         | \$0         | \$0         | \$0       | \$0       | \$0       |             |
| Base Rental Revenue - Total                    | \$600,446 | \$618,459   | \$637,013   | \$656,124   | \$675,807   | \$696,081   | \$716,964   | \$738,473   | \$760,627   | \$783,446   | \$806,949   | \$831,158   | \$856,092 | \$881,775 | \$908,228 | \$1,167,643 |
| Arlington County Profits Subsidy               | \$600,446 | \$618,459   | \$637,013   | \$656,124   | \$675,807   | \$696,081   | \$716,964   | \$738,473   | \$760,627   | \$783,446   | \$806,949   | \$831,158   | \$856,092 | \$881,775 | \$908,228 | \$1,167,643 |
| Cumulative Arlington County Free Rent          | \$600,446 | \$1,218,805 | \$1,855,919 | \$2,512,042 | \$3,187,849 | \$3,883,931 | \$4,600,895 | \$5,339,368 | \$6,099,995 | \$6,883,440 | \$7,421,433 | \$7,698,790 | \$0       | \$0       | \$0       | \$7,698,790 |

**EXHIBIT F**

**SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT**

**LASALLE BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE REGISTERED  
HOLDERS OF LB COMMERCIAL MORTGAGE TRUST 2007-C3,  
COMMERCIAL MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-C3,  
its successors and/or assigns  
(Lender)**

**- and -**

**THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA a body politic  
(Tenant)**

**SUBORDINATION, NON-DISTURBANCE  
AND ATTORNMENT AGREEMENT**

**Dated:**

**Location: 1101 Wilson Boulevard  
Arlington, Virginia**

**Section:**

**Block: Lot:**

**County:**

**PREPARED BY AND UPON RECORDATION  
RETURN TO:**

**Dechert LLP  
30 Rockefeller Plaza  
New York, New York 10112 Attention:**

**File No.:**

## SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

**THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT** (this "**Agreement**") is made as of the \_\_\_\_ day of \_\_\_\_\_ 2008 by and between LaSalle Bank National Association, as trustee for the registered holders of LB Commercial Mortgage Trust 2007-C3, Commercial Mortgage Pass-Through Certificates, Series 2007-C3, its successors and/or assigns, having an address at c/o KeyCorp Real Estate Capital Markets, Inc., 911 Main Street, Suite #1500, Kansas City, Missouri 64105 ("**Lender**") and The County Board of Arlington County, Virginia, a body politic, having an address at 2100 Clarendon Boulevard, Suite 302, Arlington, Virginia 22201 ("**Tenant**").

### RECITALS:

I. Lender has made a loan in the approximate amount of \$567,675,000 to Landlord (defined below), which Loan is given pursuant to the terms and conditions of that certain Loan Agreement, dated as of May 15, 2007 (the "**Loan Agreement**"), among Lender, Landlord (as hereinafter defined) and 1000-1100 Wilson Owner, LLC, a Delaware limited liability company (the "**Other Borrower**" and collectively with Landlord, the "**Borrower**"). The Loan is evidenced by that certain Promissory Note A and that certain Promissory Note B, each given by Borrower to Lender and each dated as of May 15, 2007 (collectively, the "**Note**"), and secured by a certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated May 15, 2007, given by Landlord to Lender ("**Mortgage A**"), and by a certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated May 15, 2007, given by Other Borrower to Lender (collectively with Mortgage A, the "**Mortgage**"). Mortgage A encumbers the fee estate of Landlord in certain premises described in Exhibit A attached hereto (the "**Property**");

II. Tenant leases a portion of the Property (the "**Demised Premises**") under and pursuant to the provisions of a certain Deed of Lease dated \_\_\_\_\_, 2008 between 1101 Wilson Owner, LLC, a Delaware limited liability company, as landlord ("**Landlord**") and Tenant, as tenant (the "**Lease**"); and

III. Tenant has agreed to subordinate the Lease to the Mortgage and to the lien thereof provided that Lender grants non-disturbance to Tenant under the Lease on the terms and conditions hereinafter set forth.

### AGREEMENT:

For good and valuable consideration, Tenant and Lender agree as follows:

A. **Subordination.** Tenant agrees that the Lease and all of the terms, covenants and provisions thereof and all rights, remedies and options of Tenant thereunder are and shall at all times continue to be subject and subordinate in all respects to the Mortgage and to the lien thereof and to all renewals, increases, modifications, spreaders, consolidations, replacements and extensions thereof and to all sums secured thereby with the same force and effect as if the Mortgage had been executed, delivered and recorded prior to the execution and delivery of the Lease.

B. **Non-Disturbance.** Lender agrees that if any action or proceeding is commenced by Lender for the foreclosure of the Mortgage or the sale of the Property, Tenant shall not be named as a party therein unless such joinder shall be required by law; provided, however, such joinder shall not result in the termination of the Lease or disturb the Tenant's possession or use of the Demised Premises thereunder or diminish or reduce any of Tenant's rights under the Lease, including without limitation, Tenant's right to receive the remaining abated rent (the "**Abated Rent**") as provided in the Abated Rent Schedule (as defined in the Lease) pursuant to the terms of the Lease, and the sale of the Property in any such action or proceeding and the exercise by Lender of any other rights upon or after the sale of the Property shall be made subject to all rights of Tenant under the Lease

except as set forth in Section C below, provided that at the time of the commencement of any such action or proceeding or at the time of any such sale or exercise of any such other rights (a) the term of the Lease shall have commenced pursuant to the provisions thereof, (b) the Lease shall be in full force and effect, and (c) Tenant shall not be in default under any of the terms, covenants or conditions of the Lease on Tenant's part to be observed or performed beyond the expiration of any applicable notice periods, cure periods, and/or any grace periods under the Lease.

C. Attornment. Lender and Tenant agree that upon the conveyance of the Property by reason of the foreclosure of the Mortgage or the acceptance of a deed or assignment in lieu of foreclosure or otherwise, the Lease shall not be terminated or affected thereby (at the option of the transferee of the Property (the "**Transferee**") if the conditions set forth in Section B above have not been met at the time of the transfer) but shall continue in full force and effect as a direct lease between the Transferee and Tenant upon all of the terms, covenants and conditions set forth in the Lease and in that event, Tenant agrees to attorn to the Transferee and the Transferee shall accept such attornment, and the Transferee shall not be (a) obligated to complete any construction work in the Demised Premises required to be done by Landlord pursuant to the provisions of the Lease or to reimburse Tenant for any construction work done by Tenant, (b) liable (i) for Landlord's failure to perform any of its obligations under the Lease which have accrued prior to the date on which the Transferee shall become the owner of the Property, or (ii) for any act or omission of Landlord, whether prior to or after such foreclosure or sale, (c) required to make any repairs to the Property or to the Demised Premises required as a result of fire or other casualty, or by reason of condemnation unless the Transferee shall be obligated, as the landlord, under the Lease to make such repairs and shall have received sufficient casualty insurance proceeds or condemnation awards to finance the completion of such repairs, (d) required to make any capital improvements to the Property or to the Demised Premises which Landlord may have agreed to make, but had not completed, or to perform or provide any services not related to possession or quiet enjoyment of the Demised Premises, (e) subject to any offsets, defenses, abatement or counterclaims which shall have accrued to Tenant against Landlord prior to the date upon which the Transferee shall become the owner of the Property (except with respect to the Abated Rent), (f) liable for the return of rental security deposits, if any, paid by Tenant to Landlord in accordance with the Lease unless such sums are actually received by the Transferee, (g) bound by any payment of rents, additional rents or other sums which Tenant may have paid more than one (1) month in advance to any prior Landlord unless (i) such sums are actually received by the Transferee or (ii) such prepayment shall have been expressly approved of by the Transferee, (h) bound to make any payment to Tenant which was required under the Lease, or otherwise, to be made prior to the time the Transferee succeeded to Landlord's interest, (i) bound by any agreement materially amending, modifying or terminating the Lease made without the Lender's prior written consent prior to the time the Transferee succeeded to Landlord's interest or (j) bound by any assignment of the Lease or sublease of the Property, or any portion thereof, made prior to the time the Transferee succeeded to Landlord's interest other than if pursuant to the provisions of the Lease.

D. Notice to Tenant. After notice is given to Tenant by Lender that the Landlord is in default under the Note and the Mortgage and that the rentals under the Lease should be paid to Lender pursuant to the terms of the assignment of leases and rents executed and delivered by Landlord to Lender in connection therewith, Tenant shall thereafter pay to Lender or as directed by the Lender, all rentals and all other monies due or to become due to Landlord under the Lease and Landlord hereby expressly authorizes Tenant to make such payments to Lender and hereby releases and discharges Tenant from any liability to Landlord on account of any such payments.

E. Lender's Consent. Tenant shall not, without obtaining the prior written consent of Lender (which consent shall not be unreasonably withheld, conditioned or delayed); (a) enter into any agreement amending, modifying or terminating the Lease, (b) prepay any of the rents, additional rents or other sums due under the Lease for more than one (1) month in advance of the

due dates thereof, (c) voluntarily surrender Tenant's leasehold interest in the Demised Premises or terminate the Lease other than pursuant to the provisions of the Lease, or (d) assign the Lease or sublet the Demised Premises or any part thereof other than pursuant to the provisions of the Lease; and any such amendment, modification, termination, prepayment, voluntary surrender, assignment or subletting, without Lender's prior consent, shall not be binding upon Lender.

F. Lender to Receive Notices. Tenant shall notify Lender of any default by Landlord under the Lease which would entitle Tenant to cancel the Lease or to an abatement of the rents, additional rents or other sums payable thereunder, and agrees that, notwithstanding any provisions of the Lease to the contrary, no notice of cancellation thereof or of such an abatement shall be effective unless Lender shall have received notice of default giving rise to such cancellation or abatement and shall have failed within thirty (30) days after receipt of such notice to cure such default, or if such default cannot be cured within thirty (30) days, shall have failed within thirty (30) days after receipt of such notice to commence and thereafter diligently pursue any action necessary to cure such default.

G. Notices. All notices or other written communications hereunder shall be deemed to have been properly given (i) upon delivery, if delivered in person or by facsimile transmission with receipt acknowledged by the recipient thereof and confirmed by telephone by sender, (ii) one (1) Business Day (hereinafter defined) after having been deposited for overnight delivery with any reputable overnight courier service, or (iii) three (3) Business Days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

|                 |  |
|-----------------|--|
| If to Tenant:   | Arlington County Manager<br>2100 Clarendon Boulevard, Suite 302<br>Arlington, Virginia 22201<br>Facsimile No. (703) 228-3295   |
| With a copy to: | Real Estate Bureau Chief<br>Engineering & Capital Projects Division<br>Department of Environmental Services<br>2100 Clarendon Boulevard, Suite 900<br>Arlington, Virginia 22201<br>Fax: (703) 228-7542   |
| And a copy to:  | Director of Department of Management and Finance<br>Arlington County<br>2100 Clarendon Boulevard, Suite 501<br>Arlington, Virginia 22201<br>Fax: (703) 228-3401  |
| If to Lender:   | LaSalle Bank National Association, as trustee for<br>the registered holders of LB Commercial Mortgage<br>Trust 2007-C3, Commercial Mortgage Pass-<br>Through Certificates, Series 2007-C3<br>911 Main Street, Suite #1500<br>Kansas City, Missouri 64105<br>(816) 221-8848 (Facsimile) |

With a copy to: Daniel Flanigan, Esq.  
Polsinelli Shalton Flanigan Suelthaus PC  
700 W. 47<sup>th</sup> Street  
Suite 1000  
Kansas City, Missouri 64112  
(816) 753-1536 (facsimile)

or addressed as such party may from time to time designate by written notice to the other parties. For purposes of this Section, the term "**Business Day**" shall mean a day on which commercial banks are not authorized or required by law to close in New York, New York.

Either party by notice to the other may designate additional or different addresses for subsequent notices or communications.

H. Benefit and Burden. This Agreement shall be binding upon and inure to the benefit of Lender and Tenant and their respective successors and assigns.

I. Definitions. The term "**Lender**" as used herein shall include the successors and assigns of Lender and any person, party or entity which shall become the owner of the Property by reason of a foreclosure of the Mortgage or the acceptance of a deed or assignment in lieu of foreclosure or otherwise. The term "**Landlord**" as used herein shall mean and include the present landlord under the Lease and such landlord's predecessors and successors in interest under the Lease, but shall not mean or include Lender. The term "**Property**" as used herein shall mean the Property, the improvements now or hereafter located thereon and the estates therein encumbered by the Mortgage.

J. No Oral Modifications. This Agreement may not be modified in any manner or terminated except by an instrument in writing executed by the parties hereto.

K. Governing Law. This Agreement shall be deemed to be a contract entered into pursuant to the laws of the Commonwealth of Virginia is located and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the Commonwealth of Virginia.

L. Inapplicable Provisions. If any term, covenant or condition of this Agreement is held to be invalid, illegal or unenforceable in any respect, this Agreement shall be construed without such provision.

M. Duplicate Originals: Counterparts. This Agreement may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Agreement may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Agreement. The failure of any party hereto to execute this Agreement, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

N. Number and Gender. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

O. Transfer of Loan. Lender may sell, transfer and deliver the Note and assign the Mortgage, this Agreement and the other documents executed in connection therewith to one or more investors in the secondary mortgage market ("**Investors**"). In connection with such sale, Lender may retain or assign responsibility for servicing the loan, including the Note, the Mortgage, this Agreement and the other documents executed in connection therewith, or may delegate some or all of such responsibility and/or obligations to a servicer including, but not limited to, any subservicer or master servicer, on behalf of the Investors. All references to Lender herein shall refer

to and include any such servicer to the extent applicable.

P. Intentionally Omitted.

Q. Limitations on Lender's Liability. Tenant acknowledges that Lender is obligated only to Landlord to make the Loan upon the terms and subject to the conditions set forth in the Loan Agreement. In no event shall Lender or any purchaser of the Property at foreclosure sale or any grantee of the Property named in a deed-in-lieu of foreclosure, nor any heir, legal representative, successor, or assignee of Lender or any such purchaser or grantee (collectively the Lender, such purchaser, grantee, heir, legal representative, successor or assignee, the "Subsequent Landlord") have, barring Subsequent Landlord's fraud or fraudulent conveyance, any personal liability for the obligations of Landlord under the Lease, and should the Subsequent Landlord succeed to the interests of the Landlord under the Lease, Tenant shall, barring Subsequent Landlord's fraud or fraudulent conveyance, look only to the estate and property of any such Subsequent Landlord in the Property (including without limitation, insurance proceeds in connection therewith and any and all condemnation awards or settlement amounts or sales proceeds arising from any condemnation proceeding or sale in lieu of condemnation) for the satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money in the event of any default by any Subsequent Landlord as landlord under the Lease, and no other property or assets of any Subsequent Landlord shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to the Lease; provided, however, that the Tenant may exercise any other right or remedy provided thereby or by law in the event of any failure by Subsequent Landlord to perform any such material obligation.

**IN WITNESS WHEREOF**, Lender and Tenant have duly executed this Agreement as of the date first above written.

**LENDER:**

LaSalle Bank National Association, as trustee for the registered holders of LB Commercial Mortgage Trust 2007-C3, Commercial Mortgage Pass-Through Certificates, Series 2007-C3

By: KeyCorp Real Estate Capital Markets, Inc.,  
its authorized agent

By: \_\_\_\_\_

Name:

Title:

State of \_\_\_\_\_ )ss.  
County of \_\_\_\_\_ )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, \_\_\_\_\_, a notary public for said state, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same as the of KeyCorp Real Estate Capital Markets, Inc., the authorized agent of LaSalle Bank National Association, as trustee for the registered holders of LB Commercial Mortgage Trust 2007-C3, Commercial Mortgage PassThrough Certificates, Series 2007-C3.

Witness my hand and official seal.

[Notary Seal]

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_  
My Registration No \_\_\_\_\_

**Approved as to form:**

TENANT:

THE COUNT BOARD OF ARLINGTON COUNTY,  
VIRGINIA, a body politic

\_\_\_\_\_  
County Attorney

By:

\_\_\_\_\_  
Name:  
Title:

Commonwealth of Virginia ) ss.  
County of Arlington )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, \_\_\_\_\_, a notary public for said state, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same as the \_\_\_\_\_ of THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, a body politic.

Witness my hand and official seal.

[Notary Seal]

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

My Registration № \_\_\_\_\_

The undersigned accepts and agrees to the provisions of Section D hereof:

**LANDLORD:**

**1101 WILSON OWNER, LLC**, a Delaware limited liability company

By:

\_\_\_\_\_  
Name:  
Title:

State of \_\_\_\_\_ ) ss.  
County of \_\_\_\_\_ )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, \_\_\_\_\_, a notary public for said state, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same as the \_\_\_\_\_ of 1101 WILSON OWNER, LLC, a Delaware limited liability company.

Witness my hand and official seal.

[Notary Seal]

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

My Registration № \_\_\_\_\_

**EXHIBIT A**  
**Legal Description of the Property**  
*[To be inserted]*

## EXHIBIT G

### TENANT'S OPTION TO TERMINATE

A. Tenant shall have the absolute right and option, without liability, penalty or further obligation, to terminate the Lease (the "**Termination Right**") effective as of June 30, 2009 (the "**Termination Date**"), subject to the following terms and conditions:

(1) At the time of the exercise of the Termination Right and at all times thereafter through to the Termination Date, Tenant is not in Default under the Lease beyond any applicable notice and cure period.

(2) Tenant shall provide Landlord with written notice of the exercise by Tenant of the Termination Right (the "**Termination Notice**") at any time after the Effective Date and prior to the Termination Date. Irrespective of when Tenant provides the Termination Notice, the termination of the Lease shall not be effective until the Termination Date.

(3) If Tenant terminates the Lease pursuant to the Termination Right, then, Landlord shall, on or before December 31, 2009 (the "**Payment Deadline**"), pay to Tenant an amount (the "**Net Abated Rent**") equal to (i) the balance, as of the Termination Date, of the remaining abated rent as provided in the Abated Rent Schedule attached to the Lease as Exhibit E, less (ii) an amount equal to the additional rent that would have been due and payable by Tenant for Operating Expenses and Real Estate Tax Expenses under and pursuant to the terms of Section 5 of the Lease during the time period from the Termination Date to the Payment Deadline. Such Net Abated Rent shall accrue interest at the Default Rate (as defined in Section 16 of the Lease) from the Payment Deadline until the date when fully paid. This payment obligation of Landlord shall survive the expiration or earlier termination of the Lease. If Tenant exercises the Termination Right as aforesaid, then Landlord may exercise the Conversion Option pursuant to Section 45 of the Lease by providing Tenant with written notice of Landlord's exercise of the Conversion Option within thirty (30) days after the Termination Date; specifically provided, however, that, as a condition subsequent to Landlord's exercise of the Conversion Option, Landlord must pay Tenant the Conversion Option Payment on or before the later of (a) the Payment Deadline, or (b) thirty (30) days after the amount of the Conversion Option Payment is determined pursuant to Section 45 of the Lease, and, irrespective of the above, Landlord must pay Tenant the Net Abated Rent on or before the Payment Deadline. It is understood and agreed that in no event shall the Use Restriction be released prior to the payment by Landlord to Tenant of the Conversion Option Payment and the Net Abated Rent.

B. If the Tenant timely and properly exercises its Termination Right in compliance with the foregoing terms and conditions, then the Lease shall terminate on the Termination Date in the same manner as if said date had been the originally scheduled date for the expiration of the Term. If the Termination Right is properly and timely exercised hereunder, then, Landlord and Tenant shall, within ten (10) business days thereafter, execute and record a Memorandum of Lease Termination in the form attached to the Lease as Exhibit I, confirming such termination; provided, however, a failure to execute and record such Memorandum of Lease Termination shall not alter or affect the termination of the Lease hereunder.

**EXHIBIT H**

**MEMORANDUM OF LEASE**

RECORDING REQUESTED BY,  
AND WHEN RECORDED MAIL TO:

Real Estate Bureau Chief  
Engineering & Capital Projects Division  
Department of Environmental Services  
Arlington County Government  
2100 Clarendon Boulevard, Suite 900  
Arlington, Virginia 22201

Exempt from Recordation Tax  
per Virginia Code § 58.1-811.A.3

**MEMORANDUM OF LEASE**

**THIS MEMORANDUM OF LEASE** (“Memorandum”) is dated as of \_\_\_\_\_, 2008, by 1101 WILSON OWNER, LLC, a Delaware limited liability company, as Grantor, hereinafter “Landlord”, and THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, a body politic, as Grantee, hereinafter “Tenant”.

1. **Lease.** Landlord hereby leases to Tenant, and Tenant hereby hires from Landlord, upon the terms and subject to the conditions set forth in that certain Deed of Lease dated as of \_\_\_\_\_, 2008 (the “Lease”), the premises more particularly described in the Lease and consisting of approximately fifty-three thousand eight hundred twenty-six (53,826) square feet of office space in the building located at 1101 Wilson Boulevard, Arlington, Virginia, and more particularly described on Exhibit A attached hereto (the “Building”).

2. **Term.** The Initial Term of the Lease is fifteen (15) years commencing on the Commencement Date thereunder and ending no later than April 30, 2023. The Lease is subject to extension, under the terms of Section 45 of the Lease for an additional period of five (5) years, to be exercised at the option of Tenant with prior written notice.

3. **Payment for Abated Rent.** Pursuant to the terms of the Lease, Landlord has the obligation, upon the early termination of the Lease under certain circumstances, to pay the balance of abated rent to Tenant, which such obligation runs with the land.

4. **Landlord’s Address for Notice:**

1101 WILSON OWNER, LLC  
c/o Monday Properties Services, LLC  
1000 Wilson Boulevard, Suite 200  
Arlington, Virginia 22209  
Attention: Mr. Timothy Helmig

With a copy to:

Greenstein DeLorme & Luchs, P.C.  
1620 L Street, N.W., Suite 900  
Washington, D.C. 20036  
Attention: Abraham J. Greenstein, Esq.

5. Tenant's Address for Notice:

Arlington County Manager  
2100 Clarendon Boulevard, Suite 302  
Arlington, Virginia 22201

With a copy to:

Real Estate Bureau Chief  
Engineering & Capital Projects Division  
Department of Environmental Services  
Arlington County Government  
2100 Clarendon Boulevard, Suite 900  
Arlington, Virginia 22201

And a copy to:

Director  
Department of Management and Finance, Arlington, County  
Arlington County Government  
2100 Clarendon Boulevard, Suite 501  
Arlington, Virginia 22201

6. Incorporation of Lease. This Memorandum is for informational purposes only and nothing contained herein shall be deemed to in any way modify or otherwise affect any of the provisions of the Lease. This Memorandum is subject to all of the provisions of the Lease and in the event of any inconsistency between the provisions of the Lease and this Memorandum, the provisions of the Lease shall prevail.

7. Counterparts. This Memorandum may be executed in any number of counterparts, each of which shall constitute an original and all of which shall constitute but one and the same document

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the date first set forth above.

**TENANT:**

**THE COUNTY BOARD OF ARLINGTON COUNTY,  
VIRGINIA, a body politic**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney

COMMONWEALTH OF VIRGINIA)

) ss.

COUNTY OF ARLINGTON )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for the aforesaid jurisdiction, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that he/she was authorized to execute the instrument, and acknowledged that he/she is the \_\_\_\_\_ of THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, a body politic, to be the free and voluntary act and deed of said \_\_\_\_\_ for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
(Print Name)

My appointment expires \_\_\_\_\_

My ID No \_\_\_\_\_



## EXHIBIT A

### LEGAL DESCRIPTION

(1101 Wilson Blvd. and 1700 N. Kent)

All that certain part or parcel of land, and improvements thereon, lying and being situate in the County of Arlington, State of Virginia, being more particularly described as follows:

Beginning at a P.K. Nail set in the asphalt, said point being on the northerly side of the original right-of-way line of Wilson Boulevard and being 125.97 feet along the arc east from the point of curve on the transition filler to North Lynn Street and also being the southeast corner of the property of Plaza West Associates;

thence departing Wilson Boulevard and running with the easterly line of Plaza West Associates the following courses: N 00°16'22" W - 276.80 feet, S 85°41'00" W - 35.79 feet to drill holes set in the concrete loading dock and N 00°18'52" W - 197.80 feet to a point (a common corner to Arland Towers Company and the property of Rosalind C. Barton);

thence departing the easterly line of Plaza West Associates and running the common line between Arland, to the south, and Barton, to the north, along a well defined separation in the floor between parking garages on both properties the following courses: N 83°55'16" E - 36.44 feet, S 03°41'19" W - 9.42 feet, N 89°33'56" E - 46.50 feet, S 00°12'05" E - 15.95 feet and N 87°35'48" E - 3.37 feet;

thence passing through to the outside of a parking garage wall on the Barton property and through a corner common to Barton and property of County Board of Arlington (C.B.A.) at 60.14 feet and continuing along the westerly line of C.B.A. S 00°18'52" E - 101.59 feet to an iron pipe;

thence turning along the southerly line of C.B.A. N 85°41'00" E - 90.95 feet to an iron pipe on the original westerly right-of-way line of North Kent Street;

thence following said line S 04°19'00" E - 68.60 feet to a railroad spike set at the southwest corner of said original right-of-way line;

thence running along the southerly end of said road N 85°41'00" E - 60.00 feet to P.K. Nail on the westerly line of property of Robert H. Smith Et Al, Trustees (R.H.S.); said point also being on the easterly line of an easement for the Loop Road passing over a portion of the building on 1101 Wilson Boulevard;

thence running with said line S 04°17'52" E - 346.01 feet and S 05°43'37" E - 79.44 feet to drill holes in the concrete gutter, the latter of which is also on the original northerly right-of-way line of Wilson Boulevard;

thence following said right-of-way line the following courses: N 57°16'53" W - 95.02 feet, 121.87 feet along the arc of a curve to the left having a radius of 695.27 feet with a chord bearing and distance of N 62°18'11" W, 121.71 feet, N 00°16'22" W - 5.43 feet, 53.13 feet along the arc of a curve to the left having a radius of 700.27 feet with a chord bearing and distance of N 69°40'52" W, 53.13 feet, all P.K. nails in the asphalt, the last of which is the point of beginning, containing 97,634 square feet or 2.24137 acres of land, more or less.

For information purposes only: (RPS Nos. 16039002, 16039003 and 16039021).

TOGETHER WITH those certain beneficial easements set forth in Deed of Cross Easement dated March \_\_, 1981, and recorded in Deed Book 2053 at page 823, among the Land Records of Arlington County, Virginia; as amended by Amendment to Deed of Cross Easement dated April 25, 2000, and recorded in Deed Book 3062 at page 454, among the aforesaid Land Records.

**EXHIBIT I**

**MEMORANDUM OF LEASE  
TERMINATION**

PREPARED BY AND )  
RECORDING REQUESTED BY: \_\_\_\_\_ )  
AND WHEN RECORDED RETURN TO: )  
 )  
Greenstein Delorme & Luchs, P.C. )  
1620 L Street, N.W., Suite 900 )  
Washington, D.C. 20036 )  
Attention: Abraham J. Greenstein )

(Space Above for Recorder's Use)

**TERMINATION OF MEMORANDUM OF LEASE**

**THIS TERMINATION OF MEMORANDUM OF LEASE** ("Release") is made and entered into effective as of the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between 1101 WILSON OWNER, LLC, a Delaware limited liability company ("Landlord"), and THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, a body politic ("Tenant").

**Recitals:**

**WHEREAS**, the parties entered into a Memorandum of Lease (the "Memorandum of Lease") dated as of \_\_\_\_\_, 2008, which was recorded on \_\_\_\_\_, 2008 among the Land Records of Arlington County, Virginia in Deed Book \_\_\_\_ at page \_\_\_\_, which gave notice of a certain Deed of Lease (the "Lease") regarding certain space (the "Premises") in the building located in Arlington County, Commonwealth of Virginia, Tax Map No. \_\_\_\_\_, and described on Exhibit A which is attached hereto and made a part hereof (the "Building").

**WHEREAS**, the Lease has expired or been terminated, and accordingly Landlord is entitled to require the execution of, and to record, this Release.

**NOW, THEREFORE**, in consideration of the Premises, and of the expiration or earlier termination of the Lease, **the Memorandum of Lease is hereby released of record and terminated and shall have no further force or effect.** The Premises shall hereafter be free of any encumbrance, right, claim or interest of Tenant or any other party claiming by or through Tenant, and Landlord shall be free to transfer, convey, encumber, lease and otherwise deal with the Premises free of the Lease and the Memorandum of Lease.

*[balance of page intentionally left blank]*

**IN WITNESS WHEREOF**, this Termination of Memorandum of Lease has been executed by the parties effective as of the day and year first above written.

**LANDLORD:**

**1101 WILSON OWNER, LLC**, a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE/Commonwealth of \_\_\_\_\_ )

COUNTY/CITY OF \_\_\_\_\_ ) ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public, personally appeared \_\_\_\_\_ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that he/she was authorized to execute the instrument, and acknowledged that he/she is the \_\_\_\_\_ of 1101 Wilson Owner, LLC, a Delaware limited liability company, to be the free and voluntary act and deed of said \_\_\_\_\_ for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

\_\_\_\_\_  
NOTARY PUBLIC  
\_\_\_\_\_  
(Print Name)

My appointment expires \_\_\_\_\_

My ID No \_\_\_\_\_



**EXHIBIT A TO TERMINATION OF MEMORANDUM OF LEASE**

**Description of the Building**

That certain property located in Arlington County, Commonwealth of Virginia and being more particularly described as follows:

All that certain lot or parcel of land together with the improvements thereon and the appurtenances thereunto belonging, situate, lying and being in the County of Arlington, Commonwealth of Virginia, more particularly described in accordance with a survey prepared by \_\_\_\_\_, dated \_\_\_\_\_, as follows:

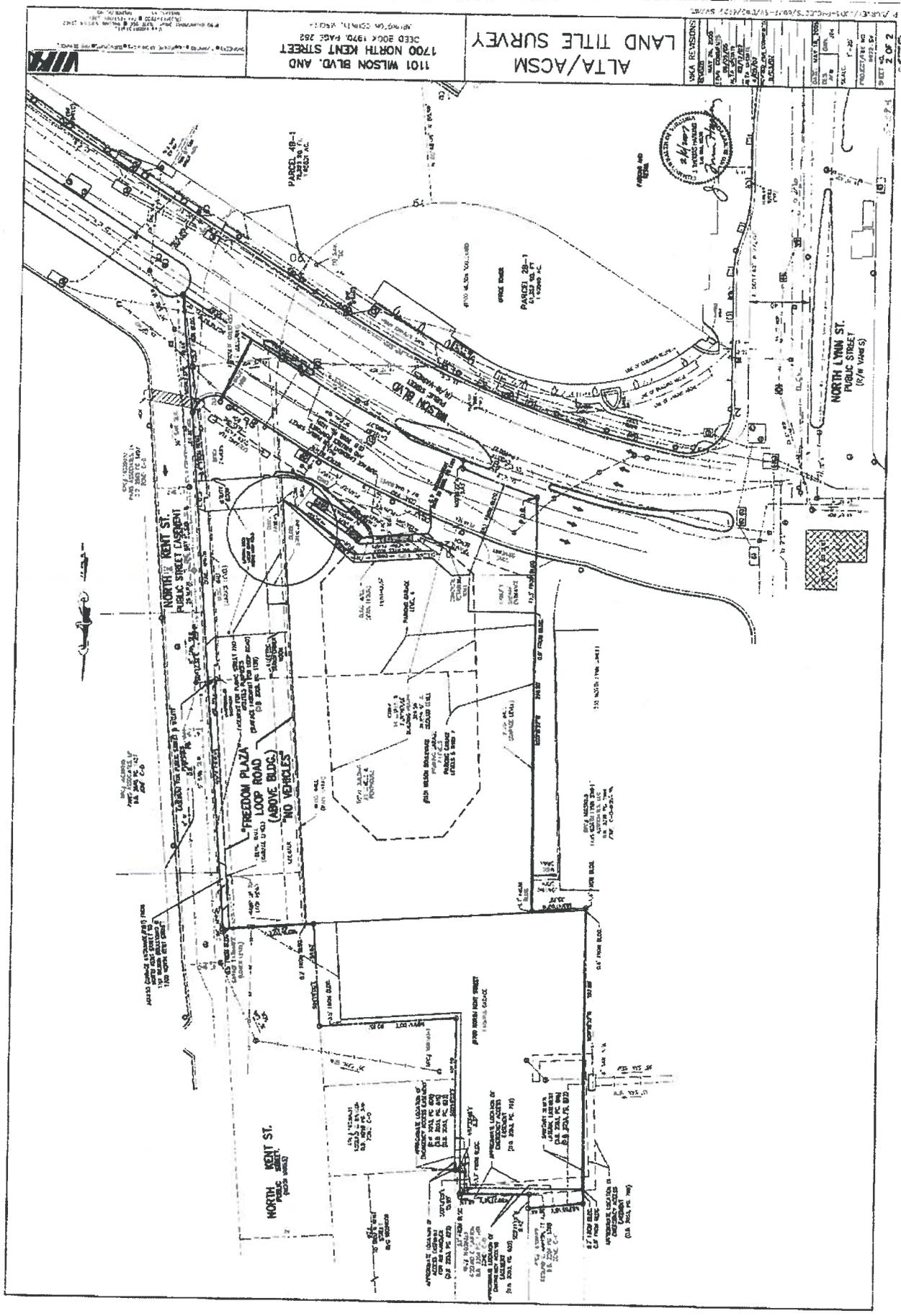
Tax Assessment Map No.: \_\_\_\_\_

**EXHIBIT J**

**PLAT**

*[Attached hereto]*

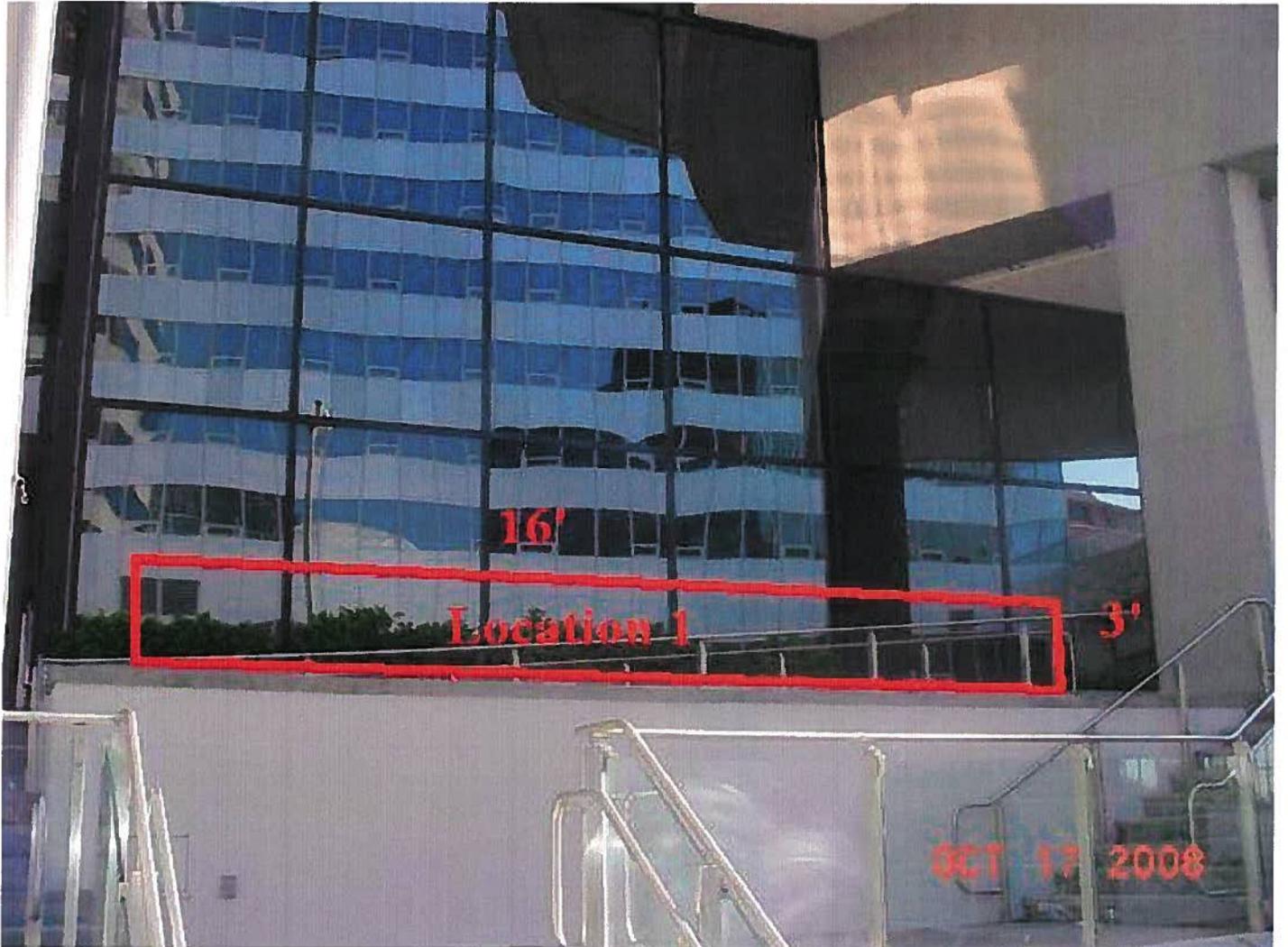


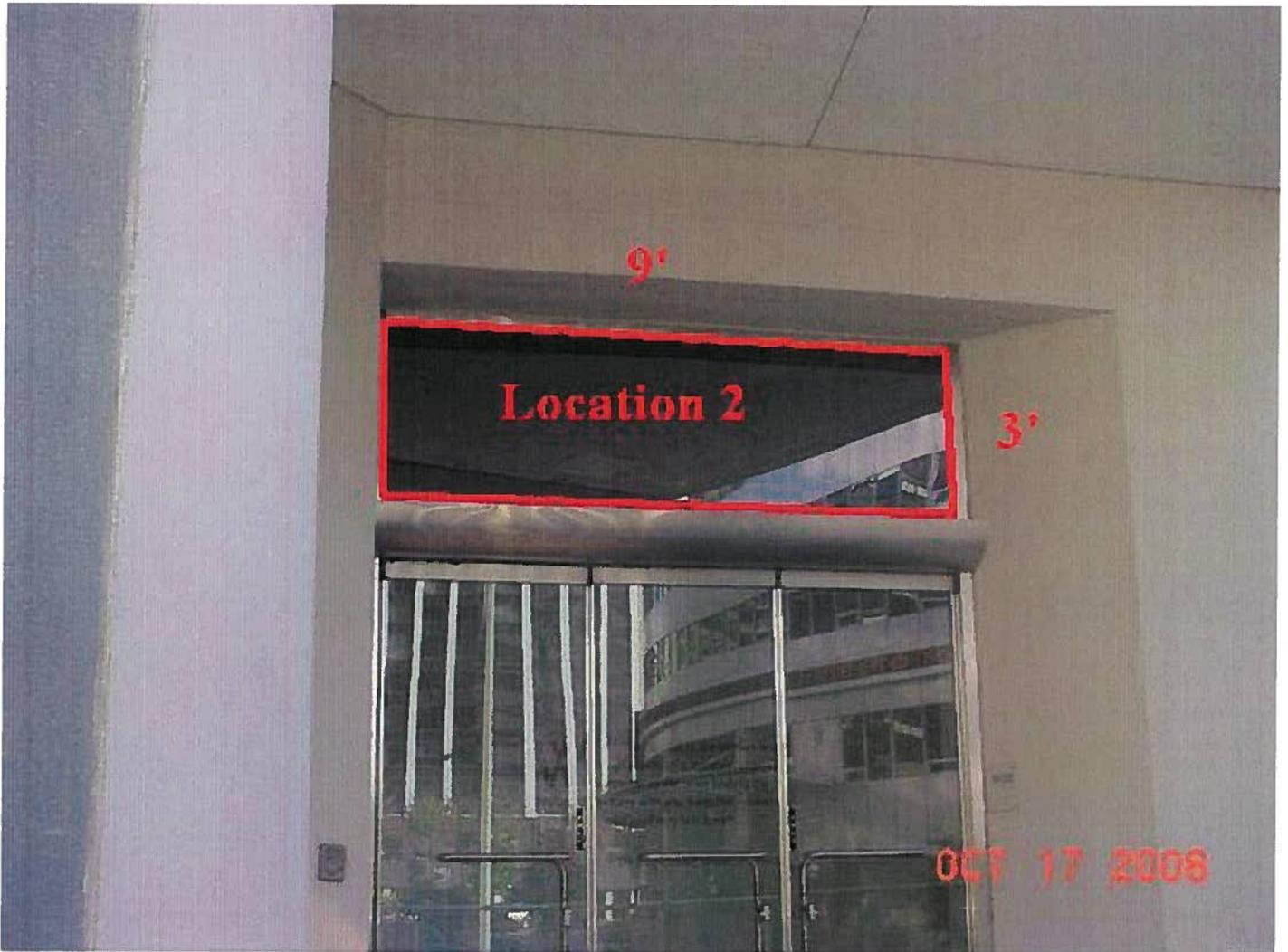


**EXHIBIT K**

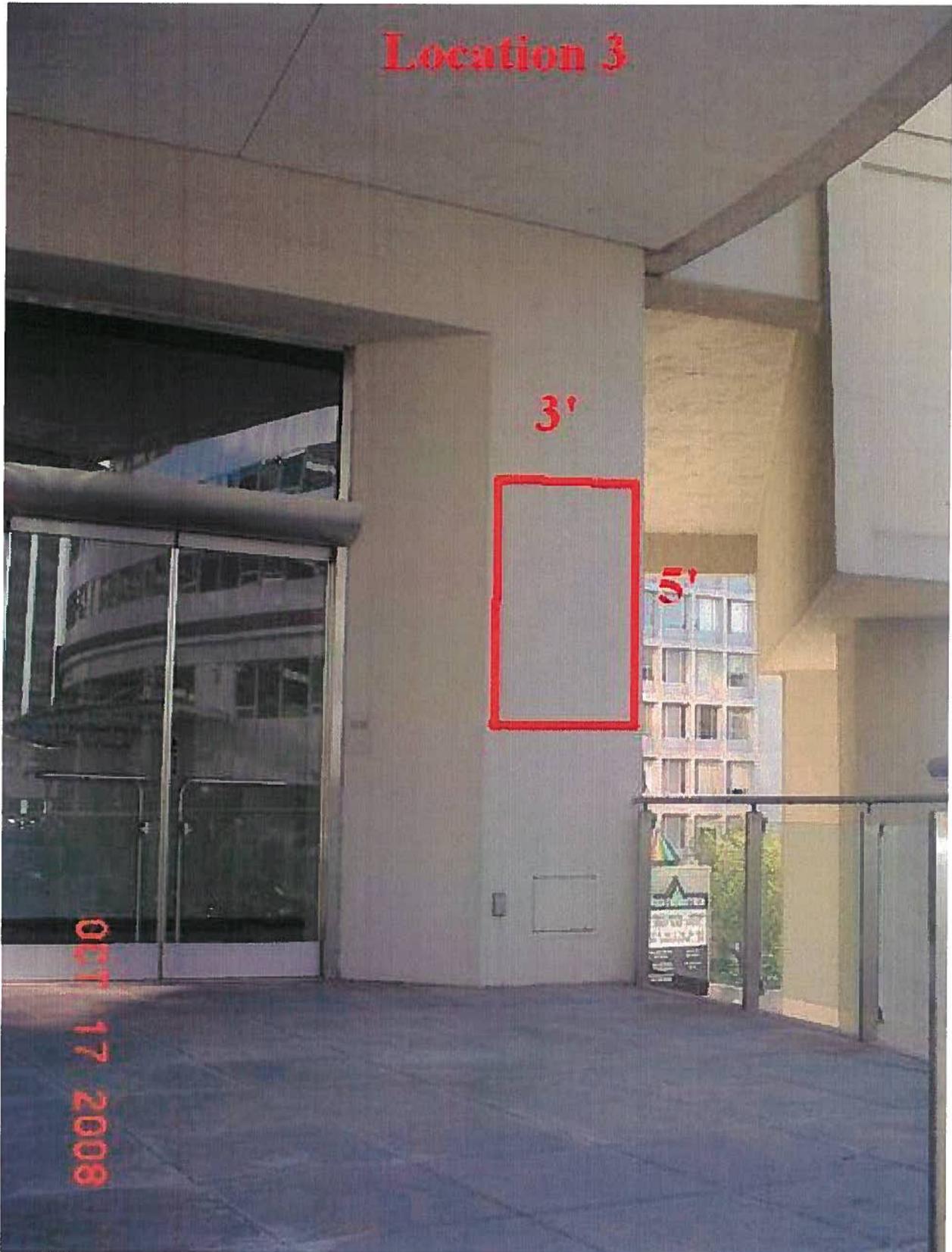
**LOCATION OF TENANT'S EXTERIOR SIGNAGE**

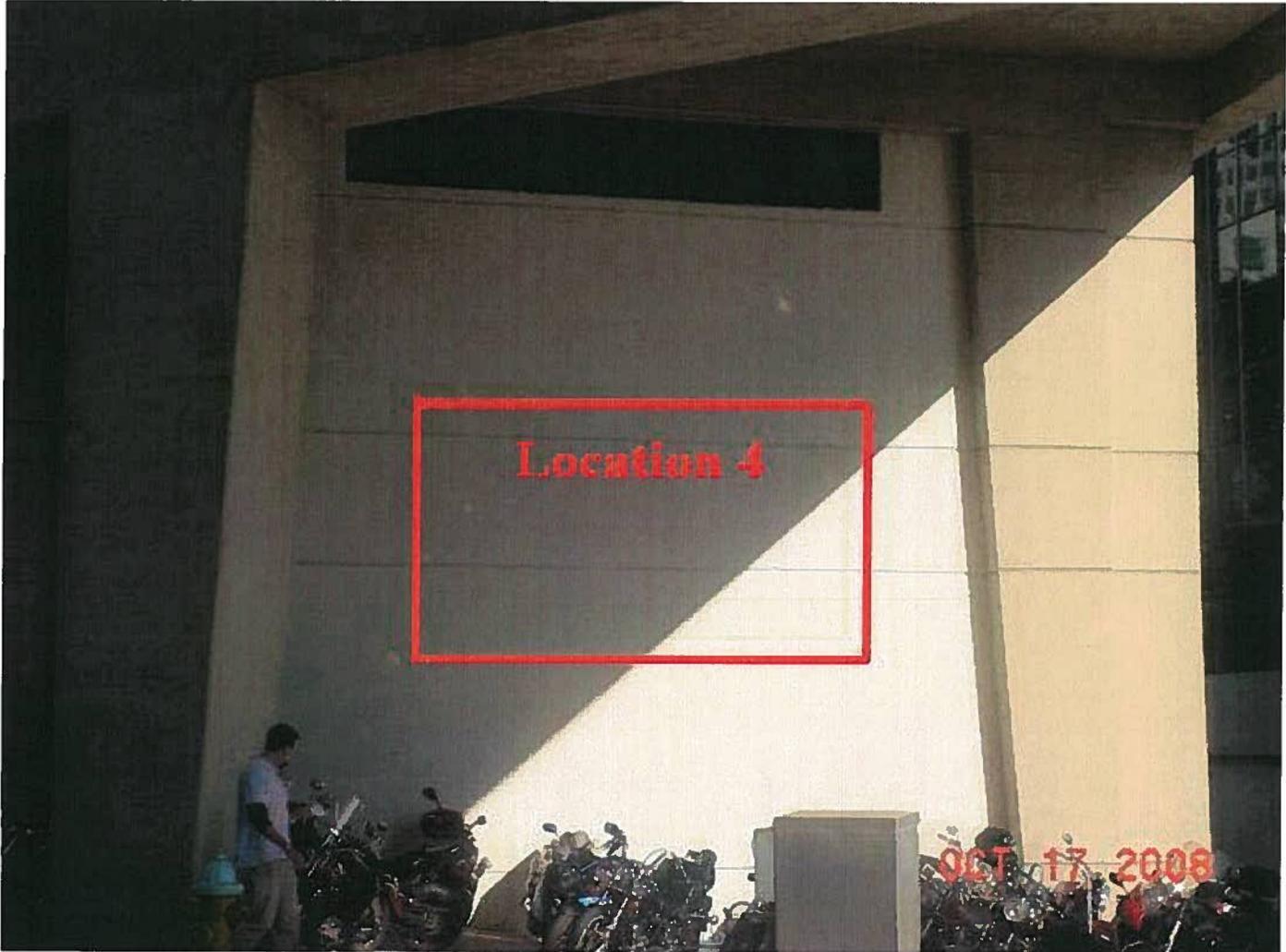
*(Signs in the following locations are subject to Landlord's reasonable review and approval, as such review and approval is more particularly described in Section 43 of the Lease.)*

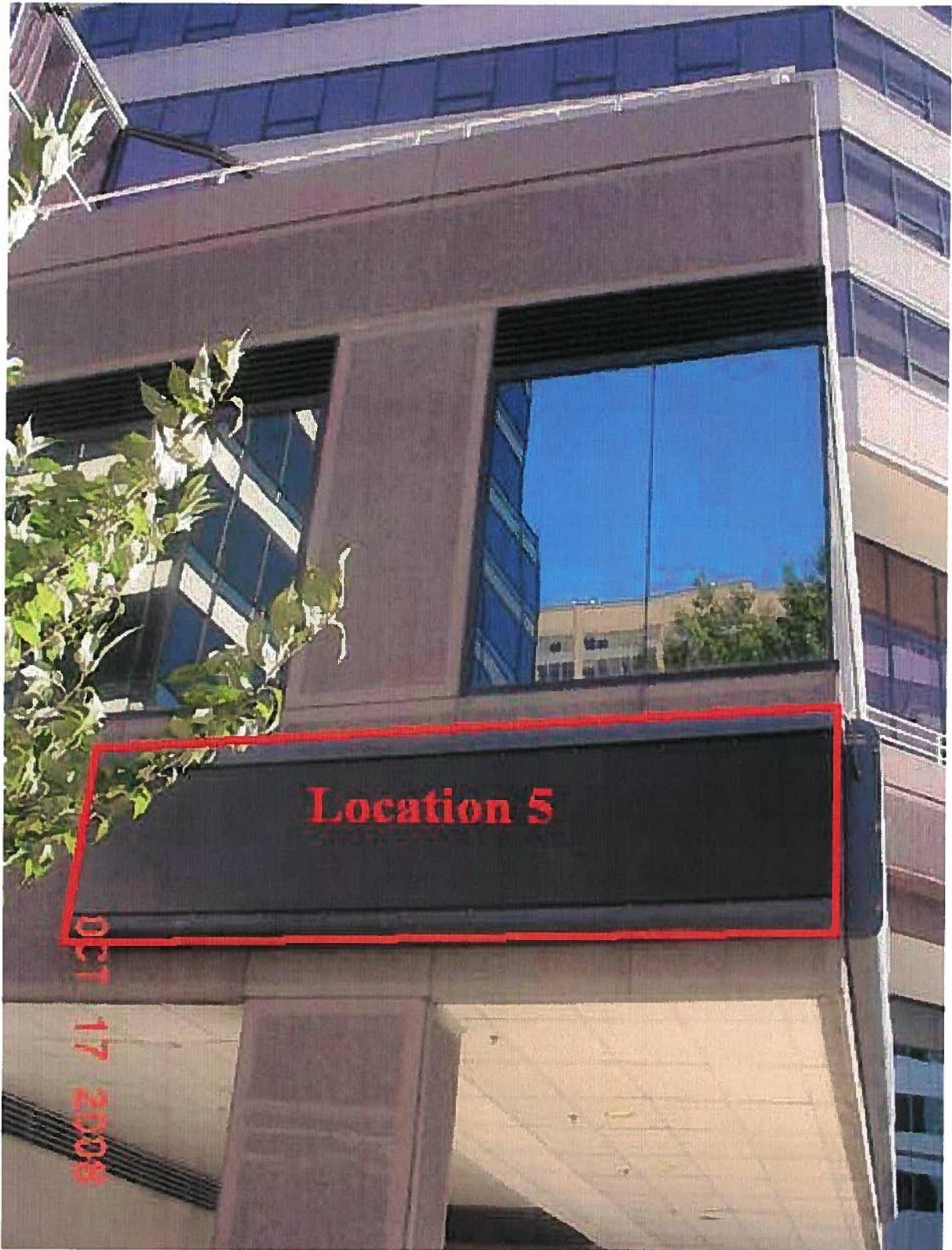




K-2







K-5

**EXHIBIT L**

**SCHEDULE OF CATEGORIES OF OPERATING EXPENSES ATTRIBUTABLE TO PORTIONS OF COMMON AREAS LOCATED ON ONE OR MORE FLOORS OF THE BUILDING ON WHICH NO SPACE IS LEASE TO TENANT AND ON OR FROM WHICH THERE IS NO ACCESS TO THE DEMISED PREMISES**

**and**

**SCHEDULE OF CATEGORIES OF OPERATING EXPENSES ATTRIBUTABLE TO PORTIONS OF COMMON AREAS LOCATED ON ONE OR MORE FLOORS OF THE BUILDING ON WHICH THE DEMISED PREMISES ARE LOCATED, OR ON OR FROM WHICH THERE IS ACCESS TO THE DEMISED PREMISES, BUT NOT SUSCEPTIBLE TO COST ALLOCATION SOLELY TO TENANT**

**and**

**SCHEDULE OF CATEGORIES OF OPERATING EXPENSES ATTRIBUTABLE TO PORTIONS OF COMMON AREAS LOCATED ON ONE OR MORE FLOORS OF THE BUILDING ON WHICH THE DEMISED PREMISES ARE LOCATED, OR ON OR FROM WHICH THERE IS ACCESS TO THE DEMISED PREMISES, AND SUSCEPTIBLE TO COST ALLOCATION SOLELY TO TENANT**

*[Attached hereto]*

1101 Wilson Blvd  
Escalatable Operating Expenses

| Account Number | Account Name                         | 2009 Budget | Allocation I<br>Gross<br>up to<br>Occupancy | 2009<br>Budget<br>With<br>Gross Up | Allocations to County<br>2009                 |                | Allocation III<br>County<br>Share of Common<br>Area | Allocation IV<br>County<br>Share |  | Estimated Billing<br>to the<br>County | Description |
|----------------|--------------------------------------|-------------|---|------------------------------------|---|----------------|---|----------------------------------|--|---------------------------------------|-------------|
|                |                                      |             |   |                                    | Common<br>Area<br>(excluding<br>county space) | County<br>Area |   | Piorata Share                    | County   |                                       |             |
| 5120-0000      | Cleaning-Contract Interior           | 227,669     | 14,237.01                                   | 242,126                            | N/A   | 38.71%         | 15.47%  | 15,432.86                        | Currently no cleaning to be done in the county space. Monday should pay a prorata share of common area.  |                                       |             |
| 5130-0000      | Cleaning-Window Washing Exterior     | 4,500       | -   | 4,500                              | N/A   | N/A            | 15.47%  | 754.15                           | Monday should contract separately with cleaning company for prorata allocation based on SF.  |                                       |             |
| 5132-0000      | Cleaning-Window Washing Interior     | 1,950       | -   | 1,950                              | 6.02%   | 38.71%         | 15.47%  | 10.02                            | Currently no cleaning to be done in the county space. Monday should pay a prorata share of common area.  |                                       |             |
| 5162-0000      | Cleaning-Trash Rem/Recycl            | 6,484       | 488.48                                      | 6,972                              | 6.02%   | 38.71%         | 15.47%  | 1,000.00                         | Monday should contract separately with cleaning company for prorata allocation based on SF.  |                                       |             |
| 5165-0000      | Cleaning-Other                       | 5,700       | -   | 5,700                              | 6.02%   | 38.71%         | 15.47%  | 28.14                            | Monday should contract separately with cleaning company for prorata allocation based on SF.  |                                       |             |
| 5210-0000      | Util-Elec-Public Area                | 667,200     | 41,713.51                                   | 709,414                            | 6.02%   | 38.71%         | 15.47%  | 3,676.36                         | Currently common area not separately sub metered. County space is submetered. Therefore prorata based on common area.  |                                       |             |
| 5220-0000      | Util-Gas                             | 120,775     | 7,545.23                                    | 128,320                            | 6.02%   | 38.71%         | 15.47%  | 655.94                           | Services the base building only for heat. The county space is not separately sub metered.  |                                       |             |
| 5230-0000      | Util-Fuel Oil                        | 51,271      | 3,203.08                                    | 54,474                             | N/A   | N/A            | 15.47%  | 8,969.78                         | Services the base building only for heat. The county space is not separately sub metered.  |                                       |             |
| 5310-0000      | R & M Payroll-Gen'l                  | 235,760     | -   | 235,760                            | 6.02%   | 38.71%         | 15.47%  | 1,205.15                         | County responsible for equipment. Therefore only the portion of R & M used in the common area will be allocated.   |                                       |             |
| 5310-2000      | R & M Payroll - Taxes                | 19,678      | -   | 19,678                             | 6.02%   | 38.71%         | 15.47%  | 100.08                           | County responsible for equipment. Therefore only the portion of R & M used in the common area will be allocated.   |                                       |             |
| 5310-4000      | R & M Benefits                       | 16,500      | -   | 16,500                             | 6.02%   | 38.71%         | 15.47%  | 84.34                            | County responsible for equipment. Therefore only the portion of R & M used in the common area will be allocated.   |                                       |             |
| 5320-0000      | R & M Elm-Maint Contract             | 120,943     | -   | 120,943                            | 6.02%   | 38.71%         | 15.47%  | 618.23                           | If contract is revised the cost for the common area can be separately billed, and allocation 1 will not be necessary. If contract is not revised, the allocations will be based on the portion of R & M used in the common area. |                                       |             |
| 5322-0000      | R & M Elec-Outside Svc               | 11,124      | -   | 11,124                             | 6.02%   | 38.71%         | 15.47%  | 66.86                            | There is only one BMS system. Prorate Allocation based on common area.   |                                       |             |
| 5330-0000      | R & M HVAC Contract Svs              | 23,950      | -   | 23,950                             | N/A   | N/A            | 15.47%  | 3,943.64                         | This cost will be billed to County. County will be responsible for prorata share of common area.   |                                       |             |
| 5332-0000      | R & M HVAC Water Treatm              | 22,130      | -   | 22,130                             | 6.02%   | 38.71%         | 15.47%  | 113.12                           | County responsible for equipment. Therefore no portion of this cost will be billed to County. County will be responsible for prorata share of common area.   |                                       |             |
| 5334-0000      | R & M HVAC Supplies                  | 23,400      | -   | 23,400                             | 6.02%   | 38.71%         | 15.47%  | 119.62                           | County responsible for equipment. Therefore no portion of this cost will be billed to County. County will be responsible for prorata share of common area.   |                                       |             |
| 5336-0000      | R & M HVAC Outside Svs               | 26,300      | -   | 26,300                             | 6.02%   | 38.71%         | 15.47%  | 134.44                           | County responsible for equipment. Therefore no portion of this cost will be billed to County. County will be responsible for prorata share of common area.   |                                       |             |
| 5340-0000      | R & M Electrical Supplies            | 30,765      | -   | 30,765                             | 6.02%   | 38.71%         | 15.47%  | 157.26                           | County responsible for equipment. Therefore no portion of this cost will be billed to County. County will be responsible for prorata share of common area.   |                                       |             |
| 5342-0000      | R & M R & M Electrical - Outside Svs | 15,564      | -   | 15,564                             | 6.02%   | 38.71%         | 15.47%  | 79.66                            | County responsible for equipment. Therefore no portion of this cost will be billed to County. County will be responsible for prorata share of common area.   |                                       |             |
| 5350-0000      | R & M Plumbing Supplies              | 13,430      | -   | 13,430                             | 6.02%   | 38.71%         | 15.47%  | 68.66                            | County responsible for equipment. Therefore no portion of this cost will be billed to County. County will be responsible for prorata share of common area.   |                                       |             |
| 5352-0000      | R & M Plumbing Outside Svc           | 4,800       | -   | 4,800                              | 6.02%   | 38.71%         | 15.47%  | 25.05                            | County responsible for equipment. Therefore no portion of this cost will be billed to County. County will be responsible for prorata share of common area.   |                                       |             |
| 5370-0000      | R & M Fire/Life Safety               | 2,300       | -   | 2,300                              | N/A   | N/A            | 15.47%  | 378.72                           | Prorate Allocation based on SF.  |                                       |             |
| 5372-0000      | R & M Fringe/Life Safety             | 25,124      | -   | 25,124                             | N/A   | N/A            | 15.47%  | 4,136.95                         | Prorate Allocation based on SF.  |                                       |             |
| 5380-0000      | R & M - GB Interior Supplies         | 4,800       | -   | 4,800                              | 6.02%   | 38.71%         | 15.47%  | 24.54                            | County responsible for equipment. Therefore no portion of this cost will be billed to County. County will be responsible for prorata share of common area.   |                                       |             |
| 5380-0000      | R & M GB Interior, OYS               | 62,850      | -   | 62,850                             | 6.02%   | 38.71%         | 15.47%  | 321.79                           | County responsible for equipment. Therefore no portion of this cost will be billed to County. County will be responsible for prorata share of common area.   |                                       |             |
| 5384-0000      | R & M GB Interior, Pest Cont         | 9,028       | -   | 9,028                              | 6.02%   | 38.71%         | 15.47%  | 15.48                            | Current contract does not include this space. County will be responsible for prorata share of common area.   |                                       |             |
| 5385-0000      | R & M Interior Piant Maint           | 12,400      | -   | 12,400                             | 6.02%   | 38.71%         | 15.47%  | 63.39                            | Current contract does not include this space. County will be responsible for prorata share of common area.   |                                       |             |
| 5386-0000      | R & M Exterior                       | 3,000       | -   | 3,000                              | N/A   | N/A            | 15.47%  | 493.98                           | Prorate Allocation based on SF.  |                                       |             |
| 5390-0000      | R & M Other                          | 11,457      | -   | 11,457                             | N/A   | N/A            | 15.47%  | 807.50                           | Prorate Allocation based on SF.  |                                       |             |
| 5412-0000      | Grounds/Landscape OYS                | 28,181      | -   | 28,181                             | N/A   | N/A            | 15.47%  | 4,630.34                         | Prorate Allocation based on SF.  |                                       |             |
| 5430-0000      | Grounds/Snow Rem Supplies            | 5,650       | -   | 5,650                              | N/A   | N/A            | 15.47%  | 930.34                           | Prorate Allocation based on SF.  |                                       |             |
| 5520-0000      | Security-Contract-security guards    | 126,538     | -   | 126,538                            | N/A   | N/A            | 15.47%  | 20,885.32                        | Security Guards - Prorate Allocation based on SF.  |                                       |             |
| 5520-0000      | Security-Contract-Kastle Monitoring  | 24,120      | -   | 24,120                             | 6.02%   | 38.71%         | 15.47%  | 123.30                           | No Kastle monitoring of this space. County will be responsible for prorata share of common area.   |                                       |             |
| 5610-0000      | Security Equipment                   | 2,000       | -   | 2,000                              | 6.02%   | 38.71%         | 15.47%  | 10.22                            | No Kastle monitoring of this space. County will be responsible for prorata share of common area.   |                                       |             |
| 5610-0000      | Mgmt Fee Current Yr                  | 262,698     | 19,279.60                                   | 310,878                            | N/A   | N/A            | 15.47%  | 51,189.54                        | Based on Shared Rent in the county lease, that is being billed to County.  |                                       |             |
| 5710-0000      | Admin Payroll                        | 203,328     | -   | 203,328                            | N/A   | N/A            | 15.47%  | 3,460.37                         | Prorate Allocation based on SF.  |                                       |             |
| 5710-0000      | Admin Payroll - Taxes                | 14,267      | -   | 14,267                             | N/A   | N/A            | 15.47%  | 2,349.22                         | Prorate Allocation based on SF.  |                                       |             |
| 5710-5000      | Admin Other Payroll expenses         | 4,800       | -   | 4,800                              | N/A   | N/A            | 15.47%  | 2,543.46                         | Prorate Allocation based on SF.  |                                       |             |
| 5722-0000      | Admin Prof Svc Misc                  | 4,800       | -   | 4,800                              | N/A   | N/A            | 15.47%  | 2,428.10                         | Prorate Allocation based on SF.  |                                       |             |
| 5730-0000      | Admin Office Mgmt Rent               | 14,746      | -   | 14,746                             | N/A   | N/A            | 15.47%  | 193.97                           | Prorate Allocation based on SF.  |                                       |             |
| 5732-0000      | Admin Office Exp Maint Exp           | 1,178       | -   | 1,178                              | N/A   | N/A            | 15.47%  | 444.69                           | Prorate Allocation based on SF.  |                                       |             |
| 5732-0000      | Admin Office Exp Utiltion, Ed        | 2,700       | -   | 2,700                              | N/A   | N/A            | 15.47%  | 737.69                           | Prorate Allocation based on SF.  |                                       |             |
| 5735-0000      | Admin Office Exp Other               | 42,163      | -   | 42,163                             | N/A   | N/A            | 15.47%  | 6,942.62                         | Prorate Allocation based on SF.  |                                       |             |
| 5760-0000      | Admin Mgmt Exp Travel & E            | 720         | -   | 720                                | N/A   | N/A            | 15.47%  | 116.66                           | Prorate Allocation based on SF.  |                                       |             |
| 5762-0000      | Admin Mgmt Meals                     | 1,000       | -   | 1,000                              | N/A   | N/A            | 15.47%  | 164.66                           | Prorate Allocation based on SF.  |                                       |             |
| 5770-0000      | Admin Other Community Rel            | 72,643      | -   | 72,643                             | N/A   | N/A            | 15.47%  | 2,066.15                         | Prorate Allocation based on SF.  |                                       |             |
| 5810-0000      | Insurance Policies                   | 76,613      | -   | 76,613                             | N/A   | N/A            | 15.47%  | 12,616.20                        | Prorate Allocation based on SF.  |                                       |             |
| 5740-0000      | Other - Business Lic Tax             | 54,504      | 3,430.04                                    | 58,334                             | N/A   | N/A            | 15.47%  | 3,665.36                         | Specific Billing   |                                       |             |
| Totals         |                                      | 2,696,798   |   | 2,787,706                          |   |                |   | 196,051                          | per year   |                                       |             |
|                |                                      |             |   |                                    |   |                |   | 16,338                           | per month  |                                       |             |

**EXHIBIT M**

*[Intentionally Omitted]*

## EXHIBIT N

### SCHEDULE OF EXISTING PERSONALTY

#### LEVEL 6

- Reception Desk/Cabinets at street/main entrance
- Coat Check Counter
- Coat Check Cabinets
- Shelves along rear wall/metal brackets
- Trash Receptacles
- Miscellaneous items in utility space (table stands, etc)
- Desk/Cabinets at building lobby entrance
- Security Equipment
- One (1) American Metal Fabricators, Inc. Stainless Steel industrial kitchen table and sink
- One (1) Power Soak Systems Model E2, Serial Number 2143
- One (1) Stero Company Model SDRA Industrial Dishwasher, Serial Number 52190-5-89
- One (1) Harto Model C-15 Booster Water Heater, Serial Number 8644840435
- Two (2) True Manufacturing Company Model TDBD-72-2 Cabinet Refrigerators, Serial Numbers 1-2819371 and 1-2819362

#### LEVEL 8

- Front Desk (under large staircase)
- Trash Receptacles
- Security Gate at store/restaurant entrance
- Cabinets in cubby space behind the wall behind main desk
- Brushed metal "Next Show" electronic sign
- Desk/Cabinets/Glass display case in store/restaurant area
- Black velvet wall in store/restaurant area
- Light fixtures above store/restaurant area desk
- Tracked lighting fixtures in store/restaurant area
- Shelving units along store/restaurant wall
- Acoustic paneling along store/restaurant wall
- Plastic and metal shelving along store/restaurant wall
- Small security gate between store/restaurant and ballroom
- Triangular sign/directory in store/restaurant
- Ballroom large suspended track/rack
- Carpet and temporary flooring in ballroom
- Glass cabinet doors on ballroom wall
- Ballroom acoustic panel and light
- Shelving in square cubby off of ballroom
- Carpet in dressing room
- Furniture in dressing room
- Refrigerator in dressing room
- Curved, suspended acoustic paneling in studio/black box
- Platform/stage in studio/black box
- Black curtains in studio/black box
- Drop/suspended ceiling/tube framing in studio/black box
- Safe in closet of studio/black box
- Sound system racks and cabling for studio/black box
- Control system racks and cabling for studio/black box
- One (1) Dotronix, Inc Model DSV27C Video Monitor, Serial Number 1109800159

## LEVEL 9

- Lighting fixtures in catwalk
- Carpet and temporary flooring
- Peg board/theatre display next to Bijou theatre entrance
- Bijou theatre sign above theatre entrance
- Seats in Bijou theatre
- Ten (10) Litelab Corp Model -9A lights in Bijou theater
- Five (5) Litelab Corp (small lights) in Bijou theater
- Projector in Bijou theater (unknown make, model, serial number)
- Curved wood and metal benches (2)
- Glass panels from glass wall
- Acoustic ceiling panels w/ attached light fixtures
- Trash receptacles
- Seventy-five (75) Litelab Corp Model -9A 120V lamps
- Two (2) Dotronix, Inc Model DSV27C Video Monitors, Serial Numbers 1109600169 and 1109600173 (Dome Theater Stage)
- Seating in dome theatre
- One (1) Mackie Model CR1604-VLZ 16 Channel Mic/Line Mixer, Serial Number 9M1610 (Control Room Racks)
- Three (3) Panasonic Model WV-13M500U Video Monitors, Serial Numbers 5ZW12508, 5ZW12509, and 5ZW12510 (Control Room Racks)
- One (1) Mitsubishi Model TFM87055KHK Diamond Pro Video Monitor, Serial Number 609011861 (Control Room Racks)
- Two (2) Panasonic Model BT-59014 Video Monitors, Serial Numbers KA6220025 and KA6240037 (Control Room Racks)
- One (1) Benchmark Model PS-202 Redundant Power Supply, Serial Number 20906 (Control Room Racks)
- One (1) DBX Model 160A Compressor/Limiter (Control Room Racks)
- Two (2) AMX Model AXFBP0297 Access Control System, Serial Numbers 703-12569 and 703-12281 (Control Room Racks)
- One (1) AMX Model AXM-CP0197, Serial Number 920-30-0057 (Control Room Racks)
- One (1) Micro Model 15FGX, Serial Number 631607R102793975 (Control Room Racks)
- One (1) Peavey Model 208 Media Matrix Mainframe, Serial Number 1200309 (Control Room Racks)
- One (1) DTS Model 6D Playback, Serial Number 009725 (Control Room Racks)
- Five (5) Bittree Model B96C-NNNIT/E3, Serial Numbers 5847-1, 5847-2, 5918-1, 5918-2 and 5918-3 (Control Room Racks)
- Four (4) Peavey Model MM-8840 Media Matrix (Control Room Racks)
- One (1) Benchmark Model MF-300 System 1000, Serial Number 20888 (Control Room Racks)
- One (1) Leitch Model FR-682 Video Distribution Amplifier (Control Room Racks)
- Two (2) Huges JVC Technology Model 360SSC Projectors, Serial Numbers 361056 and 361069 (Dome Theater Projection Room)
- Three (3) Panasonic Model 5100 HS Video Cameras, Serial Numbers 6XA01677, 6ZA00127 and 6YA00001 (Dome Theater Projection Room)
- Two (2) Panasonic Model WV-AD38 RG8 Video Camera Adapters, Serial Numbers 74A08417 and 6XK00481 (Dome Theater Projection Room)
- Two (2) AF Model WV-LZ14/8AF Television Camera Zoom Lenses, Serial Numbers 6XA01770 and 59A00435 (Dome Theater Projection Room)



**EXHIBIT 1**

**SCHEDULE OF PERSONAL PROPERTY**

*[To Be Inserted]*

**EXHIBIT P**

*[Intentionally Omitted]*

**EXHIBIT Q**

**LANDLORD'S PAYMENT INFORMATION**

*[To be provided by Landlord to Tenant, pursuant to the terms of Section 29 of the Lease, upon the Effective Date of the Lease]*