



**Date of Council Meeting: March 8, 2016**

**TOWN OF LEESBURG  
TOWN COUNCIL MEETING**

**Subject:** Lease Amendment and Extension Agreement for the Mason Enterprise Center.

**Staff Contact:** Marantha Edwards, Economic Development Director  
Barbara Notar, Town Attorney

**Council Action Requested:** Approval of a 5-year Lease Amendment and Extension Agreement for the Mason Enterprise Center to continue to occupy the office building and related facilities at 202 Church Street.

**Staff Recommendation:** To approve the Lease Amendment and Extension Agreement for an additional five (5) years.

**Commission Recommendation:** Not applicable.

**Fiscal Impact:** The Fiscal Year 2017 Proposed Budget includes sufficient funding for this lease agreement and anticipated annual cost of \$324,223. The Town receives annual revenue from the Mason Enterprise Center for their space in the amount of \$258,223. The Town also pays approximately \$22,000 for the space occupied by the Department of Economic Development resulting in a \$44,000 gap which the Town covers to support the operation.

**Work Plan Impact:** None.

**Executive Summary:** The existing lease commenced on September 1, 2010, with a five-year term and an option to extend for a like period. The option to extend required written notice at least 12 months prior to the expiration of the existing term, which is September 30, 2016. The existing term also requires a new lease document for the extended term to be signed within six months prior to the expiration of the existing term. The Town's deadline to meet this requirement is March 30, 2016.

All parties, through legal counsel, have negotiated the terms of an extension, and have agreed upon the terms.

**Background:** The Mason Enterprise Center ("MEC") is a mixed-use business incubator that provides on-going education, networking events, and mentoring to entrepreneurs in a 10,319 square foot facility in Downtown Leesburg. MEC-Leesburg also administers and operates the Small Business Development Center (SBDC) for Loudoun County, allowing the organization to serve the whole life-cycle of business needs from launch through growth and exit. The MEC is functioning at a high level with a healthy flow of new and graduating businesses, and is integral

Lease Amendment and Extension Agreement for the Mason Enterprise Center

March 8, 2016

Page 2

to economic development efforts while partnering extensively with Town and County staff, the Loudoun Chamber of Commerce, and other service providers to support and grow the entrepreneur eco-system.

In August 2010, the Town Council voted unanimously to support the MEC Leesburg by authorizing the Town Manager to execute a letter of intent and lease for 202 Church Street. Additionally, a Memorandum of Understanding (“MOU”) was entered into between the Town and the Mason Enterprise Center that was renewed in September 2015, with Town Council approval.

The existing lease agreement incorporated the 1<sup>st</sup> and 3<sup>rd</sup> floors of the building, totaling 7,140 square feet. In March 2011, an Amendment to Lease Agreement was signed, exercising a lease expansion to lease an additional 3,179 square feet of space on the 2<sup>nd</sup> floor of the building, thereby increasing the Town’s proportionate share to 100%. The existing lease contains an escalator clause, which increased the fixed rent by 3% for each succeeding year after the initial year. The Extension provides for a fixed rate of \$31.42 per square foot for all five years, which is currently nine cents less than the Town’s current payment for the final year. Additionally, the Extension obligates the Landlord to pay to the Town in a lump sum or by credit a maximum of \$5,000 toward the costs of a key card access system, which will enhance security of the building. The Extension will terminate on September 30, 2021 unless another option to extend under the same terms is exercised.

**Attachments:** Resolution

Draft Lease Amendment and Extension Agreement

Existing Deed of Lease, dated September 1, 2010

Existing Amendment to Lease Agreement, dated March 31, 2011

## DEED OF LEASE

THIS DEED OF LEASE ("Lease") is made as of the 1<sup>st</sup> day of September, 2010 ("Date of Lease"), by and between VIRGINIA HERITAGE PROPERTIES, LLC, a Virginia limited liability company ("Landlord"), and TOWN OF LEESBURG, VIRGINIA, a public body corporate and politic ("Tenant").

Landlord and Tenant, intending legally to be bound, hereby covenant and agree as set forth below:

Exhibits: The following exhibits are attached hereto and incorporated by reference as if fully set forth herein:

- Ex. A: Floor Plan
- Ex. B: (Intentionally omitted)
- Ex. C: Work Agreement
- Ex. D: Rules and Regulations
- Ex. AA: Form of Collaborative Subtenant Sublease

### ARTICLE 1: BASIC LEASE PROVISIONS

The following terms, when used herein, shall have the meanings set forth below:

1.1 Premises. All the rentable space on the 1<sup>st</sup> and 3<sup>rd</sup> floors of the Building as outlined on Exhibit A attached hereto and made a part hereof, which the parties agree for purposes of this Lease are deemed conclusively to contain 7,140 square feet. At the request of Landlord, Tenant shall from time to time execute instruments confirming the rentable space of the Premises.

1.2 Building. The building containing the Premises and all alterations, additions, improvements, restorations or replacements now or hereafter made thereto, with an address of 202 Church Street, S.E., Leesburg, Virginia 20175.

1.3 Term. Five years, subject to adjustment as provided in Section 2.13 below.

1.4 Commencement Date. The proposed Commencement Date shall be the date that the Tenant takes beneficial occupancy of the premises, subject to adjustment as provided in and as determined pursuant to Section 4.1 below.

1.5 Expiration Date. Five years (60 months) following the Commencement Date, subject to adjustment as provided in and as determined pursuant to Section 4.1 below.

1.6 Fixed Rent. The Fixed Rent shall be as follows: \$28.00 per annum per square foot of rentable space within the Premises during the first Lease Year equaling One Hundred Ninety Nine Thousand and Nine Hundred and Twenty Dollars (\$199,920.00) when based on 7,140 square feet, thereafter adjusted as set forth in Section 5.1, the first such adjustment to be

effective on the first day of the second Lease Year.

1.7 Security Deposit. The amount set forth as "Security Deposit" in Section 6.1 as Forty Nine Thousand and Seven Hundred and Eighty Dollars (\$49,780.00).

1.8 Intentionally Omitted.

1.9 Intentionally Omitted.

1.10 Tenant's Proportionate Share. Landlord and Tenant mutually agree that Tenant's Proportionate Share shall be 69.2% of the Building.

1.11 Intentionally omitted.

1.12 Parking. Parking in the Parking Facilities will be available on an unreserved, nonexclusive basis, except as otherwise provided in Article 9.

1.13 Permitted Use. General office use, together with and including Collaborative Subtenant uses consistent therewith.

1.14 Intentionally omitted.

1.15 Intentionally omitted

1.16 Landlord's Address. Virginia Heritage Properties, LLC  
PO Box 957  
Middleburg, Virginia 20118

1.17 Tenant's Address. Before and after occupancy:  
25 W. Market Street  
Leesburg Virginia 20175  
Attn: Town Manager

## ARTICLE 2: DEFINITIONS

The following terms, when used herein, shall have the meanings set forth below:

2.1 Additional Rent. As defined in Section 5.2.

2.2 Agents. Officers, partners, directors, members, employees, agents, licensees, customers, contractors and invitees.

2.3 Alterations. Alterations, decorations, additions or improvements of any kind or nature to the Premises or the Building, whether structural or non-structural, interior, exterior or otherwise, excluding the Improvements.

2.4 Intentionally Deleted

2.5 Calendar Year. A period of twelve (12) months commencing on each January 1 during the Term.

2.6 Common Area. All areas, improvements, facilities and equipment from time to time designated by Landlord for the common use or benefit of Tenant, other tenants of the Building and their Agents, including, without limitation, entrances and exits, landscaped areas, exterior lighting, loading areas, pedestrian walkways, sidewalks, atriums, courtyards, concourses, stairs, ramps, washrooms, maintenance and utility rooms and closets, exterior utility lines, hallways, lobbies, elevators and their housing and rooms, common window areas, common walls, common ceilings, common trash areas and Parking Facilities.

2.7 Guaranty. Intentionally omitted.

2.8 Event of Default. As defined in Article 22.

2.9 Herein, hereafter, hereunder and hereof. Under this Lease, including, without limitation, all Exhibits and any Riders.

2.10 Improvements. Those improvements which the parties agree in writing shall be made to the Premises prior to occupancy by Tenant.

2.11 Interest Rate. Per annum interest rate equal five percent (5%).

2.12 Land. The piece or parcel of land with an area of approximately 0.33 acres (+/-) identified as Loudoun County PIN 231-38-6302-000, together with all rights, easements and appurtenances thereunto belonging or pertaining.

2.13 Lease Year. Each consecutive twelve (12) month period elapsing after (i) the Commencement Date if the Commencement Date occurs on the first day of a month, or (ii) the first day of the month following the Commencement Date if the Commencement Date does not occur on the first day of a month.

2.14 Mortgage. Any mortgage, deed of trust, security interest financing statement, lien, encumbrance or other similar security interest or financing vehicle or title retention interest affecting the Building or the Land.

2.15 Mortgagee. The holder of any note or obligation secured by a mortgage, deed of trust, security interest or title retention interest affecting the Building or the Land, including, without limitation, lessors under ground leases, sale-leasebacks and lease-leasebacks.

2.16 Intentionally omitted.

2.17 Parking Facilities. All parking areas now or hereafter made available by Landlord for use by tenants, including, without limitation, open-air parking, and parking areas under or within the Building, whether reserved, exclusive, non-exclusive or otherwise.

2.18 Intentionally Omitted.

2.19 Rent. Fixed Rent and Additional Rent.

2.20 Rules and Regulations. The rules and regulations set forth in Exhibit D attached hereto and made a part hereof, as the same may be amended or supplemented from time to time by Landlord in its sole discretion.

2.21 Substantial Part. More than fifty percent (50%) of the rentable area of the Premises or the Building, as the case may be.

### ARTICLE 3: THE PREMISES

3.1 Lease of Premises. In consideration of the agreements contained herein, Landlord hereby leases the Premises to Tenant, and Tenant hereby leases the Premises from Landlord, for the Term and upon the terms and conditions hereinafter provided. As an appurtenance to the Premises, Tenant shall have the non-exclusive right, together with other tenants of the Building and their Agents, to use the Common Area. Landlord shall, however, retain absolute dominion and control over the Common Area and shall operate and maintain the Common Area in such manner as Landlord, in its sole discretion, shall determine. Landlord expressly reserves the right permanently to change, modify or eliminate, or temporarily to close, any portion of the Common Area, so long as Tenant's reasonable enjoyment of the premises is not materially and adversely affected for unreasonable amounts of time. In addition to the other rights of Landlord under this Lease, Landlord reserves the right (i) to change the name of the Building, (ii) to install, erect, use, maintain and repair mains, pipes, conduits and other such facilities to serve the Building's tenants in and through the Premises, (iii) to establish a condominium regime for the Building, the Land and/or the Common Area and to include the Premises therein, (iv) to control the use of the roof and exterior walls of the Building for any purpose and (v) to use Tenant's name in promotional materials relating to the Building which are approved by Tenant. Landlord may exercise any or all of the foregoing rights without being deemed to be guilty of an eviction, actual or constructive, or a disturbance or interruption of the business of Tenant or Tenant's use or occupancy of the Premises.

### ARTICLE 4: TERM

4.1 Initial Term. The initial Term of this Lease shall commence on the Commencement Date, as determined below, and shall continue for a period of five (5) years thereafter, subject to adjustment as set forth in Section 2.13. The "Commencement Date" shall

be the earlier of five (5) day(s) after Landlord substantially completes construction of the Premises, or the date on which Tenant commences beneficial use of the Premises. The Premises shall be deemed substantially complete when the County of Loudoun issues a certificate of occupancy for the Premises. Tenant shall be deemed to have commenced beneficial use of the Premises when Tenant begins to move furniture, furnishings, inventory, equipment or trade fixtures into the Premises. Not later than the Commencement Date, Landlord and Tenant agree to execute, in recordable form, a written declaration setting forth the Commencement Date, the date upon which the Lease Term will expire, and the amount of the annual base rent and monthly base rent. It is presently anticipated that the Premises will be ready for occupancy by Tenant on October 1, 2011; provided, however, if Landlord does not complete construction of the Premises and deliver possession of the Premises within thirteen (13) months of the date this Lease is fully executed, Landlord shall not have any liability whatsoever to Tenant on account of Landlord's failure to deliver possession of the Premises to Tenant on such date and this Lease shall not be rendered void or voidable as a result of such delay. If the Premises are not ready for occupancy within thirteen (13) months of the date this Lease is fully executed by reason of any delay which is within the control of the Landlord, as liquidated damages and not as penalty, Landlord shall provide the Tenant with a rent credit of FOUR HUNDRED AND FIFTY DOLLARS (\$450) for every day in which occupancy is delayed. If preparation of the Premises is delayed due to an act or omission of the Tenant, then the Rent payments shall commence or be deemed to have commenced on the date the Premises would have been completed but for the Tenant's acts or omissions. If Landlord has not commenced construction of the Building on or before December 1, 2010, then Tenant may by written notice to Landlord terminate the Lease, in which case the parties shall have no further liability under the Lease. Tenant shall use its best efforts to assist Landlord in the construction of the Building and all construction related thereto. Landlord shall keep Tenant reasonably informed of its construction progress with interim updates not less than monthly.

4.2 Option to Extend. Provided Tenant is not in default under the terms of this Lease, Tenant shall have the option of extending the Lease for one (1) five - year terms at a rental rate then being charged for similar space in the Old and Historic District of Leesburg, for a similar building in age, condition and amenities, to be negotiated in good faith by Landlord and Tenant. Each option to extend must be exercised by written notice to Landlord at least twelve (12) months prior to the expiration of the existing term. Landlord and Tenant must sign a new lease document for the extended term within six (6) months prior to the expiration of the existing term or this option to extend shall be forfeited and be of no further force and effect.

## ARTICLE 5: RENT

5.1 Fixed Rent. Tenant shall pay to Landlord the Fixed Rent as specified in Section 1.6. Fixed Rent for each Lease Year shall be payable in equal monthly installments, in advance, without demand, notice, deduction, offset or counterclaim, on or before the first day of each and every calendar month; provided, however, that the installment of the Fixed Rent payable for the first full calendar month of the first Lease Year shall be due and payable on the full execution

and delivery of this Lease. Beginning with the first day of the second Lease Year and annually on the first day of each Lease Year thereafter, the Fixed Rent shall increase for each succeeding Lease Year by three percent (3%). If the first day of the first Lease Year occurs on a date other than on the first day of a calendar month, Tenant shall pay Fixed Rent prorated from such date until the first day of the following month. Tenant shall pay the Fixed Rent and all Additional Rent, by good check or in lawful currency of the United States of America, to Landlord at Landlord's Address, or to such other address or in such other manner as Landlord from time to time specifies by written notice to Tenant. Any payment made by Tenant to Landlord on account of Fixed Rent may be credited by Landlord to the payment of any late charges then due and payable and to any Fixed Rent or Additional Rent then past due before being credited to Fixed Rent currently due. Notwithstanding any other provision in this Lease, Landlord shall abate Tenant's Fixed Rent for the first five (5) months of the second Lease Year (i.e., a portion of Fixed Rent shall not be due) in an amount equal to FOUR THOUSAND and no/100 (\$4,000.00) per month (not to exceed TWENTY THOUSAND DOLLARS (\$20,000)) in total abatement.

5.2 Additional Rent. All sums payable by Tenant under this Lease, other than Fixed Rent, shall be deemed "Additional Rent," and, unless otherwise set forth herein, shall be payable in the same manner as set forth above for Fixed Rent.

#### ARTICLE 6: SECURITY DEPOSIT

6.1 Security Deposit. Simultaneously with the execution of this Lease, Tenant shall deposit with Landlord the sum of Forty Nine Thousand and Seven Hundred and Eighty and 00/100 Dollars (\$49,780) as a security deposit. Such security deposit shall be security for the performance by Tenant of all of Tenant's obligations, covenants, conditions and agreements under this Lease. The security deposit shall be in the form of cash or certificates of deposit, or other similar instruments or securities payable only to Landlord and acceptable to Landlord, or a Letter of Credit in a form acceptable to Landlord underwritten with a lender authorized to do business in Virginia. If Tenant elects to deposit certificates of deposit or other interest-bearing instruments, any and all interest accruing on such certificates or instruments shall become part of the security deposit.

6.2 If Tenant shall commit any default and/or defaults under this Lease, Landlord may, but shall not be obligated, to use, apply or retain the security deposit, or any portion of the security deposit, or may make demand under the Letter of Credit for all or any portion of the face amount for any or all of the following purposes, and in such order of priority, as Landlord may elect in Landlord's sole discretion: (i) to pay any sum due to Landlord; (ii) to compensate Landlord for any expense or damage caused by Tenant's default; and (iii) to cure the default of Tenant. If any portion of such security deposit or of the face amount of such Letter of Credit is so used, Tenant shall, within three (3) business days after written demand for the same, deposit cash or a new Letter of Credit with Landlord in an amount sufficient to restore and maintain the security deposit in the amount required pursuant to Section 5.1 hereof, and Tenant's failure to do

so shall be a default under this Lease.

6.3 Within thirty (30) days after the expiration of the Lease Term, if Tenant is not in default at the expiration of this Lease and provided Tenant has vacated the Premises, Landlord shall return the unused balance of any security deposit to Tenant. Landlord's obligations with respect to any cash security deposit are those of a debtor and not a trustee. Landlord shall maintain any cash security separate and apart from Landlord's general and other funds; however Landlord shall not be required to maintain such deposit in such a separate account. Except as otherwise required by law, Landlord shall not be required to pay Tenant interest on any cash security deposit and except as may be required by law, Tenant shall not be entitled to interest on such security deposit.

6.4 Landlord's right to possession of the premises for non-payment of rent or any other reason shall not in any event be affected by reason of the fact that Landlord holds this security and nothing contained in this Article 6 shall in any way diminish or be construed as waiving any of Landlord's other remedies set forth in this Lease or provided by law or equity.

6.5 In the event of the sale or transfer of Landlord's interest in the Building, Landlord shall have the right to transfer the Security Deposit to the purchaser or assignee, unless a reasonable alternative is arranged upon reasonable objection by Tenant, in which case Landlord shall have the sole discretion to approve said alternative, in which event Tenant shall look only to the new landlord for the return of the security deposit, and Landlord shall thereupon be released from all liability to Tenant for the return of such security deposit. Tenant acknowledges that the holder of any mortgage or deed of trust against the Building shall not be liable for the return of any security deposit made by Tenant hereunder unless such holder shall actually receive such security deposit.

#### ARTICLE 7: OPERATING CHARGES IN EXCESS OF BASE AMOUNT

7.1 Commencing with the second Lease Year, Tenant shall pay as Additional Rent Tenant's Proportionate Share amount by which Operating Charges during each calendar year falling entirely or partly within the Lease Term exceed a base amount (the "Operating Charges Base Amount"). The Operating Charges Base Amount shall be determined as follows: Within 45 days of the 1<sup>st</sup> day of the second Lease Year, Landlord shall notify Tenant of the Operating Charges for the preceding Lease Year; thereafter, the provisions of Section 7.3 and 7.4 shall govern. "Operating Charges" shall mean all expenses incurred in owning, operating, managing, maintaining and repairing the Building and/or the land on which it is located (the "Land"), including but not limited to: (a) electricity, water, sewer and other utility charges; (b) insurance premiums; (c) reasonable and customary management fees; (d) costs of service and maintenance contracts; (d) maintenance and repair expenses which are deducted by Landlord in computing its federal income tax liability; (e) amortization, with interest at a rate determined by Landlord to reflect its cost of funds, based on accounting practices generally accepted for office buildings, for capital expenditures made by Landlord intended or expected to reduce operating expenses or

required to comply with Laws; (f) Real Estate Taxes; (g) charges or costs for janitorial services for common areas; (h) reasonable assessments or other amounts payable to any association or associations now or hereafter established to administer, oversee or enforce common covenants affecting the Building, or to operate, maintain, or repair common or public areas or facilities of the Building, including assessments or other amounts imposed (1) to pay for landscaping in such common areas or facilities, (2) to pay for capital improvements in such common areas or facilities, (3) to pay for any transportation or means of transportation contemplated by any covenants or governmental requirements now or hereafter affecting the Building, and (4) to pay for any architectural review board or other administrative expenses; (i) any business, professional or occupational license tax payable by Landlord with respect to the Building; (j) reasonable reserves for replacements, repairs and contingencies; (k) reasonable costs of decorating and landscaping the grounds and the common areas of the Building; (l) cost of maintenance and operation of the parking area; (m) the cost of any additional services not provided to the Building at the Lease Commencement Date, but that are thereafter provided by Landlord in the prudent management of the Building, and (n) costs and fees charged and/or assessed in connection with any business improvement district that is applicable to the Building. Operating Charges shall not include: principal or interest payments on any mortgage, deed of trust or ground lease; leasing commissions; tenant improvements; space planner's fees or advertising expenses incurred in connection with future leasing of space in the building; depreciation of the Building except as specified above; and the costs of special services or utilities separately charged directly to particular tenants of the Building. Notwithstanding any other provision herein to the contrary, the preceding list is for definitional purposes only and shall not impose any obligation upon Landlord to incur such expenses or provide such services. "Real Estate Taxes" shall mean: (a) all real estate taxes, including general and special assessments, if any, which are imposed upon Landlord or levied or assessed against the Building and/or the Land; and (b) any other present or future taxes or governmental charges that are imposed upon Landlord or assessed against the Building or the Land which are in the nature of or in substitution for real estate taxes, including any tax levied on or measured by the rents payable by tenants of the Building.

7.2 If any tenant is separately paying for electricity, janitorial or other services furnished to its premises which would otherwise be included in Operating Charges, then Operating Charges and Real Estate Taxes for such calendar year shall be deemed to include all additional expenses, as reasonably estimated by Landlord, which would have been incurred during such calendar year.

7.3 At the beginning of each Calendar Year that begins during the Lease Term, Landlord may submit a statement setting forth the amount by which Operating Charges that Landlord reasonably expects to be incurred during each Calendar Year exceed the Operating Charges Base Amount and Tenant's Proportionate Share of such excess Operating Charges. Tenant shall pay to Landlord on the first day of each month after receipt of such statement, until Tenant's receipt of any succeeding statement, an amount equal to one-twelfth (1/12) of such share. If the Lease Term commences or expires on a day other than the first day or the last day

of a calendar year, respectively, then Tenant's liability for Operating Charges incurred during such year shall be proportionately reduced. In determining the amount of Operating Charges Base Amount or subsequent Operating Charges, if less than 95% of the Building rentable area is occupied by tenants at any time during any such year, Operating Charges that vary with the Building occupancy level shall be determined for such year to be equal to the like expenses which would normally be expected to be incurred had such occupancy been 95% throughout such year.

7.4 Within approximately one hundred twenty (120) days after the end of each calendar year, Landlord shall submit a statement showing (a) Tenant's proportionate share of the amount by which Operating Charges incurred during the preceding Calendar Year exceed the Operating Charges Base Amount, and (b) the aggregate amount of Tenant's estimated payments during such year. If such statement indicates that the aggregate amount of such estimated payments exceeds Tenant's actual liability, then Landlord will refund the net overpayment to Tenant. If such statement indicates that Tenant's actual liability exceeds the aggregate amount of such estimated payments, then Tenant shall pay the amount of such excess. Landlord's failure or delay in rendering any particular statement or statements contemplated by this Article shall not constitute a waiver of Landlord's right thereafter to render such statement or statements.

7.5 Landlord agrees to retain the books and records substantiating the Operating Charges incurred in each calendar year for a period of at least three (3) years from the date Landlord submits a statement to Tenant, and Tenant shall have the right to review Landlord's books and records related to any Operating Charges. Each statement sent to Tenant shall be conclusively binding upon Tenant unless Tenant within ninety (90) days after such statement is sent, sends notice to Landlord objecting to such statement and specifying the reasons for Tenant's objection. If the parties are unable to resolve any dispute as to the correctness of such statement within sixty (60) days following such notice of objection (during which time Landlord will make available reasonably detailed supporting documentation), either party may refer the issues raised to an independent public accounting firm selected by Tenant and reasonably acceptable to Landlord, and the decision of such accountants shall be conclusively binding upon Landlord and Tenant. In connection therewith, Tenant shall pay the fees and expenses relating to such procedure, unless the accountants determine that Landlord overstated Operating Charges by more than three percent (3%) for the comparison year, in which case Landlord shall pay such fees and expenses.

#### **ARTICLE 8: RENT SUBJECT TO APPROPRIATIONS**

8.1 Notwithstanding any other provisions of this Lease, except for section 8.2 below, Tenant shall be obligated hereunder for Rent payment only insofar as, and to the extent that, the governing body of the Tenant shall appropriate monies for this purpose; provided however, Tenant represents and warrants that it has at the time of Lease execution operational funds sufficient to pay all Rent to become due for the first three (3) years of the initial Lease Term.

8.2 In addition to any other provision herein, and recognizing Landlord is relying upon Tenant's representations herein, Tenant shall simultaneous to the execution of this Lease deposit the sum of NINETY-NINE THOUSAND NINE HUNDRED SIXTY and no/100 DOLLARS (\$99,960.00) (the "Rent Escrow") in escrow with MIDDLEBURG BANK (the "Escrow Agent"), which Rent Escrow shall be held and dealt with by the Escrow Agent in conformity with the terms herein. Tenant acknowledges and agrees that the Rent Escrow shall be deemed Rent "appropriated" and payable to Landlord if any future Council declines to appropriate funds for the Rent; provided further, that the parties agree the entire Rent Escrow may be retained by Landlord for Tenant's failure to pay Rent upon lack of future appropriations for the space at 202 Church Street for the last two (2) years of the initial Term, the parties agreeing the foregoing is not a penalty but that actual damages would be difficult to calculate precisely, but that the Rent Escrow is deemed liquidated damages for the financial burden placed upon Landlord having constructed the Building based upon Tenant's promise to occupy and pay Rent for the substantial majority of the space therein. Tenant shall have no right whatsoever to receive any payments of the Rent Escrow (or interest that may accrue thereon), offset against or counterclaim any credit whatsoever, notwithstanding anything set forth in this Lease to the contrary, unless all Rent and other charges due to Landlord shall have been paid in full (irrespective of appropriations), Tenant is not in default of any of its obligations under this Lease, and Tenant is otherwise permitted to receive payments of the Rent Escrow pursuant to this Lease. Upon Tenant's default under this Lease, Landlord shall have the option, in addition to any other remedies provided herein or by law, to demand payment to Landlord of all or the applicable portion of the Rent Escrow by the Escrow Agent in conformity with the provisions herein, and to enforce the first lien and security interest hereby granted in any manner provided by law.

8.3 In addition to any statutory Landlord's lien, Landlord shall have, at all times, and Tenant hereby grants to Landlord, a valid security interest to secure payment of all rentals and other sums of money becoming due hereunder from Tenant, and to secure payment of any damages or loss which Landlord may suffer by reason of the breach by Tenant of any covenant, agreement or condition contained herein, upon all goods, wares, equipment, fixtures, furniture, improvements and other personal property of Tenant presently or which may hereafter be situated on the Premises, and all proceeds therefrom; and such property shall not be removed therefrom without the consent of Landlord until all arrearages in rent as well as any and all other sums of money then due to Landlord hereunder shall first have been paid and discharged and all the covenants, agreements and conditions hereof have been fully complied with and performed by Tenant. Upon the occurrence of any Event of Default, Landlord may, in addition to any other remedies provided herein, enter upon the Premises and take possession of any and all goods, wares, equipment, fixtures, furniture, improvements and other personal property of Tenant situated on the Premises, without liability for trespass or conversion, and sell the same at public or private sale. Any surplus shall be paid to Tenant or as otherwise required by law; and Tenant shall pay any deficiencies therein to Landlord forthwith. Upon request by Landlord, Tenant agrees to execute and deliver to Landlord a financing statement in form sufficient to perfect the security interest of Landlord in the aforementioned property and proceeds thereof under the

provisions of the Uniform Commercial Code in force in the jurisdiction in which the Building is located.

#### ARTICLE 9: PARKING

9.1 Parking. Understanding that the Building may accommodate multiple Tenants, and subject to Tenant's compliance with the Rules and Regulations applicable to parking, throughout the Term and so long as Tenant is otherwise not in default and in conformity with applicable law, Tenant shall have the right to use on a non-exclusive basis Tenant's Proportionate Share of the Parking Facilities. Landlord shall have the right, from time to time, without Tenant's consent, to change, alter, add to, temporarily close or otherwise affect the Parking Facilities in such manner as Landlord, in its sole discretion, deems appropriate including, without limitation, the right to designate reserved spaces available only for use by one or more tenants (however, in such event, those parking spaces shall still be deemed Common Area for the purpose of the definition of Operating Expenses); provided however that Landlord shall not, in the exercise of the foregoing, assign or designate parking spaces for the exclusive use of one or more tenants in a manner that exceeds that tenant's Proportionate Share of spaces. In no case will parking be assigned or designated by Landlord in a way that will exceed any other tenant's proportionate share of parking spaces. To the extent reasonable, work on the Parking Facilities shall not take place during Business Hours.

#### ARTICLE 10: USE

10.1 Tenant's Use of the Premises. Tenant shall occupy the Premises solely for the Permitted Use. The Premises shall not be used for any other purpose without the prior written consent of Landlord. Tenant shall comply, at Tenant's expense, with (i) all present and future laws, ordinances, rules, requirements, regulations and orders of the United States of America, the Commonwealth of Virginia and any other public or quasi-public federal, state or local authority and/or any department or agency thereof, having jurisdiction over the Premises and relating to the Premises or imposing any duty upon the Landlord or Tenant with respect to the use, occupation or alteration of the Premises, and (ii) any reasonable requests of Mortgagee or any insurance company providing coverage with respect to the Premises. Tenant shall not use or occupy the Premises in any manner that is unlawful or dangerous or that shall constitute waste, unreasonable annoyance or a nuisance to Landlord or the other tenants of the Building. In this regard, Tenant acknowledges that the intent of this Section is to restrict Tenant from using the Premises for any purpose other than that expressly approved herein, and that such Permitted Use shall not be construed as any representation or warranty by Landlord as to whether such use is viable or permitted by any zoning or other governmental authority. Landlord assumes no liability or responsibility whatever with respect to either (i) the conduct and operation of the business to be conducted in the Premises; or (ii) Tenant's ability to obtain any licenses, permits, or other approvals required by any governmental or other authority as a prerequisite to Tenant's operation of a business for the Permitted Use. In this regard, Tenant assumes fully the entire risk of proceeding under this Lease regardless of whether the Permitted Use is viable at the Premises,

and further acknowledges that Landlord has made no representations or warranties whatsoever regarding the viability of the Permitted Use and that Tenant is not relying on any such representations or warranties in making its decision to enter into this Lease.

#### ARTICLE 11: ASSIGNMENT AND SUBLETTING

11.1 Consent. Tenant shall not assign, transfer, mortgage or otherwise encumber this Lease or sublet or rent (or permit a third party to occupy or use) the Premises, or any part thereof, nor shall any assignment or transfer of this Lease or the right of occupancy hereunder be effected by operation of law or otherwise, without the prior written consent of Landlord, granted or withheld in Landlord's sole discretion. For purposes of the foregoing prohibitions, a transfer at any one time or from time to time of fifty percent (50%) or more of an interest in Tenant (whether stock, partnership interest or other form of ownership or control) to a third party or parties who do not then already have an interest in Tenant by any person(s) or entity(ties) having an interest in ownership or control of Tenant at the Date of Lease shall be deemed to be an assignment of this Lease. If Landlord consents to the proposed assignment or subletting, the initial Tenant and any Guarantor shall remain liable under this Lease and the initial Tenant shall pay to Landlord any amount of rent or other sums directly or indirectly received by Tenant from any subtenant or assignee which exceeds the Rent. Any assignment, encumbrance, or sublease without Landlord's written consent shall be voidable by Landlord and, at Landlord's election, constitute an Event of Default hereunder. Neither the consent by Landlord to any assignment, transfer, encumbrance or subletting nor the collection or acceptance by Landlord of rent from any assignee, subtenant or occupant shall be construed as a waiver or release of the initial Tenant from the terms and conditions of this Lease or relieve Tenant or any subtenant, assignee or other party from obtaining the consent in writing of Landlord to any further assignment, transfer, encumbrance or subletting. Tenant hereby assigns to Landlord the rent and other sums due from any subtenant, assignee or other occupant of the Premises and hereby authorizes and directs each such subtenant, assignee or other occupant to pay such rent or other sums directly to Landlord; provided, however, that until the occurrence of an Event of Default, Tenant shall have the license to continue collecting such rent and other sums.

11.2 Notwithstanding the foregoing Section 11.1, Tenant shall have the right to sublease the Premises to a Collaborative Subtenant upon the terms and conditions set forth herein. "Collaborative Subtenant", shall be defined herein as meaning a person or entity which has a direct governmental relation with Tenant who desires to sublease a portion of the Premises in order to collaborate with Tenant on governmental projects which require close physical proximity between Tenant and the Subtenant. (For example and by way of illustration; the George Mason Enterprise Center, the Loudoun Small Business Development Center, government sponsored TeleCommuting Centers). Notwithstanding any terms to the contrary, Tenant may sublease no more than a total of eighty- percent (80%) of the floor space of the Premises to no more than three (3) "Collaborative Subtenants" at any one time, without the consent of the Landlord, as long as Tenant is also actively occupying and utilizing at least twenty (20%) of the total floor space of the Premises, and use by the "Collaborative Subtenant" is a

permitted use. If Tenant desires to sublease a portion of the Premises to a Collaborative Subtenant, it shall submit to the Landlord at least thirty (30) days prior to the effective date of the proposed sublease, a written notice of its intent, which notice shall: (i) state the name of the proposed subtenant; (ii) state the nature and character of the business of the proposed subtenant; (iii) an acknowledgement that the Tenant will continue to actively occupy and utilize the permitted percentage floor space of the Premises; and (iv) a copy of the proposed sublease in a form substantially similar to that attached as Exhibit AA. At all times, however, Tenant shall remain liable for its duties under this Lease and all activities of any Collaborative Subtenant.

## ARTICLE 12: MAINTENANCE AND REPAIR

12.1 Landlord's Obligation. As long as no Event of Default has occurred and is continuing, Landlord shall keep and maintain in good repair and working order the Building (excluding the Premises), the Common Area and the equipment within and serving the Premises and the Building that is required for the normal maintenance and operation of the Premises and the Building. The costs and expenses of such repair and maintenance (excluding the Premises) shall be borne by Landlord, except as where otherwise provided for herein. Tenant shall immediately give Landlord written notice of any defect or need for repairs. After such notice, Landlord shall have a reasonable opportunity to repair or cure such defect. Landlord's liability with respect to any defects, repairs or maintenance for which Landlord is responsible under any of the provisions of this Lease shall be limited to the cost of such repairs or maintenance or the curing of such defect.

12.2 Tenant's Obligation. Tenant shall, at its own expense, maintain the Premises and its real and personal property within the Premises in good condition, promptly making all necessary repairs. Tenant shall repair at its expense any and all damage caused by Tenant or Tenant's Agents, contractors or subcontractors to the Building, the Common Area, or the Premises, including equipment within and serving the Building, excepting ordinary wear and tear. Notwithstanding the foregoing, Tenant shall bear the cost of, but shall not itself perform without Landlord's prior consent, any such repairs of damage so caused which would affect the Building's structure or mechanical or electrical systems or which would be visible from the exterior of the Building or from any interior Common Area of the Building. Where Landlord performs such repairs, Tenant shall promptly pay to Landlord upon demand all reasonable costs incurred in connection therewith plus interest thereon at the Interest Rate from that date which is five (5) days after the demand date until paid. Without the prior written consent of the Landlord, Tenant shall not have access to the roof of the Building for any purpose whatsoever.

12.3 Landlord's Right to Maintain or Repair. If, within five (5) days following notice to Tenant, Tenant fails to commence to repair any damage to the Premises or Building which is Tenant's obligation to perform, and diligently pursue timely completion of such repair, Landlord may, at its option, cause all required maintenance or repairs to be made. Tenant shall promptly pay Landlord all reasonable costs incurred in connection therewith plus interest thereon at the Interest Rate from the due date until paid.

## ARTICLE 13: CONSTRUCTION AND ALTERATIONS

13.1 Tenant Improvements. The parties hereto agree that any additional improvements (in excess of the "Tenant Improvements" as set forth in Exhibit "C" of this Lease which shall be installed by Landlord at Landlord's expense) shall be installed by the Landlord at the Tenant's expense. It is agreed that Tenant will furnish to the Landlord by a date to be agreed upon, the full and complete plans for any additional requirements for the improvements to be made to the Premises in addition to those described in Exhibit C. Thereafter, at Landlord's option, either (i) Landlord shall prepare working drawings, which shall be submitted to Tenant after Tenant furnishes its requirements to Landlord; or (ii) Tenant shall prepare working drawings with an architect or space planner approved by Landlord. After Landlord has approved the aforesaid drawings, the Tenant shall advise Landlord in writing of its approval of same in whole or in part and shall promptly consult with Landlord as to necessary modifications with regard to any portions thereof which have not been approved. Thereafter, the Landlord shall obtain bids for the construction of such additional improvements. Upon acceptance by Landlord of a bid for construction of additional improvements, the Landlord shall prepare or cause to be prepared a cost estimate of Tenant's additional improvements and deliver a copy of the cost estimate to the Tenant. The initial Tenant Improvements set forth in the approved working drawings shall be deemed a part of this Lease and attached hereto as Exhibit "C". It is understood and agreed that Landlord will not make, and is under no obligation to make, any structural or other alterations, decorations, additions or improvements in or to the Premises except as set forth in Exhibit "C" or as otherwise provided in this Lease. In the event Tenant elects to engage Landlord to perform any work over and above the agreed to build-out set forth in Exhibit "C", the cost of such items shall be paid by Tenant to Landlord one-half (1/2) at the time of the approval thereof, and one-half (1/2) upon completion of the installation thereof. In the event Tenant fails to comply with the aforesaid by the time specified, any delay in completing the Premises shall not in any manner affect the Commencement Date of this Lease or the Tenant's liability for the payment of rent from such Commencement Date, and under such circumstances Landlord agrees to make the Premises ready for general occupancy purposes (which shall be conclusively deemed to meet Tenant's requirements for Tenant's occupancy) not later than the Commencement Date of this Lease plus the number of days' delay resulting from Tenants failure to comply with the provisions of this paragraph. In the event Tenant's plans specify any non-building standard improvements, the delivery and installation of which precludes Landlord from completing the Premises for Tenant's occupancy by the Commencement Date hereof, or any work to be performed by Tenant's contractors delays Tenant's occupancy by the Commencement Date hereof, Tenant shall nevertheless remain liable for the payment of Rent from such Commencement Date.

13.2 Alterations. Tenant shall not make or permit any Alterations without the prior written consent of Landlord, which consent shall not be unreasonably withheld. Landlord may impose any reasonable conditions to its consent, including, without limitation, (i) delivery to Landlord of written and unconditional waivers of mechanic's and materialmen's liens as to the Premises, the Building and the Land for all work, labor and services to be performed and

materials to be furnished, signed by all contractors, subcontractors, materialmen and laborers participating in the Alterations, (ii) prior approval of the plans and specifications and Tenant's contractor(s) with respect to the Alterations, and (iii) supervision by Landlord's representative at Tenant's expense of the Alterations. The Alterations shall conform to the requirements of Landlord's and Tenant's insurers and of the Federal, state and local governments having jurisdiction over the Premises, shall be performed in accordance with the terms and provisions of this Lease in a good and workmanlike manner befitting a first class office building and shall not adversely affect the value, utility or character of the Premises. If the Alterations are not performed as herein required, Landlord shall have the right, at Landlord's option, to halt any further Alterations, or to require Tenant to perform the Alterations as herein required or to require Tenant to return the Premises to its condition before such Alterations. Subject to Section 13.3 herein, all Alterations and fixtures, whether temporary or permanent in character, made in or upon the Premises either by Tenant or Landlord, will immediately become Landlord's property and, at the end of the Term will remain on the Premises without compensation to Tenant. Notwithstanding the foregoing, if any mechanic's or materialmen's lien is filed against the Premises, the Building or the Land for work claimed to have been done for, or materials claimed to have been furnished to or for the benefit of, Tenant, such lien shall be discharged of record by Tenant within thirty (30) days by the payment thereof or the filing of any bond required by law. If Tenant shall fail to discharge any such lien, Landlord may (but shall not be obligated to) discharge the same, the cost of which shall be paid by Tenant within three (3) days of demand by Tenant. Such discharge by Landlord shall not be deemed to waive or release the default of Tenant in not discharging the same. Neither Landlord's consent to the Alterations nor anything contained in this Lease shall be deemed to be the agreement or consent of Landlord to subject Landlord's interest in the Premises, the Building or the Land to any mechanic's or materialmen's liens which may be filed in respect of the Alterations.

13.3 Improvements and Alterations at Lease Termination. Tenant shall not be required to remove at the expiration or earlier termination of the Lease Term the initial Tenant Improvements made to the Premises prior to or concurrent with Tenant occupying the Premises. At the time Landlord affords its consent to any Alterations to the Premises, Landlord shall inform Tenant as to whether it will require Tenant to remove such alterations at the expiration or earlier termination of the Lease Term. All Leasehold Improvements within the Premises not required to be removed as provided herein shall remain at the expiration or earlier termination of the Term. If Landlord requires the removal of all or part of the Alterations otherwise required to be removed, Tenant, at its expense, shall repair any damage to the Premises or the Building caused by such removal. If Tenant fails to remove the Alterations otherwise required to be removed upon Landlord's request, then Landlord may (but shall not be obligated to) remove the same and the cost of such removal and repair of any damage caused by the same, together with any and all damages which Landlord may suffer and sustain by reason of the failure of Tenant to remove the same, shall be charged to Tenant and paid upon demand.

13.4 Landlord Alterations. Landlord shall have no obligation to make any Alterations in or to the Premises, the Building, the Common Area or the Land. Landlord hereby reserves

the right, from time to time, to make Alterations to the Building, change the Building dimensions, erect additional stories thereon and attach other buildings and structures thereto, and to erect such scaffolding and other aids to construction as Landlord deems appropriate, and no such Alterations, changes, construction or erection shall constitute an eviction, constructive or otherwise, or permit Tenant any abatement of Rent or claim provided the Premises and Tenant's use of the Premises are not unreasonably disturbed.

#### ARTICLE 14: SIGNS

14.1 Signage. No sign, advertisement or notice shall be inscribed, painted, affixed, placed or otherwise displayed by Tenant on any part of the Land or the outside or the inside (including, without limitation, the windows) of the Building or the Premises except as provided in this Article 14. If any prohibited sign, advertisement or notice is nevertheless exhibited by Tenant, Landlord shall have the right to remove the same, and Tenant shall pay any and all expenses incurred by Landlord in such removal, together with interest thereon at the Interest Rate, upon demand. Landlord shall not unreasonably withhold its review of Tenant's proposed signage; provided however, that all signs which are erected under the provisions of this Article 14 shall be in full conformance with all applicable regulations of the Town of Leesburg, and Tenant shall pay the costs of all sign permits and sign inspection fees.

#### ARTICLE 15: TENANT'S EQUIPMENT AND PROPERTY

15.1 Moving Tenant's Property. Any and all damage or injury to the Premises or the Building caused by Tenant or its Agent's moving the property of Tenant into or out of the Premises, or due to the same being on the Premises, shall be repaired by Landlord, at the expense of Tenant. Tenant shall promptly remove from the Common Area any of Tenant's furniture, equipment or other property there deposited.

15.2 Installing and Operating Tenant's Equipment. Without first obtaining the written consent of Landlord, which shall not be unreasonably withheld, Tenant shall not install or operate in the Premises (i) any electrically operated equipment or other machinery, other than modern general office equipment that does not require wiring, cooling or other service in excess of Building standards, (ii) any equipment of any kind or nature whatsoever which will require any changes, replacements or additions to, or changes in the use of, any water, heating, plumbing, air conditioning or electrical system of the Premises or the Building, (iii) any equipment which causes the floor load to exceed the load limits set by Landlord for the Building, or (iv) any microwave, cabling, satellite, communications or similar equipment which is not part of the Improvements. Landlord's consent to such installation or operation may be conditioned upon the payment by Tenant of additional compensation for any excess consumption of utilities and any additional power, wiring, cooling or other service (as determined in the sole discretion of Landlord, reasonably exercised) that may result from such equipment. Machines and equipment which cause noise or vibration that may be transmitted to the structure of the Building or to any space therein so as to be objectionable to Landlord or any other Building tenant shall

be installed and maintained by Tenant, at its expense, on vibration eliminators or other devices sufficient to eliminate such noise and vibration.

#### ARTICLE 16: RIGHT OF ENTRY

16.1 Landlord's Right of Entry. Tenant shall permit Landlord or its Agents, at any reasonable time and without more than email or telephone notice (except in emergency situations, when no notice shall be required), to enter the Premises, without charge therefor to Landlord and without diminution of Rent, (i) to examine, inspect and protect the Premises and the Building, (ii) to make such alterations and repairs or perform such maintenance which in the sole judgment of Landlord may be deemed necessary or desirable, (iii) to exhibit the same to prospective purchasers of the Building or to present or future Mortgagees or (iv) to exhibit the same to prospective tenants during the last twelve (12) months of the Term.

#### ARTICLE 17: INSURANCE

17.1 Insurance Rating. Tenant shall not conduct or permit any activity, or place any equipment or material, in or about the Premises, the Building or the Common Area which will increase the rate of fire or other insurance on the Building or insurance benefitting any other tenant of the Building; and if any increase in the rate of insurance is stated by any insurance company or by the applicable insurance rating bureau to be due to any activity, equipment or material of Tenant in or about the Premises, the Building or the Common Area, such statement shall be conclusive evidence that the increase in such rate is due to the same and, as a result thereof, Tenant shall pay such increase to Landlord upon demand.

17.2 Liability Insurance. Tenant agrees to secure and keep in force from and after the date Landlord shall deliver possession of the Premises to Tenant and throughout the term, at Tenant's own cost and expense: (i) Comprehensive General Liability Insurance on an "occurrence" basis with minimum limits of insurance: Two Million Dollars (\$2,000,000.00) Aggregate Limit and One Million Dollars (\$1,000,000.00) Per Occurrence for Bodily Injury/Property Damage; Fire Damage Limit of Fifty Thousand Dollars (\$50,000.00) and Five Thousand (\$5,000.00) Medical Expense coverage per person; (ii) the Tenant, at its own expense, shall carry a policy of insurance dedicated to cover the replacement cost value of all furniture, fixtures, tenants betterments or improvements, and contents whether leased or owned by the Tenant on a "Special Form" or "Open Perils" basis; (iii) plate glass insurance covering all plate glass in the Premises; and (iv) if the Permitted Use includes the sale and/or serving of alcoholic beverages, insurance covering any claims arising under applicable law relating to said uses that could be asserted against Landlord, Tenant or the Premises; . A certificate of insurance is to be submitted by the Tenant to the Landlord showing the Landlord as the certificate holder and the Additional Insured. Furthermore, it is agreed that except for non-payment of premium, the carrier issuing the certificate of insurance agrees to provide Landlord with a 30 day notice in the event the Tenant's insurance is to be cancelled or non-renewed. As per Virginia law, the carrier agrees to provide a fifteen (15) day notice in the event of cancellation for non-payment of

premium.

17.3 Requirements of Insurance Coverage. All such insurance required to be carried by Tenant herein shall be underwritten by a standard and admitted insurance company licensed to do business in the Commonwealth of Virginia and approved by Landlord. Such carrier must have an A.M. Best rating of A- or better.

#### ARTICLE 18: SERVICES AND UTILITIES

18.1 Ordinary Services to the Premises. As long as no Event of Default has occurred and is continuing, and subject to the terms and conditions set forth herein, Landlord shall furnish to the Premises throughout the Term (i) electricity, heating and air conditioning appropriate for the Permitted Use during the Business Hours, (ii) hot and cold water from points of supply, (iii) subject to Article 10, restrooms as required by applicable code at the time of initial Building construction, and (iv) elevator service, provided that Landlord shall have the right to remove such elevators from service as may be reasonably required for moving, freight or for servicing or maintaining the elevators or the Building. Tenant shall be responsible for contracting for and paying for its own janitorial services for the Premises to include trash removal at curbside. The cost of the services provided by Landlord hereunder shall be included within the Fixed Rent, unless charged directly to Tenant or another tenant of the Building. Landlord shall furnish landscaping and grounds maintenance and snow clearing for the areas used in common by the tenants of the Building and if furnished shall be included as part of the benefits included in the Fixed Rent; provided, however, that Landlord shall be under no responsibility or liability for failure or interruption in such services caused by breakage, accident, strikes, repairs or for any other cause or causes beyond the control of Landlord, nor in any event for any indirect or consequential damages; and failure or omission (but not refusal) on the part of Landlord to furnish such service shall not be construed as an eviction of Tenant, nor work an abatement of Rent, nor render Landlord liable in damages, nor release Tenant from prompt fulfillment of any of the covenants under this Lease, provided such failure or omission is not the result of intentional acts or bad faith on the part of Landlord. Landlord reserves the right to restrict open access to thermostats if Tenant's use is not energy efficient. If Landlord must restrict open access to thermostats, then the temperature in the Premises will be set at a reasonable temperature mutually agreeable to Tenant and Landlord. Landlord may also adjust temperatures during non-business and nighttime hours to promote energy efficiency. Tenant will not leave open any windows for unreasonable periods of time while heating or cooling systems are operating; provided however, that Tenant agrees to assume responsibility for additional utility costs due to windows remaining open for unreasonable periods of time.

#### 18.2 Intentionally Omitted

18.3 Mandated Energy Controls. Notwithstanding anything herein to the contrary, The Tenant agrees to comply with all mandatory energy conservation controls and requirements applicable to office buildings that are imposed or instituted by the federal, state or local

governments, including, without limitation, controls on the permitted range of temperature settings in office buildings, and requirements necessitating curtailment of the volume of energy consumption or the hours of operation of the Building. Any terms or conditions of this Lease that conflict or interfere with compliance with such controls or requirements shall be suspended for the duration of such controls or requirements. It is further agreed that compliance with such controls or requirements shall not be considered an eviction, actual or constructive, of the Tenant from the premises and shall not entitle Tenant to terminate this Lease or to an abatement of any rent payable hereunder.

18.4 Metering and Monitoring. Landlord may require that one or more separate meters be installed to record the consumption or use of electricity, or shall have the right to cause an electrical engineer to survey and determine the quantity of electricity consumed by such excessive use. The cost of any such survey and/or meters and of the installation, maintenance and repairs thereof shall be paid for by Landlord.

18.5 Auxiliary Services. In the event comfortable temperatures cannot be maintained within the Premises or any portion thereof due to heat generated by any equipment or machinery installed by Tenant (with or without Landlord's consent) and Tenant desires additional cooling to offset excessive heat generated by such equipment or machinery, and, if Tenant obtains the Landlord's prior written approval, then Tenant shall pay for auxiliary cooling equipment, and its operating costs, including, without limitation, electricity, gas, oil and water, or for excess electrical consumption by the existing cooling system, as appropriate, from time-to-time, upon demand as Additional Rent.

#### ARTICLE 19: LIABILITY OF LANDLORD

19.1 No Liability. Landlord and its Agents shall not be liable to Tenant or its Agents for, and Tenant, for itself and its Agents, to the extent not covered by insurance, does hereby release Landlord and its Agents from liability for, any damage, compensation or claim arising from (i) the necessity of repairing any portion of the Premises or the Building or the Common Area or any structural defects thereto, (ii) any interruption in the use of the Premises or the Common Area for any reason including any interruption or suspension of utility service, (iii) smells, odors or pests from adjoining properties or operations; (iv) fire or other casualty or personal or property injury, damage or loss resulting from the use or operation (by Landlord, Tenant, or any other person whomsoever) of the Premises or the Building or the Common Area, (v) the termination of this Lease under its terms, (vi) robbery, assault or theft, or (vii) any leakage in the Premises or the Building from water, rain, snow or other cause whatsoever unless such damage, compensation or claim results from the gross negligence or willful misconduct of Landlord. No such occurrence shall give rise to diminution or abatement of Rent or constructive eviction. Any goods, automobiles, property or personal effects stored or placed by Tenant or its Agents in or about the Premises, the Building or the Common Area shall be at the sole risk of Tenant, and Landlord and its Agents shall not in any manner be held responsible therefor. Except to the extent expressly prohibited by law, Tenant hereby waives any claim it might have

against Landlord or its Agents for any consequential damages sustained by Tenant arising out of the loss or damage to any person or property of Tenant.

#### ARTICLE 20: RULES AND REGULATIONS

20.1 Tenant's Compliance. Tenant and its Agents and Collaborative Subtenants shall at all times abide by and observe the Rules and Regulations and any amendments thereto that may be promulgated from time to time by Landlord for the operation and maintenance of the Building and the Common Area and the Rules and Regulations shall be deemed to be covenants of the Lease to be performed and/or observed by Tenant. Nothing contained in this Lease shall be construed to impose upon Landlord any duty or obligation to enforce the Rules and Regulations, or the terms or provisions contained in any other lease, against any other tenant of the Building. Landlord shall not be liable to Tenant for any violation by any party of the Rules and Regulations or the terms of any other Building lease. If there is any inconsistency between this Lease and the Rules and Regulations, this Lease shall govern. Landlord reserves the right to amend and modify the Rules and Regulations as it deems reasonably necessary.

#### ARTICLE 21: DAMAGE; CONDEMNATION

21.1 Damage to the Premises. If the Premises shall be damaged by fire or other cause without the fault or negligence of Tenant or its Agents, Landlord shall diligently and as soon as practicable after such damage occurs (taking into account the time necessary to effect a satisfactory settlement with any insurance company involved) repair such damage at the expense of Landlord; provided, however, that Landlord's obligation to repair such damage shall not exceed the proceeds of insurance available to Landlord (reduced by any proceeds retained pursuant to the rights of Mortgagee). Notwithstanding the foregoing, if the Premises or the Building is damaged by fire or other cause to such an extent that, in Landlord's sole judgment, reasonably exercised, the damage cannot be substantially repaired within one hundred and fifty (150) days after the date of such damage and Landlord so notifies Tenant, then Landlord in its sole discretion in thirty (30) days from the date of such damage may terminate this Lease by notice to Tenant. If Landlord terminates this Lease, the Rent shall be apportioned and paid to the date Tenant's occupancy of the Premises ceases, following the notice of termination. If Landlord does not terminate this Lease but the damage required to be repaired by Landlord is not repaired within one hundred and fifty (150) days from the date of such damage (such one hundred and fifty (150) day period to be extended by the period of any delay outside the direct control of Landlord plus a reasonable period for a satisfactory settlement with any insurance company involved), Tenant, within thirty (30) days from the expiration of such one hundred and fifty (150) day period (as the same may be extended), may terminate this Lease by notice to Landlord. During the period that Tenant is deprived of the use of the damaged portion of the Premises, and provided such damage is not the consequence of the fault or negligence of Tenant or its Agents, Rent shall be reduced by the ratio that the rentable area of the Premises damaged bears to the total rentable area of the Premises before such damage. All injury or damage to the Premises or the Building resulting from the fault or negligence of Tenant or its Agents shall be

repaired by Tenant, at Tenant's expense, and Rent shall not abate. If Tenant shall fail to do so or if Landlord shall so elect, Landlord shall have the right to make such repairs, and any reasonable expense so incurred by Landlord, together with interest thereon at the Interest Rate, shall be paid by Tenant upon demand. Notwithstanding anything herein to the contrary, Landlord shall not be required to rebuild, replace or repair any non-standard tenant improvements, tenant extras or Alterations or any personal property of Tenant.

21.2 Condemnation. If the whole or a Substantial Part of the Premises or the Building shall be taken or condemned by any governmental or quasi-governmental authority for any public or quasi-public use or purpose (including, without limitation, sale under threat of such a taking), then the Term shall cease and terminate as of the date when title vests in such governmental or quasi-governmental authority, and Rent shall be prorated to the date when title vests in such governmental or quasi-governmental authority. If less than a Substantial Part of the Premises is taken or condemned by any governmental or quasi-governmental authority for any public or quasi-public use or purpose (including, without limitation, sale under threat of such a taking), Fixed Rent and Tenant's Proportionate Share shall be reduced by the ratio that the portion so taken bears to the rentable area of the Premises before such taking, effective as of the date when title vests in such governmental or quasi-governmental authority, and this Lease shall otherwise continue in full force and effect. Tenant shall have no claim against Landlord (or otherwise) as a result of such taking, and Tenant hereby agrees to make no claim against the condemning authority for any portion of the amount that may be awarded as compensation or damages as a result of such taking; provided, however, that Tenant may, to the extent allowed by law, claim an award for moving expenses and for the taking of any of Tenant's property (other than its leasehold interest in the Premises) which does not, under the terms of this Lease, become the property of Landlord at the termination hereof, as long as such claim is separate and distinct from any claim of Landlord and does not diminish Landlord's award. Tenant hereby assigns to Landlord any right and interest it may have in any award for its leasehold interest in the Premises.

## ARTICLE 22: DEFAULT

22.1 Events of Default. Each of the following shall constitute an Event of Default: (i) Tenant fails to pay Rent within ten (10) days after such Rent becomes due and payable; (ii) Tenant fails to observe or perform any other term, condition or covenant herein binding upon or obligating Tenant within ten (10) days after notice from Landlord, (iii) Tenant abandons or vacates the Premises; (iv) Tenant or any Guarantor makes or consents to a general assignment for the benefit of creditors or a common law composition of creditors, or a receiver of the Premises or all or substantially all of Tenant's assets is appointed, or (v) Tenant files a voluntary petition in any bankruptcy or insolvency proceeding, or an involuntary petition in any bankruptcy or insolvency proceeding is filed against Tenant and is not discharged by Tenant within sixty (60) days.

22.2 Landlord's Remedies. Upon the occurrence of an Event of Default, Landlord, at its option, without further notice or demand to Tenant, may in addition to all other rights and remedies provided in this Lease, at law or in equity:

(i) Terminate this Lease and Tenant's right of possession of the Premises, and recover all damages to which Landlord is entitled under law, specifically including but without limitation, all of Landlord's expenses of reletting (including, without limitation, rental concessions to new tenants, repairs, Alterations, legal fees and brokerage commissions). If Landlord elects to terminate this Lease, every obligation of the parties shall cease as of the date of such termination, except that Tenant shall remain liable for payment of Rent and performance of all other terms and conditions of this Lease to the date of termination.

(ii) Terminate Tenant's right of possession of the Premises without terminating this Lease, in which event Landlord may, but shall not be obligated to, relet the Premises, or any part thereof, for the account of Tenant, for such rent and term and upon such other conditions as are acceptable to Landlord. For purposes of such reletting, Landlord is authorized to redecorate, repair, alter and improve the Premises to the extent necessary in Landlord's sole discretion, reasonably exercised. Until Landlord relets the Premises, Tenant shall remain obligated to pay Rent to Landlord as provided in this Lease. If and when the Premises are relet and if a sufficient sum is not realized from such reletting after payment of all Landlord's expenses of reletting (including, without limitation, rental concessions to new tenants, repairs, Alterations, legal fees and brokerage commissions) to satisfy the payment of Rent due under this Lease for any month, Tenant shall pay Landlord any such deficiency upon demand. Tenant agrees that Landlord may file suit to recover any sums due Landlord under this Section from time to time and that such suit or recovery of any amount due Landlord shall not be any defense to any subsequent action brought for any amount not previously reduced to judgment in favor of Landlord.

(iii) Terminate this Lease and Tenant's right of possession of the Premises, and recover from Tenant the net present value of the Rent due from the date of termination until the Expiration Date, discounted at the lesser of the Interest Rate as of the date of termination or seven percent (7%) per annum.

(iv) Declare the entire balance of the Rent for the remainder of the Lease Term to be due and payable, for which Tenant will immediately pay the Landlord the difference between the Rent for the remainder of the Lease Term and the then present rental value of the Premises for such period, both discounted at the same rate noted in (iii) above;

(v) Re-enter and repossess the Premises and remove all persons and effects therefrom, by summary proceeding, ejectment or other legal action or by using such force as may be necessary. Landlord shall have no liability by reason of any such re-entry, repossession or removal.

(vi) Recover from Tenant, to the extent permitted under the laws of the Commonwealth of Virginia, the value and/or cost of all concessions to Tenant under this Lease.

(vii) Recover from Tenant the attorney's fees, costs and expenses incurred by Landlord in enforcing the Lease, obtaining possession of the Premises, collecting amounts due under the Lease or exercising any other remedy available to Landlord under the Lease or provided by law.

22.3 Rights Upon Possession. If Landlord takes possession pursuant to this Article, with or without terminating this Lease, Landlord may, at its option, enter into the Premises, remove Tenant's Alterations, signs, personal property, equipment and other evidences of tenancy, and store them at Tenant's risk and expense or dispose of them as Landlord may see fit, and take and hold possession of the Premises; provided, however, that if Landlord elects to take possession only without terminating this Lease, such entry and possession shall not terminate this Lease or release Tenant, in whole or in part, from the obligation to pay the Rent reserved hereunder for the full Term or from any other obligation under this Lease or any guaranty thereof.

22.4 No Waiver. If Landlord shall institute proceedings against Tenant and a compromise or settlement thereof shall be made, the same shall not constitute a waiver of any other covenant, condition or agreement herein contained, nor of any of Landlord's rights hereunder. No waiver by Landlord of any breach shall operate as a waiver of such covenant, condition or agreement, or operate as a waiver of such covenant, condition or agreement itself, or of any subsequent breach thereof. No payment of Rent by Tenant or acceptance of Rent by Landlord shall operate as a waiver of any breach or default by Tenant under this Lease. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly installment of Rent herein stipulated shall be deemed to be other than a payment on account of the earliest unpaid Rent, nor shall any endorsement or statement on any check or communication accompanying a check for the payment of Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or to pursue any other remedy provided in this Lease. No re-entry by Landlord, and no acceptance by Landlord of keys from Tenant, shall be considered an acceptance of a surrender of the Lease.

22.5 Right of Landlord to Cure Tenant's Default. If an Event of Default shall occur, then Landlord may (but shall not be obligated to) make such payment or do such act to cure the Event of Default, and charge the amount of the expense thereof, together with interest thereon at the Interest Rate, to Tenant. Such payment shall be due and payable upon demand; however, the making of such payment or the taking of such action by Landlord shall not be deemed to cure the Event of Default or to stop Landlord from the pursuit of any remedy to which Landlord would otherwise be entitled. Any such payment made by Landlord on Tenant's behalf shall bear interest until paid at the Interest Rate.

22.6 Late Payment. If Tenant fails to pay any Rent within fifteen (15) days after such Rent becomes due and payable, Tenant shall pay to Landlord a late charge of five percent (5%)

of the amount of such overdue Rent. In addition, any such late Rent payment shall bear interest from the date such Rent became due and payable to the date of payment thereof by Tenant at the Interest Rate. Such late charge and interest shall be due and payable within two (2) days after written demand from Landlord.

## ARTICLE 23: MORTGAGES

23.1 Subordination. This Lease is subject and subordinate to all ground or underlying leases and to any first Mortgage(s) which may now or hereafter affect such leases or the Land and to all renewals, modifications, consolidations, replacements and extensions thereof. This subordination shall be self-operative; however, in confirmation thereof, Tenant shall execute promptly any instrument that Landlord or any first Mortgagee may request confirming such subordination. Tenant hereby constitutes and appoints Landlord as Tenant's attorney-in-fact to execute any such instrument on behalf of Tenant. Notwithstanding the foregoing, before any foreclosure sale under a Mortgage, the Mortgagee shall have the right to subordinate the Mortgage to this Lease, and, in the event of a foreclosure, this Lease may continue in full force and effect and Tenant shall attorn to and recognize as its landlord the purchaser of Landlord's interest under this Lease. Tenant shall, upon the request of a Mortgagee or purchaser at foreclosure, execute, acknowledge and deliver any instrument that has for its purpose and effect the subordination of the lien of any Mortgage to this Lease or Tenant's attornment to such Purchaser.

23.2 Mortgagee Protection. Tenant agrees to give any Mortgagee by certified mail, return receipt requested, a copy of any notice of default served upon Landlord, provided that before such notice Tenant has been notified in writing of the address of such Mortgagee. Tenant further agrees that if Landlord shall have failed to cure such default within the time provided for in this Lease, then Mortgagee shall have an additional thirty (30) days within which to cure such default; provided, however, that if such default cannot be reasonably cured within that time, then such Mortgagee shall have such additional time as may be necessary to cure such default so long as Mortgagee has commenced and is diligently pursuing the remedies necessary to cure such default (including, without limitation, the commencement of foreclosure proceedings, if necessary), in which event this Lease shall not be terminated or Rent abated while such remedies are being so diligently pursued. In the event of the sale of the Land or the Building, by foreclosure or deed in lieu thereof, the Mortgagee or purchaser at such sale shall be responsible for the return of the Security Deposit only to the extent that such Mortgagee or purchaser actually received the Security Deposit.

23.3 Modification Due to Financing. If, in connection with obtaining construction or permanent financing for the Premises, the Building or the Land, any lender (or Mortgagee) shall request reasonable modifications of this Lease as a condition to such financing, Tenant shall promptly execute a modification of this Lease, provided such modifications do not in the sole discretion of Tenant, reasonably exercised, increase, in any material way, the financial obligations of Tenant hereunder or adversely affect the leasehold interest hereby created or

Tenant's reasonable use and enjoyment of the Premises.

23.4 Subordination, Non-Disturbance and Attornment: . Notwithstanding anything in this Article to the contrary, Landlord shall utilize best efforts to obtain from the current lender having a deed of trust on the Property a subordination, non-disturbance, and attornment agreement in reasonable form. Tenant agrees to execute such agreement simultaneously with its execution of this Lease.

#### ARTICLE 24: SURRENDER; HOLDING OVER

24.1 Surrender of the Premises. Tenant shall peaceably surrender the Premises to Landlord on the Expiration Date or earlier termination of this Lease, in broom-clean condition and in as good condition as when Tenant took possession (except as otherwise provided in Section 13.3), including, without limitation, the repair of any damage to the Premises caused by the removal of any of Tenant's personal property or trade fixtures from the Premises, except for reasonable wear and tear and loss by fire or other casualty not caused by Tenant or its Agents. Any of Tenant's personal property left on or in the Premises, the Building or the Common Area after the Expiration Date or earlier termination of this Lease shall be deemed to be abandoned, and, at Landlord's option, title shall pass to Landlord under this Lease.

24.2 Holding Over. In the event that Tenant shall not immediately surrender the Premises to Landlord on the Expiration Date or earlier termination of this Lease, Tenant shall be deemed to be a month to month tenant upon all of the terms and provisions of this Lease, except the monthly Fixed Rent shall be 150% of the monthly Fixed Rent and Additional Rent in effect during the last month of the Term. Notwithstanding the foregoing, if Tenant shall hold over after the Expiration Date or earlier termination of this Lease, and Landlord shall desire to regain possession of the Premises, then Landlord may forthwith re-enter and take possession of the Premises without process, or by any legal process in force in the Commonwealth of Virginia. Tenant shall indemnify Landlord against all liabilities and damages sustained by Landlord by reason of such retention of possession.

#### ARTICLE 25: QUIET ENJOYMENT

25.1 Landlord's Covenant of Quiet Enjoyment. Landlord covenants that if Tenant shall pay Rent and perform all of the terms and conditions of this Lease to be performed by Tenant, Tenant shall during the Term peaceably and quietly occupy and enjoy possession of the Premises without molestation or hindrance by Landlord or any party claiming through or under Landlord, subject to the provisions of this Lease and any Mortgage to which this Lease is subordinate and easements, conditions and restrictions of record affecting the Land.

#### ARTICLE 26: TENANT'S AND LANDLORD'S COVENANTS REGARDING HAZARDOUS MATERIALS AND INFECTIOUS WASTE

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 Premises, the Building or the Land, including any complaints, notices, warnings, reports or asserted violations in connection therewith. Tenant also shall supply to Landlord as promptly as possible, and in any event within five (5) business days after Tenant first receives or sends the same, copies of all claims, reports, complaints, notices, warnings or asserted violations relating in any way to the Premises, the Building, the Land or Tenant's use or occupancy thereof.

26.4 Abatement or Removal by Landlord. If any governmental authority requires the abatement or removal of any Hazardous Materials in the Building or in the Land which are unrelated to Tenant's use, occupancy or tenancy, Landlord shall, at its sole cost and expense, completely and promptly abate or remove all of such Hazardous Materials strictly in accordance with Applicable Laws. Copies of all related notices, analyses, inspections and related reports are to be given promptly to Tenant. If either the presence, abatement or removal of any Hazardous Materials prevents Tenant from occupying, using or enjoying the Premises for the time periods established in this Lease, then the Fixed Rent and Additional Rent shall abate accordingly. The respective rights and obligations of Landlord and Tenant under Sections 26.1 through 26.4 above shall survive for a period of one year from the expiration or earlier termination of this Lease.

## ARTICLE 27: MISCELLANEOUS

27.1 No Representations by Landlord. Tenant acknowledges that neither Landlord or its Agents nor any broker has made any representation or promise with respect to the Premises, the Building, the Land or the Common Area, except as herein expressly set forth, and no rights, privileges, easements or licenses are acquired by Tenant except as herein expressly set forth. Tenant, by taking possession of the Premises shall accept the Premises, the Common Area, and the Parking Facilities "AS IS," and such taking of possession shall be conclusive evidence that the Premises, the Common Area, and the Parking Facilities are in good and satisfactory condition at the time of such taking of possession.

27.2 No Partnership. Nothing contained in this Lease shall be deemed or construed to create a partnership or joint venture of or between Landlord and Tenant, or to create any other relationship between Landlord and Tenant other than that of landlord and tenant.

27.3 Intentionally Omitted

27.4 Estoppel Certificate. Tenant shall, without charge, at any time and from time to time, within five (5) days after request therefor by Landlord, potential Mortgagee, or any potential purchaser of the Land or the Building, execute, acknowledge and deliver to such requesting party a written estoppel certificate certifying, as of the date of such estoppel certificate, the following (to the extent then accurate): (i) that this Lease is unmodified and in full force and effect (or if modified, that the Lease is in full force and effect as modified and setting forth such modifications); (ii) that the Term has commenced (and setting forth the

Commencement Date, the Completion Date, and the Expiration Date); (iii) that Tenant is presently occupying the Premises; (iv) the amounts of Base Rent and Additional Rent currently due and payable by Tenant; (v) that any Improvements required by the Lease to have been made by Landlord have been made to the satisfaction of Tenant; (vi) that there are no existing set-offs, charges, liens, claims or defenses against the enforcement of any right hereunder, including, without limitation, Fixed Rent or Additional Rent (or, if alleged, specifying the same in detail); (vii) that no Fixed Rent (except the first installment thereof) has been paid more than thirty (30) days in advance of its due date; (viii) that Tenant has no knowledge of any then uncured default by Landlord of its obligations under this Lease (or, if Tenant has such knowledge, specifying the same in detail); (ix) that Tenant is not in default; (x) that the address to which notices to Tenant should be sent is as set forth in the Lease (or, if not, specifying the correct address); and (xi) any other certifications requested by Landlord. In addition, within five (5) days after request by Landlord, Tenant shall deliver to Landlord audited financial statements of Tenant for its most recently ended fiscal year and interim unaudited financial statements for its most recently ended quarter.

27.5 Waiver of Jury Trial. TENANT HEREBY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY LANDLORD AGAINST TENANT WITH RESPECT TO ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT HEREUNDER OR TENANT'S USE OR OCCUPANCY OF THE PREMISES. LANDLORD HEREBY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY TENANT AGAINST LANDLORD WITH RESPECT TO ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, THE RELATIONSHIP OF TENANT AND LANDLORD HEREUNDER OR TENANT'S USE OR OCCUPANCY OF THE PREMISES

27.6 Notices. All notices or other communications hereunder shall be in writing and shall be deemed duly given if delivered in person or upon the earlier of receipt, if mailed by certified or registered mail, or three (3) days after certified or registered mailing, return receipt requested, postage prepaid, addressed and sent, if to Landlord to Landlord's Address specified in Section 1.17 with a copy to: Benjamin D. Leigh, Esq., 101 North King Street, Leesburg, Virginia 20176, or if to Tenant to Tenant's Address specified in Section 1.18 with a copy to: Town of Leesburg, 25 W. Market Street, Leesburg, Virginia 20175 Attn: Town Attorney. Landlord and Tenant may from time to time by written notice to the other designate another address for receipt of future notices.

27.7 Invalidity of Particular Provisions. If any provisions of this Lease or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and be enforced to the full extent permitted by law.

27.8 Gender and Number. All terms and words used in this Lease, regardless of the number or gender in which they are used, shall be deemed to include any other number or gender as the context may require.

27.9 Benefit and Burden. Subject to the provisions of Article 11 and except as otherwise expressly provided, the provisions of this Lease shall be binding upon, and shall inure to the benefit of, the parties hereto and each of their respective representatives, heirs, successors and assigns. Landlord may freely and fully assign its interest hereunder.

27.10 Entire Agreement. This Lease (which includes the Exhibits attached hereto) contains and embodies the entire agreement of the parties hereto, and no representations, inducements or agreements, oral or otherwise, between the parties not contained in this Lease shall be of any force or effect. This Lease (other than the Rules and Regulations, which may be changed from time to time as provided herein) may not be modified, changed or terminated in whole or in part in any manner other than by an agreement in writing duly signed by Landlord and Tenant.

27.11 Authority. If Tenant signs as a corporation, the person executing this Lease on behalf of Tenant hereby represents and warrants that Tenant is a duly formed and validly existing corporation, in good standing, qualified to do business in the Commonwealth of Virginia, that the corporation has full power and authority to enter into this Lease and that he or she is authorized to execute this Lease on behalf of the corporation. If Tenant signs as a partnership, the person executing this Lease on behalf of Tenant hereby represents and warrants that Tenant is a duly formed, validly existing partnership qualified to do business in the Commonwealth of Virginia, that the partnership has full power and authority to enter into this Lease, and that he or she is authorized to execute this Lease on behalf of the partnership.

27.12 Attorneys' Fees. If, as a result of any default of Landlord or Tenant in its performance of any of the provisions of this Lease, the other party uses the services of an attorney in order to secure compliance with such provisions or recover damages therefor, or to terminate this Lease or evict Tenant, the non-prevailing party shall reimburse the prevailing party upon demand for any and all reasonable attorneys' fees and expenses so incurred by the prevailing party.

27.13 Interpretation. This Lease is governed by the laws of the Commonwealth of Virginia.

27.14 No Personal Liability; Sale. No member, manager, or director of Landlord, whether disclosed or undisclosed, shall have any personal liability under any provision of this Lease. In the event that the original Landlord hereunder, or any successor owner of the Building, shall sell or convey the Building, all liabilities and obligations on the part of the original Landlord, or such successor owner, under this Lease occurring thereafter shall terminate

as of the day of such sale, and upon the assumption thereof by such new owner, thereupon all such liabilities and obligations shall be binding on the new owner. Tenant agrees to attorn to such new owner. Any successor to Landlord's interest shall not be bound by (i) any payment of Fixed Rent or Additional Rent for more than one (1) month in advance, except for the payment of the first installment of First Year Fixed Rent or (ii) as to any Mortgagee or any purchaser at foreclosure, any amendment or modification of this Lease made without the consent of such Mortgagee.

27.15 Time of the Essence. Time is of the essence as to Landlord's and Tenant's obligations contained in this Lease.

27.16 Force Majeure. Except for Tenant's obligations to pay Rent under this Lease, neither Landlord nor Tenant shall be required to perform any of its obligations under this Lease, nor shall such party be liable for loss or damage for failure to do so, nor shall the other party thereby be released from any of its obligations under this Lease, where such failure by the non-performing party arises from or through acts of God, strikes, lockouts, labor difficulties, explosions, sabotage, accidents, riots, civil commotions, acts of war, results of any warfare or warlike conditions in this or any foreign country, fire or casualty, legal requirements, energy shortage or other causes beyond the reasonable control of the non-performing party, unless such loss or damage results from the willful misconduct or gross negligence of the non-prevailing party.

27.17 Headings. Captions and headings are for convenience of reference only.

27.18 Memorandum of Lease. Landlord shall, at the request of Tenant, execute and deliver a memorandum of lease in recordable form. Tenant shall not record such a memorandum or this Lease without Landlord's consent, which consent shall not be unreasonably withheld. In the event Tenant requests recordation of a memorandum of this Lease, Tenant shall be obligated to pay all costs, fees and taxes, if any, associated with such recordation.

27.19 Attorney-in-Fact. If Tenant without legal cause fails or refuses to execute and deliver any instrument or certificate required to be delivered by Tenant hereunder (including, without limitation, any instrument or certificate required under Article 23 or Section 27.4 hereof) within the time periods required herein, then Tenant hereby appoints Landlord as its attorney-in-fact with full power and authority to execute and deliver such instrument or certificate for and in the name of Tenant.

27.20 Effectiveness. The furnishing of the form of this Lease shall not constitute an offer and this Lease shall become effective upon and only upon its execution by and delivery to each party hereto.

27.21 Financing Review. Landlord's obligations under this Lease are contingent upon and subject to the satisfaction of the following contingencies: (a) Landlord's lender shall have

approved all aspects for the financing of the Building, including but not limited to the form of this Lease and underwriting of Tenant.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease under seal as of the Date of Lease.

ATTEST/WITNESS:

LANDLORD:

 [SEAL]  
Name

VIRGINIA HERITAGE PROPERTIES, L.L.C.,  
a Virginia limited liability company

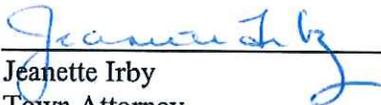
By:  [SEAL]  
Name: Joanna J. Cosh  
Title: Manager

ATTEST/WITNESS:

TENANT:

APPROVED AS TO FORM:

THE TOWN OF LEESBURG, VIRGINIA

By:   
Jeanette Irby  
Town Attorney

By:   
John A. Wells  
Town Manager, Authorized Agent

**AMENDMENT TO LEASE AGREEMENT  
202 CHURCH STREET  
LEESBURG, VA**

THIS AMENDMENT TO LEASE AGREEMENT made this 31 day of March, 2011, by and between VIRGINIA HERITAGE PROPERTIES, LLC., hereinafter referred to as "Landlord", and the TOWN OF LEESBURG, VIRGINIA, a public body corporate and politic, hereinafter referred to as "Tenant", and

WHEREAS, Landlord is developing an office building and related facilities in the Commonwealth of Virginia (hereinafter referred to as the "Building") known as 202 Church Street, Leesburg, Virginia, and

WHEREAS, Landlord and Tenant are parties to that certain Lease Agreement dated September 1, 2010 for 7,140 square feet of space on the first and third floors (the "Original Premises") of the "Building", hereinafter referred to as the "Existing Lease"; and

WHEREAS Tenant desires to exercise a LEASE EXPANSION to lease an additional 3,179 square feet of space on the second floor of the Building and to amend the Existing Lease to effect such intention; and

NOW THEREFORE, for an in consideration of the foregoing, as good and adequate consideration, the receipt and sufficiency of which are acknowledged, the parties intending to be bound agree as follows:

1. **Additional Premises.** The Premises of the Existing Lease are expanded to include in addition to the original Premises (the "Original Premises"), all of that area on the second (2<sup>nd</sup>) floor of the Building, which the parties agree contains 3,179 square feet (hereinafter, the "Additional Premises").

2. **Proportionate Share.** Tenant's Proportionate Share per section 1.10 of the Existing Lease is hereby deemed to be 100.00%.

3. **Rent.** In addition to the Fixed Rent under the Existing Lease for the Original Premises, Tenant shall pay to Landlord Fixed Rent for the Additional Premises as follows: \$28.00 per annum per square foot of rentable space within the Additional Premises during the First Lease Year equaling EIGHTY-NINE THOUSAND TWELVE and no/100 DOLLARS (\$89,012) and thereafter adjusted as set forth in Section 5.1 of the Existing Lease (such adjustments shall apply annually to both the Fixed Rent for the Original Premises and the Fixed Rent for the Additional Premises). Tenant is also expressly responsible for (a) 100% of the Operating Charges in Excess over the Base Amount for the entire Building and (b) Real Estate Taxes for the Entire Building. Notwithstanding any provision herein or elsewhere to the contrary, the last sentence of Section 5.1 of the Original Lease shall not apply to the Fixed Rent due for the Additional Premises. All other terms and conditions applicable to Rent and Additional Rent for the Original Premises in the Existing Lease shall apply to the Additional Premises.

4. **Term.** The term for the Additional Premises shall run coterminous with the term for the Original Premises under the Existing Lease.

5. **Delivery.** Landlord will use its best efforts to coordinate delivery of the Additional Premises with the delivery for the Original Premises; provided however, that the provisions of Section 4.1 providing for a penalty against Landlord of \$450 per diem for failure to substantial completion and delivery of the Original Premises shall not apply to the substantial completion and delivery of the Additional Premises.

6. **2<sup>nd</sup> Floor Tenant Improvements.** Landlord shall construct the tenant improvements for the Additional Premises (as defined in the attached Exhibit 1 as the "2<sup>nd</sup> Floor TI" pursuant to the terms and conditions set forth in Exhibit 1, which is attached hereto and incorporated by reference as if set forth herein.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease under seal as of the Date of Lease.

ATTEST/WITNESS:

LANDLORD:

VIRGINIA HERITAGE PROPERTIES, L.L.C.,  
a Virginia limited liability company

Barbara Notz [SEAL]  
Name

By: [Signature] [SEAL]  
Name: Joffina J. Costen  
Title: Manager

ATTEST/WITNESS:

TENANT:

[ Town of Leesburg ], a Virginia corporation

Mary C. Faye [SEAL]  
Name

By: [Signature] [SEAL]  
Name: John Wells  
Title: Town Manager

## EXHIBIT 1

### **WORK AGREEMENT (for 2nd Floor of 202 Church)**

This Work Agreement (the "Work Agreement") made by Virginia Heritage Properties, LLC ("Landlord"), and Town of Leesburg ("Tenant") is attached to, incorporated in and made part of the Lease Addendum (the "Addendum") dated March \_\_, 2011, by and between Landlord and Tenant for work to be performed at the Additional Premises as defined in the Addendum to the original Lease dated September 1, 2010. All terms used in this Work Agreement, except as specifically noted herein, which have been defined in the Lease and/or the Addendum, shall have the same meaning as set forth in the Lease or the Addendum.

1. Completion of 2nd Floor TI by Landlord. Landlord agrees to proceed to perform and complete the work and make the installations in the Additional Premises necessary to make the same ready for Tenant's use and occupancy, all in a timely and workmanlike manner, in accordance with the Final Plans and Specifications defined in paragraph 4 of this Work Agreement (the "2nd Floor TI").
2. Punch-list Items. Upon completion of construction, the Landlord will provide the Tenant with not less than fifteen (15) days notice of the Commencement Date. The authorized representatives of Landlord and Tenant shall immediately complete a walk-through of the Additional Premises for the purpose of identifying punch-list items to be completed by Landlord. Landlord shall, as soon as reasonably possible, complete and/or correct all punch-list items; however, if the Additional Premises are Ready for Occupancy, completion of punch-lists items shall not delay the Commencement Date. Landlord shall have the right to enter the Additional Premises to complete or repair the punch-list items and such entry by Landlord shall not constitute an actual or constructive eviction, or entitle Tenant to any abatement or diminution of rent under the Lease. The term "punch-list items" as used herein and in the Lease shall mean those items, the repair of which shall not materially interfere with Tenant's use of the Additional Premises or its ability to conduct business therein.
3. Compliance with Laws. Tenant shall be responsible for compliance with Applicable Laws (as defined in the Lease) related to the Additional Premises. Further, Landlord's approval of the Final Plans and Specifications (as defined below) and the construction of the 2nd Floor TI shall create no responsibility or liability on the part of Landlord for their completeness, design sufficiency or compliance with all laws, rules and regulations of the applicable governmental agencies or authorities including, without limitation, ADA (defined in the Lease).
4. Plans and Specifications. As part of the Original Lease negotiations, schematic plans and design concepts for the completion of the 2nd Floor TI in the Additional Premises ("Original Schematics") but Tenant has requested modifications to the original Schematics and approved such modifications shown in Exhibit 2 (the "Revised Schematics").
5. Costs for Plans. All costs and expenses of the preparation of any additional changes or modifications to the Original and Revised Schematics for the Additional Premises shall be paid by Tenant.

6. Cost of Improvements - Tenant Improvement Allowance.

6.1. Allowance. Landlord agrees to provide an allowance up to \$84,703 (the "2<sup>nd</sup> Floor Allowance") which shall be used for the costs and expenses associated with the 2nd Floor TI and which shall include the preparation of the Final 2<sup>nd</sup> Floor Plans and Specifications, the construction of the 2nd Floor TI, mechanical, electrical, engineering and plumbing services and all permits and fees associated with the construction of the 2nd Floor TI. If the cost of the 2nd Floor TI exceeds the 2<sup>nd</sup> Floor Allowance, Tenant shall be obligated to pay such excess costs in accordance with the terms of paragraph 7 herein.

6.2. Change Orders. In the event that Tenant requests any changes to the Final Plans and Specifications, Landlord shall not unreasonably withhold or delay its consent to any such changes, and shall grant its consent to such changes within two (2) business days after Landlord's receipt of same, provided the changes do not create a material design problem for Landlord's Architect. If such changes increase the cost to Tenant of constructing the 2nd Floor TI shown on the Final 2<sup>nd</sup> Floor Plans and Specifications, Tenant shall pay for such changes, according to the invoices for the items relating to the changes provided by Landlord's Contractor, but only after the 2<sup>nd</sup> Floor Allowance has been completely disbursed and without markup.

7. Payment for Excess Costs. The actual cost of the 2nd Floor TI over and above the 2<sup>nd</sup> Floor Allowance ("Excess Cost") shall be payable by Tenant as follows:

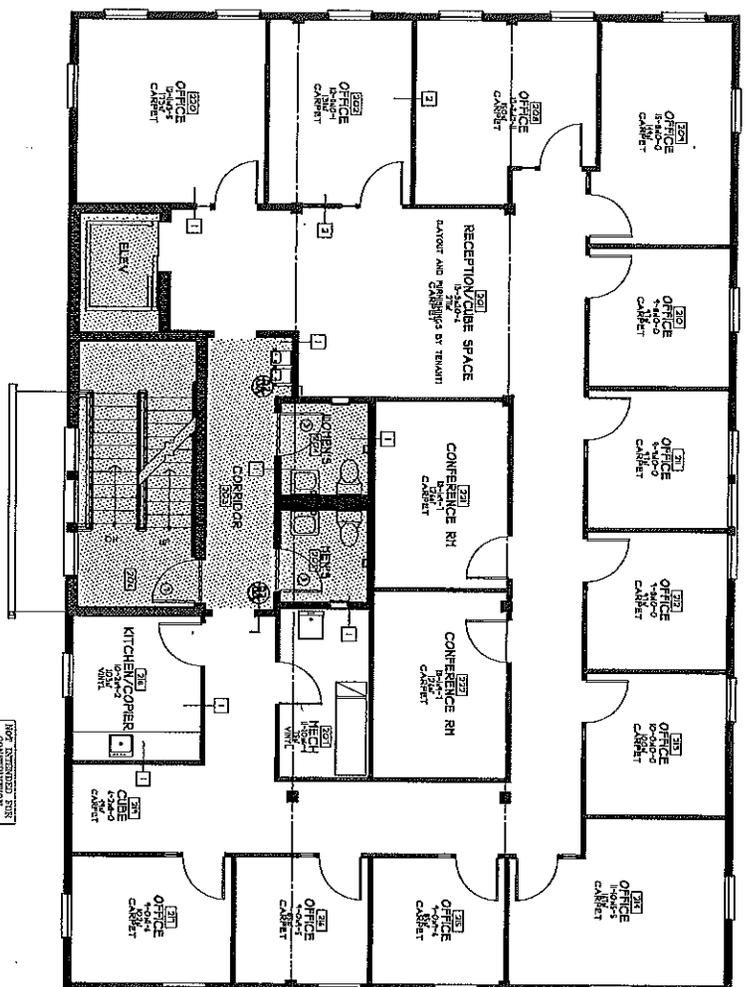
7.1. One-half (1/2) of the estimated Excess Cost amount shall be paid by Tenant to Landlord prior to commencement of the work.

7.2. After substantial completion of the work the balance of the then determined Excess Cost of the work, if any, over the estimated cost of the work, verified by appropriate documentation, shall be paid by Tenant to Landlord within five (5) business days after demand by Landlord.

7.3. Any sums not paid by Tenant after demand shall bear interest at five-percent (5%).

8. Tenant's Representative. Tenant acknowledges that Tenant has appointed Scott Parker as its authorized representative with full power and authority to bind Tenant for all actions taken with regard to the 2nd Floor TI.

9. Landlord's Representative. Landlord acknowledges that Landlord has appointed Joanna Coston as its authorized representative with full power and authority to bind Landlord for all actions taken with regard to the 2nd Floor TI.



SECOND FLOOR TENANT LAYOUT 1/2" = 1'-0"



Kevin Ruedenel  
 Incorporated  
 1405 West Ridge Lane  
 Charlottesville, VA 22902  
 Phone: 703-727-0000  
 Fax: 703-727-0000  
 krtarchitect.com

CONSULTANTS  
 A/E Macdonald  
 Building, Engineering  
 Birmingham, VA 22802  
 Phone: 703-727-0000  
 202-476-0000 (toll)

KRT Group, Inc.  
 Mechanical, Electrical, Plumbing  
 1735 S. Main St., Suite 100  
 Charlottesville, VA 22902  
 Phone: 703-727-0000  
 Fax: 703-727-0000



PROJECT NAME  
**OFFICE BUILDING**  
 20-28-6802  
 120 SOUTH MARKET  
 LEXINGTON, VA 24050

DATE: 03/21/05  
 PREPARED BY: BZ/BZ  
 CHECKED BY: BZ/BZ  
 DATE: 03/27/05  
 APPROVED BY: BZ/BZ  
 DATE: 03/27/05  
 DATE: 03/24/05  
 DATE: 03/24/05  
 DATE: 03/24/05

Virginia Medical Properties, LLC  
 1405 West Ridge Lane  
 Charlottesville, VA 22902  
 Phone: 703-727-0000

Sheet Title  
**SECOND FLOOR TENANT LAYOUT**  
 A102  
 of 28

## LEASE AMENDMENT AND EXTENSION AGREEMENT

THIS LEASE AMENDMENT AND EXTENSION AGREEMENT (“Lease Extension”), is entered into on this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between VIRGINIA HERITAGE PROPERTIES, LLC, a Virginia limited liability company (“Landlord”), and the TOWN OF LEESBURG, VIRGINIA (“Tenant”), a municipal corporation.

### RECITALS

Tenant desires to exercise its option to extend its tenancy as provided by Section 4.2 under the current Lease and to continue to lease the office building and related facilities known as 202 Church Street, S.E., Leesburg, Virginia, and Landlord desires that Tenant continue to occupy the office building and related facilities known as 202 Church Street, S.E., Leesburg, Virginia. As a result of this mutual desire, Landlord agrees to extend term of the Deed of Lease, dated September 1, 2010 (“Deed of Lease”), and Amendment to Lease Agreement, dated March 31, 2011 (“Amendment”), between Landlord and Tenant, for five (5) years under the terms set forth in this Lease Extension.

It is provided, however, that all other terms of the Deed of Lease and Amendment shall continue during this extended term as if set forth herein, except as amended herein.

NOW, THEREFORE, in consideration of these mutual agreements, the sufficiency of which is hereby acknowledged, Landlord and Tenant agree to the following changes from the Deed of Lease and the Amendment:

Premises. Section 1.1 of the Deed of Lease is amended such that the Premises are deemed conclusively to contain 10,319 square feet.

Effective Date, Lease Term. Section 1.2 of the Deed of Lease is amended such that the terms of this Lease Extension shall commence and become effective October 1, 2016, at 12:01 a.m. The term of the Lease Extension (“Lease Term”) shall expire at midnight five (5) years thereafter, subject to the provisions set out in the “Option to Extend” set forth herein.

Option to Extend. Provided Tenant is not in default under the terms of this Lease, Tenant shall have the option of extending the Lease for one (1) five - year term at a rental rate then being charged for similar space in the Old and Historic District of Leesburg, for a similar building in age, condition and amenities, to be negotiated in good faith by Landlord and Tenant. The option to extend must be exercised by written notice to Landlord at least twelve (12) months prior to the expiration of the existing term. Landlord and Tenant must sign a new lease document for the extended term within six (6) months prior to the expiration of the existing term or this option to extend shall be forfeited and be of no further force and effect.

Fixed Rent. Section 1.6 of the Deed of Lease is amended such that the Fixed Rent shall be \$31.42 per annum per square foot of rentable space within the Premises equaling Three

Hundred Twenty-Four Thousand, Two Hundred Twenty-Two Dollars and Ninety-Eight Cents (\$324,222.98) per annum.

Tenant's Proportionate Share. Section 1.10 of the Deed of Lease is amended such that the Tenant's Proportionate Share shall be 100% of the Building.

Landlord's Obligation. Section 12.1 of the Deed of Lease is amended to add the following provision: Landlord agrees to maintain or remove the outdoor flower boxes as Landlord and Tenant mutually agree.

Alterations. Section 13.2 of the Deed of Lease is amended to add the following provisions:

(1) Landlord agrees to consider any bids for construction work and/or sound panel installation to resolve the sound issues between the 3<sup>rd</sup> and 4<sup>th</sup> floors of the Premises, and remain open to discussion about improvements and cost; and

(2) Tenant shall research the cost of a key card access system and provide a cost estimate to Landlord. Landlord agrees to pay to Tenant the cost of such key card access system, either in a lump sum or through a monthly credit to the rent Tenant pays to Landlord, equaling the total amount of the key card access system; provided however, that in all events, Landlord shall not pay in lump sum or by credit more than Five Thousand Dollars (\$5,000.00) toward costs of the aforesaid system. If implemented, Tenant shall provide to Landlord key cards and any other information reasonably requested by Landlord. Landlord shall not be responsible for maintenance, repair, interruptions or any liability arising from the use of such system.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease Extension Agreement under seal as of the Date of Lease Extension Agreement.

**LANDLORD:**

Virginia Heritage Properties, LLC

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

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

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

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

STATE OF VIRGINIA

County of Loudoun, to wit:

I, \_\_\_\_\_, a Notary Public in and for the Town and State aforesaid, do hereby certify that this day personally appeared before me in my jurisdiction aforesaid, \_\_\_\_\_ of Virginia Heritage Properties, LLC, whose name is signed to the foregoing writing dated \_\_\_\_\_, and acknowledged the same before me.

Given under my hand \_\_\_\_\_, 20\_\_.

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

My commission expires: \_\_\_\_\_

**TENANT:**  
Town of Leesburg

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

Name: Kaj Dentler  
Title: Town Manager  
Date: \_\_\_\_\_

STATE OF VIRGINIA  
County of Loudoun, to wit:

I, \_\_\_\_\_, a Notary Public in and for the County and State aforesaid, do hereby certify that this day personally appeared before me in my jurisdiction aforesaid, Kaj Dentler, whose name as Town Manager of the Town of Leesburg is signed to the foregoing writing dated \_\_\_\_\_, and acknowledged the same before me.

Given under my hand \_\_\_\_\_, 20\_\_.

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

My commission expires: \_\_\_\_\_

PRESENTED March 8, 2016

RESOLUTION NO. 2016-

ADOPTED \_\_\_\_\_

A RESOLUTION: AUTHORIZING THE TOWN MANAGER TO EXECUTE A 5-YEAR LEASE EXTENSION BETWEEN THE TOWN OF LEESBURG AND VIRGINIA HERITAGE PROPERTIES, LLC, FOR OCCUPANCY OF THE OFFICE BUILDING AND RELATED FACILITIES AT 202 CHURCH STREET, SE.

WHEREAS, on or about September 1, 2010, the Town of Leesburg (“Town”) entered into a Deed of Lease with Virginia Heritage Properties, LLC, to lease a portion of the building and facilities located at 202 Church Street, to house and operate the Mason Enterprise Center; and

WHEREAS, the Deed of Lease became effective on October 1, 2010; and

WHEREAS, the term of the Deed of Lease expires on September 30, 2016, unless a 5-year extension is agreed upon; and

WHEREAS, Town staff and Virginia Heritage Properties, through legal counsel, have negotiated the terms of the 5-year Lease Amendment and Extension Agreement and have agreed to the terms thereof.

THEREFORE, RESOLVED, by the Council of the Town of Leesburg in Virginia that the Lease Amendment and Extension Agreement is approved and the Town Manager is authorized to execute the 5-year Lease Amendment and Extension Agreement with Virginia Heritage Properties, LLC, in a form approved by the Town Attorney.

PASSED this \_\_\_\_ day of March 2016.

\_\_\_\_\_  
David S. Butler, Mayor  
Town of Leesburg

ATTEST:

\_\_\_\_\_  
Clerk of Council