

ORDINANCE NO. 1615

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO MAKE, EXECUTE, AND DECLARE IN THE NAME OF THE CITY OF CANBY AND ON ITS BEHALF, AN APPROPRIATE LEASE AGREEMENT WITH ZIMMER VENTURES LLC, OF CANBY, OR TO PROVIDE LEASED OFFICE SPACE FOR CANBY AREA TRANSIT LOCATED AT 195 S. HAZEL DELL WAY THROUGH DECEMBER 2025.

WHEREAS, the City of Canby on behalf of Canby Area Transit (CAT) has leased the property continuously since 2016 located at 195 S Hazel Dell Way Suite C, Canby, OR; and


WHEREAS, the original lease agreement expired in June 2018; and

WHEREAS, A new lease agreement is needed to cover the period from 2018 through 2026.

NOW, THEREFORE, THE CITY OF CANBY ORDAINS AS FOLLOWS:

The City Administrator is hereby authorized and directed to make, execute, and declare in the name of the City of Canby and on its behalf, an appropriate lease agreement with ZIMMER VENTURES INC of Canby, Oregon to provide leased office space for Canby Area Transit through December 2025.

SUBMITTED to the Canby City Council and read for the first time at a regular meeting thereof on Wednesday, January 3, 2024, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter, and to come before the City Council for final reading and action at a regular meeting thereof at 7:00pm on Thursday, January 18, 2024.



Maya Benham, CMC
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 18th of January 2024 by the following vote:

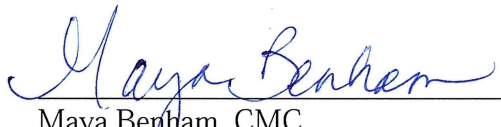
YEAS 5

NAYS 0



Brian Hodson
Mayor

ATTEST:



Maya Benham, CMC
City Recorder

AFFIDAVIT OF POSTING

STATE OF OREGON)
)
County of Clackamas) ss:
)
CITY OF CANBY)

I, Maya Benham, being first duly sworn, depose and say that I am the City Recorder for the City of Canby, Clackamas County, Oregon, a City duly incorporated under and by virtue of the laws of the State of Oregon.

That on the 3rd day of January, 2024 the Council for said City of Canby held a Regular City Council Meeting, at which meeting Ordinance No. 1615 was read for the first time and passed by the vote of said Council and was then and there ordered posted in at least three (3) public and conspicuous places in said City for a period of five (5) days prior to the second reading and final vote on said Ordinance, as provided in Section 2 of Chapter 8 of the Charter of the City of Canby, and

Thereafter, on the 4th day of January, 2024, I personally posted said Ordinance in the following three (3) conspicuous places, all within the said City of Canby, to wit:

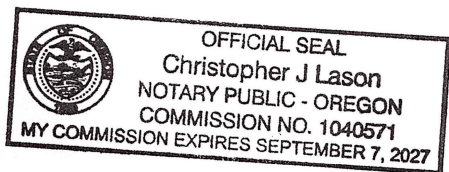
- 1. Canby Civic Building
- 2. Canby Post Office
- 3. City of Canby Web Page

That since said posting on the date aforesaid, the said Ordinance will remain posted in the said three (3) public and conspicuous places continuously for the period of more than five (5) days and until the very 18th day of January, 2024.



Maya Benham, City Recorder

Subscribed and sworn to before me this 4th day of January, 2024.





Notary Public for Oregon
My Commission Expires: 9/7/27

LEASE AGREEMENT

THIS LEASE is entered into this 21st day of FEBRUARY 2024, between ZIMMER VENTURES, LLC ("Landlord") and CITY OF CANBY, an Oregon municipal corporation, acting on behalf of CANBY AREA TRANSIT ("Tenant"). Landlord owns a building and other improvements on that certain property known as 195 S. Hazel Dell Way, Canby, Clackamas County, Oregon known as THE SEQUOIA COMMERCE CENTER (the "Property"). Landlord hereby leases to Tenant and Tenant hereby leases from Landlord certain space on the Property consisting of 1728 rentable square feet, as outlined on the attached Exhibit A (the "Premises") on the terms and conditions set forth in this Lease. The Property, as it may be expanded or otherwise reconfigured from time to time is sometimes referred to herein as "Suite C of Lot 1 of the Zimmer Commerce Center".

1. TERM. The term of this Lease (the "Term") is for a period of ninety-six (96) months. The Term commenced on January 1, 2018 and will expire at 12:00am PST on January 1, 2026, unless the Landlord or Tenant terminates the Lease at an earlier date in accordance with the Lease or as otherwise permitted by law.

2. RENT. The Landlord and Tenant represent and warrant that as of the date the parties enter into this Lease, Tenant has paid and Landlord has received all Rent (as that term is broadly defined in paragraph (2)(d), below) due and payable under the Lease. Beginning on July 1, 2023, which will be the first day of "month 1" for purposes of calculating Rent for the remainder of the Term, the Tenant shall pay to Landlord the "Base Rent" plus adjustments to Base Rent, as defined in this section. Based on the Term's expiration date of January 1, 2026, "Month 30" is the month of December, 2025.

(a) Base Rent. The monthly Base Rent shall be:

- (i) Months 1 through 12 \$3606 per month
- (ii) Months 13 through 24 \$3714 per month (previous 12 months base rent plus \$108)
- (iii) Months 25 through 30 \$3825 per month (previous 12 months base rent plus \$111)

(b) Adjustments in Base Rent: The Base Rent referenced in paragraph 2(a)(i) (Months 1 through 12) will be increased annually at the rate of three percent (3%) per annum. Thus, instead of \$3606 being the amount of Base Rent for months 13 through 24, the new Base Rent increase would be \$3714 with a similar percent increase in the following years.

(c) No Partnership Created. Landlord is not by virtue of this Section 2 a partner or joint venture with Tenant in connection with the activities carried on under this Lease, and shall have no obligation with respect to Tenant's debts or other liabilities.

(d) Additional Rent. All references to "Rent" or "Rental" in this Lease shall mean Base Rent, and all other payments required of Tenant under this Lease unless a narrower meaning is expressly specified. All payments of Rent shall be made to Landlord without offset, abatement, or deduction.

3. SECURITY DEPOSIT (FIRST AND LAST MONTH'S RENT). Tenant and Landlord represent and warrant that Tenant has paid and Landlord has received a sum of \$6121 as security for the full and faithful performance by Tenant of all of the covenants and terms of this Lease required to be performed by Tenant. Such security deposit shall be returned to Tenant after the expiration of this Lease, provided Tenant has fully and faithfully carried out all of Tenant's obligation hereunder, including the payment of all amounts due to Landlord hereunder and the surrender of the Premises to Landlord in the condition required in this Lease. However, Landlord, at its option, may apply such sum on account of the payment of the last month's Base Rent or other unpaid obligation of Tenant's. Such sum may be commingled with other funds of Landlord and shall not bear interest. In the event of a sale of the property on which the Premises are located, subject to this Lease, Landlord shall have the right to transfer the lease consideration to the purchaser to be held under the terms of this Lease, and Landlord shall thereupon be released from all liability for the return of the lease consideration. Tenant agrees to look solely to the new landlord for the return of the lease consideration.

4. TAXES, INSURANCE, AND OPERATING EXPENSES.

(a) Tenant's Taxes. Tenant shall be responsible for and shall pay before delinquent all taxes assessed during the Term against any leasehold or personal property of any kind owned by or placed upon or about the Premises by Tenant.

(b) Tenant's Share of Property Taxes. In addition to Base Rent, Tenant shall pay during each calendar year or part thereof during the Term, Tenant's Proportionate Share (as provided in Section 4(h)) of the total real property taxes and assessments levied, assessed or imposed during the Term upon the Property or the use, occupancy or operations of the Property ("Taxes") for each such calendar year. PROVIDED HOWEVER, IN THE EVENT THE PROPERTY TAXES ARE REDUCED BECAUSE OF TENANT'S GOVERNMENTAL NOT-FOR-PROFIT STATUS, TENANT WILL BE ENTITLED TO ALL CREDITS APPLICABLE TO SUITE C OF LOT 1 OF THE ZIMMER COMMERCE CENTER. **It is assumption of both parties that Tenant will not have to pay these taxes.** Otherwise, in the interim commencing with the payment due July 1, 2023, Tenant shall pay to Landlord an amount each month, which is equal to one-twelfth of Landlord's reasonable estimate of Tenant's share of the Taxes. Landlord shall notify Tenant of the estimated monthly amount to be paid and of any changes in the estimated amount, and Tenant shall pay Landlord such estimated amount at the same time as and together with Tenant's Base Rent. When the actual Taxes are determined each year, Landlord shall furnish to tenant a statement showing in reasonable detail the computation of Tenant's share of the Taxes, and the charge or credit to Tenant for any difference between the actual amount and the estimated amounts previously paid by tenant. Any deficiency shall be reimbursed by Tenant within ten (10) days after Landlord gives Tenant notice thereof and any credit shall be applied to Tenant's next succeeding payment of Rent or other charges under the Lease. No interest or earnings shall be payable by Landlord to Tenant on any amount paid hereunder and Landlord may commingle such payment with other funds of Landlord. Should there be in effect during the Term any law, statute, or ordinance which levies, assesses or imposes any tax (other than federal or state income tax) upon rents, Tenant shall pay such taxes as may be attributable to the Rents under this Lease or shall reimburse Landlord for any such taxes paid by Landlord within ten (10) days after Landlord bills Tenant for same.

(c) Insurance. During the term, Landlord shall maintain in full force policy or policies of fire insurance with standard extended coverage endorsements covering the building or buildings and other improvements (exclusive of Tenant's trade fixtures, tenant improvements and other personal property) situated on the Property. During the Term, Landlord shall maintain in full force a comprehensive liability insurance policy insuring Landlord against liability for bodily injury and property damage occurring in, on or about the Property. Landlord shall use its reasonable efforts to secure said insurance at competitive rates. Tenant shall pay Tenant's Proportionate Share of such insurance pursuant to the terms of Section 4(h) of this Lease, as part of Operating Expenses.

(d) Increases in Premiums. This Lease is entered into on the basis that Tenant's occupancy will not affect the Property's classification for insurance rating purposes. If Tenant's initial intended use of the Premises results in higher insurance premiums for any buildings situated on the Property, Tenant shall pay for the increased costs of the premiums for insuring any such buildings against loss by fire with standard extended coverage endorsements during the Term. If the insurance premiums on any such buildings are increased during the Term as a result of the installation of equipment on the Premises by Tenant, by reason of Tenant maintaining certain goods or materials on the Premises or as a result of other use or occupancy of the Premises by Tenant, Tenant shall pay the additional cost of the insurance for any such buildings (whether or not Landlord has consented to the activity resulting in the increased insurance premiums). Tenant shall refrain from any activity in its use of the Premises which would make it impossible to insure the Premises or the buildings situated on the Property against casualty or which would increase the insurance rate of any such buildings or prevent Landlord from taking advantage of the ruling of the Insurance Rating Bureau of the state in which the Premises are or its successors allowing Landlord to obtain reduced premium rates for long term fire insurance policies, unless Tenant pays the additional cost of the insurance. All of Tenant's electrical equipment shall be U-L approved. If Tenant installs any electrical equipment that overloads the lines in the Premises or in any such buildings, Tenant shall at its own expense make whatever changes are necessary to comply with the requirements of the insurance underwriters and governmental authorities having jurisdiction. Any insurance premiums to be paid by Tenant by reason of its initial intended use of the Premises or any increase in fire insurance premiums attributable to Tenant's use or occupancy of the Premises during the Term shall be paid by Tenant to Landlord within thirty days after Landlord bills Tenant for the same.

(e) Indemnity; Tenant's Insurance. Tenant shall indemnify and save harmless Landlord from any and all liability, damage, expenses, attorney's fees, causes of actions, suits, claims or judgments, arising out of or connected with (i) the use, occupancy, management, or control of the Premises, (ii) any failure of Tenant to comply with the terms of this Lease, and (iii) the negligent acts or omissions of Tenant, its agents, officers, directors, employees, or invitees; provided, however, that Tenant shall not be liable for claims caused by the negligence of Landlord. Tenant shall, at its own cost and expense, defend any and all suits which may be brought against Landlord either alone or in conjunction with others upon any such above mentioned cause or claim, and shall satisfy, pay, and discharge any and all judgments that may be recovered against Landlord in any such action or actions in which Landlord may be a party defendant. Neither Landlord nor any partner, director, officer, agent, or employee of Landlord shall be liable to Tenant or any person claiming through Tenant for any loss,

injury, or damage whatsoever, including without limitation any loss, injury, or damage caused by other tenants or persons in or about the Property, except to the extent any such loss, injury, or damage is caused by or results from the negligent or willful act or omission of Landlord or its agents or employees. Except in cases of Landlord negligence, Landlord shall not be liable for consequential damages, including lost profits, of Tenant or any person claiming through Tenant, regardless of the cause of any loss, injury, or damage. Tenant shall at its own expense during the Term carry in full force and effect a comprehensive public liability insurance policy, with an insurance carrier satisfactory to Landlord, naming Landlord as an additional insured, with combined limits of not less than \$2,000,000 in bodily injury liability, and property damage liability, insuring against any and all liability of Tenant with respect to the Premises and under this Lease, or arising out of the maintenance, use or occupancy of the Premises. Such policy shall provide that the insurance shall not be cancelable or modified without at least ten (10) days' prior written notice to Landlord and shall be deemed primary and noncontributing with other insurance available to Landlord. Tenant shall maintain, at Tenant's expense, insurance covering Tenant's personal property, furnishings, fixtures, and equipment; Landlord is not responsible, therefore. On or before the Commencement Date, Tenant shall furnish Landlord with a certificate or other acceptable evidence that such insurance is in effect. Tenant shall also provide and maintain insurance to comply with Worker's Compensation and Employer's Liability Laws.

(f) Routine Operating Expenses. From and after the Commencement Date, Tenant shall pay to Landlord during each calendar year or part thereof during the Term, in addition to Base Rent and additional rent ("Additional Rent") Tenant's Proportionate Share of Routine Operating Expenses. Tenant shall pay to Landlord an amount each month which is equal to one-twelfth of Landlord's reasonable estimate of Tenant's share of the Routine Operating Expenses. Landlord shall notify Tenant of the estimated monthly amount to be paid, and of any changes in the estimated amount, and Tenant shall pay Landlord such estimated amount at the same time as and together with Tenant's Base Rent. When the actual Routine Operating Expenses are determined each year, Landlord shall furnish to Tenant a statement showing in reasonable detail the computation of Tenant's share of the Routine Operating Expenses, and the charge or credit to Tenant for any difference between the actual amount and the estimated amounts previously paid by Tenant. Any deficiency shall be reimbursed by Tenant within ten (10) days after Landlord gives Tenant notice thereof and any credit shall be applied to Tenant's next succeeding payment of Rent or other charges under the Lease. No interest or earnings shall be payable by Landlord to Tenant on any amount paid hereunder, and Landlord may commingle such payment with other funds of Landlord. The term "Routine Operating Expenses" means all reasonable and routine expenses paid or incurred by Landlord or on Landlord's behalf and determined by Landlord to be necessary or appropriate for the efficient operation, maintenance, and repair of the Property, for those areas of the Property not reserved for exclusive use by a specific tenant, such as the driveways, parking areas, landscape areas, curbs, sidewalks, plazas, and refuse collection areas. Routine Operating Expenses shall include, but not be limited to, the following (to the extent not chargeable to a specific tenant):

(i) Salaries, wages, and benefits (including without limitation medical and other insurance, pension payments, payroll taxes, and worker's compensation insurance) for employees of Landlord, if any, engaged in the on-site repair, operation, maintenance, management, engineering, or security of the Property;

(ii) All expenses incurred for gas, electricity, heat, heat, ventilation, air conditioning, water, and other services or utilities furnished to the Property, together with any taxes thereon;

(iii) All repair, replacement, service, and general maintenance costs relating to the Property, including without limitation heating, ventilating, and air conditioning systems, sidewalks, landscaping, surface parking, service areas, refuse collection areas, mechanical rooms, roofs, and building exteriors, whether the work in question is done by Landlord or its agents, or by an independent contractor;

(iv) The cost of all insurance charges, including without limitation casualty, comprehensive liability, fire with extended coverage endorsement, boiler and machinery, rent loss, earthquake, flood, and such other policies of insurance as Landlord deems reasonable to obtain with respect to the Property;

(v) The cost or rental of all supplies, including without limitation cleaning supplies, light bulbs, tubes and ballasts, materials, and equipment, and all taxes thereon;

(vi) The cost of reasonable alterations and improvements to ZIMMER COMMERCIAL CENTER as required by any governmental authority or insurance underwriter or similar board or body;

(vii) Actual management fees paid to a third party with respect to the Property or, if no managing agent is employed by Landlord, a management fee not in excess of the then-prevailing management fees charged for comparable properties in the Portland, Oregon metropolitan area;

(viii) Legal, accounting and other professional fees incurred in connection with general, routine operations, maintenance, and management of the Property as it applies to Routine Operating Expenses;

(ix) Any parking charges, utilities surcharges, or other costs levied, assessed, or imposed by or at the direction of, or resulting from statutes or regulations, or interpretations thereof, promulgated by, any governmental authority in connection with the use or occupancy of the Property or the parking facilities serving the Property;

(x) All other expenses properly allocable to the operation, repair, and maintenance of the Property in accordance with generally accepted accounting principles.

(g) Net Lease. This Lease shall be an absolutely net lease and Rent shall be paid to Landlord absolutely net of all costs and expenses. The provisions for payment of Tenant's Proportionate Share of Taxes and Operating Expenses are intended to pass on to Tenant and to reimburse Landlord for all costs and expenses of the nature described in this Lease.

(h) Tenant's Proportionate Share. As of the date of this Lease, Tenant's Proportionate Share of Taxes, insurance, and Operating Expenses is twenty-five per cent (25%). Tenant's Proportionate Share may be adjusted from time to time if the number of rentable square feet in the Property is remeasured or changes, so long as such adjustment is equitable.

5. PLACE OF PAYMENT. Tenant shall pay the Rent and other amounts required to be paid by Tenant hereunder to Landlord at the address for Landlord set forth on the last

page of this Lease, or at such other place as Landlord may from time to time designate in writing.

6. USE OF PREMISES. The Premises shall be used for retail office space to support CANBY AREA TRANSIT (CAT) and for no other purpose without Landlord's written consent, which consent shall not be unreasonably withheld. In connection with the use of Premises or as a tenant or owner of any other parcel in the ZIMMER COMMERCE CENTER, Tenant shall:

(a) Conform to and comply with all applicable laws and regulations of any public authority affecting the Premises, the condition of the Premises, and the use of the Premises and correct promptly, at Tenant's own expense, any failure of compliance.

(b) Refrain from any activity which would be reasonably offensive to Landlord, to other tenants in any buildings situated on the Property, or to owners or users of the adjoining premises, or which would tend to create a nuisance or damage the reputation of the Premises or of any such buildings. Without limiting the generality of the foregoing, Tenant shall not permit any objectionable noise or odor to escape or be emitted from the Premises nor permit the use of flashing (strobe) lights.

(c) Refrain from loading the floors beyond the point considered safe by a competent engineer or architect selected by Landlord and refrain from using water, sewer, and plumbing systems in any harmful way. Tenant shall use hair interceptors, grease traps or other drain protection devices as needed to avoid such harmful use.

(d) Tenant, at its sole cost and expense, may install a sign on the fascia of the building at a location and of a style which meets the approval of the landlord (consent shall not be unreasonably withheld) and is in accordance with all appropriate government regulations. Tenant may also have signage at the existing pylon reserved for ZIMMER COMMERCE CENTER tenants. Tenant shall have use of the top lens panel on each side of the pylon for its exclusive use. Notwithstanding Landlord's consent to any signs, Tenant shall remove all such signs upon expiration or termination of the Lease and repair any damage to the Premises caused thereby, at Tenant's own cost and expense.

(e) Comply with any reasonable rules respecting the use of the Premises promulgated by Landlord from time to time and communicated to Tenant in writing. Of the twenty-eight (28) parking spaces allocated for Lot 1 of ZIMMER COMMERCE CENTER, Tenants normal use shall not exceed seven (7) of these spaces. It is understood by the parties that until occupied by future tenants, the remaining additional 14 spaces, for a total of 21 spaces, will be available for use by Tenant.

(f) Not permit any cash, credit card, or coin-operated vending, novelty or gaming machines or equipment on the Premises without the prior written consent of Landlord; and not to permit the use of any part of the Premises for a second-hand store, nor for an auction, distress or fire sale, or bankruptcy or going-out-of-business sale or the like.

(g) Not commit or suffer any strip or waste of the Premises including without limitation the improvements thereon or any part thereof; and Tenant shall keep the Premises in a neat, clean, sanitary, and orderly condition.

(h) Not display or sell merchandise outside the exterior walls of the Premises;

and

(i) Shall not cause or permit any Hazardous Substance to be spilled, leaked, disposed of, or otherwise released on or under the Premises. Tenant may use or otherwise handle on the Premises only those Hazardous Substances typically used or sold in the prudent and safe operation of the uses specified in Section 6. Tenant may store such Hazardous Substances on the Premises only in quantities necessary to satisfy Tenant's reasonably anticipated needs. Tenant shall comply with all Environmental Laws and exercise the highest degree of care in the use, handling, and storage of Hazardous Substances and shall take all practicable measures to minimize the quantity and toxicity of Hazardous Substances used, handled, or stored on the Premises. Upon the expiration or termination of this Lease, Tenant shall remove all Hazardous Substances from the Premises. The term Environmental Law shall mean any federal, state, or local statute, regulation, or ordinance or any judicial or other governmental order pertaining to the protection of health, safety or the environment. The term Hazardous Substance shall mean any hazardous, toxic, infectious or radioactive substance, waste, and material as defined or listed by any Environmental Law and shall include, without limitation, petroleum oil and its fractions.

(j) Be subject to Declaration and Establishment of Protective Covenants, Conditions and Restrictions and Grant of Easements, Clackamas County Recorder's Fee No. 2007-081170, as amended in Clackamas County Recorder's Fee No. 2009-026540.

7. IMPROVEMENTS AND ALTERATIONS.

a. Landlord Improvements And Alterations.

(i) Landlord shall be responsible for making alterations requested by Tenant in conformance with the attached Exhibit B (ceiling plan and floor plan). Construction notes have been enlarged for the convenience of Landlord and Tenant. Except for the alterations requested by the Tenant in the attached Exhibit B, Landlord shall not be required to make any further improvements or alterations to the premises.

(ii) Provided, however, Tenant shall obtain and pay for all developmental, design and architectural permits, fees and costs.

b. Tenant Improvements And Alterations.

(i) When Tenant takes possession of the Premises, Tenant shall be deemed to have accepted the Premises and the Building in their current condition. Landlord makes no representations regarding the fitness of the Premises or the Building for any particular purpose.

(ii) Tenant shall make no improvements or alterations to the premises of any kind without the prior written consent of Landlord, which consent shall not be unreasonably withheld.

(iii) All work by Tenant shall be done in strict compliance with all applicable building, fire, sanitary and safety codes and other applicable laws, statutes, regulations and ordinances and Tenant shall secure all necessary permits for the same.

Tenant shall keep the premises free from all liens in connection with any such work. Landlord or

Landlord's agents shall have the right at all reasonable times to inspect the quality and progress of such work.

(iv) All improvements, alterations and other work performed on the Premises by the Tenant shall be the property of Landlord when installed, except for Tenant's trade fixtures, and items marked on the Exhibit C to be removed at the conclusion of the Lease. All such improvements, alterations or other work to be performed by Tenant shall be at the Tenant's sole cost and expense.

8. REPAIRS AND MAINTENANCE.

(a) Landlord's Responsibilities. The following shall be the responsibility of Landlord, and Landlord shall maintain all of the following in good condition and repair:

(i) Structural repairs and maintenance and repairs necessitated by structural disrepair or defects;

(ii) Repair and maintenance of the exterior walls, roof, gutters, downspouts and the foundation of the building in which the Premises are located. This shall not include maintenance of the operating condition of doors and windows or replacement of glass, nor maintenance of the store front; and

(iii) Repair of interior walls, ceilings, doors, windows, floors and floor coverings when such repairs are made necessary because of failure of Landlord to keep the structure in repair as above provided in this Section 8(a).

(b) Tenant's Responsibilities. The following shall be the responsibility of Tenant, and Tenant shall maintain all of the following in good condition and repair:

(i) The interior of the Premises including any interior decorating;

(ii) Any repairs necessitated by the negligence of Tenant, its agents, employees and invitees and their use of the Premises;

(iii) Maintenance and repair of the heating, ventilating, and air conditioning systems, plumbing system, electrical system, and sprinkler systems, if any. However, Landlord reserves the right to contract with a service company for the maintenance and repair of the foregoing systems, or any of them; and Tenant's share of such expenses shall be paid by Tenant to Landlord monthly;

(iv) Maintenance and repair of the interior walls and floor coverings (both hard surfaces and carpeting);

(v) Any repairs or alterations required under Tenant's obligation to comply with laws and regulations as set forth in this Lease; and

(vi) All other repairs or maintenance to the Premises which Landlord is not expressly required to make under Section 8(a) above, which includes, without limiting the generality of the foregoing, the replacement of all glass which may be broken or cracked during the Term with glass of as good or better quality than that in use at the commencement

of the Term, wiring, plumbing, drainpipes, sewers, and septic tanks including without limitation, repairs outside of the Premises if the need for the repair arises from Tenant's use of the Premises. All of Tenant's work shall be in full compliance with then-current building code and other governmental requirements.

(c) Inspections. Landlord shall have the right to inspect the Premises at any reasonable time or times to determine the necessity of repair. Whether or not such inspection is made, the duty of Landlord to make repairs as outlined above in any area in Tenant's possession and control shall not mature until a reasonable time after Landlord has received from Tenant written notice of the necessity of repairs, except in the event emergency repairs may be required and in such event Tenant shall attempt to give Landlord appropriate notice considering the circumstances.

(d) Landlord's Work. All repairs, replacements, alterations or other work performed on or around the Premises by Landlord shall be done in such a way as to interfere as little as reasonably possible with the use of the Premises by Tenant. Tenant shall have no right to an abatement of Rent nor any claim against Landlord for any inconvenience or disturbance resulting from Landlord's performance of repairs and maintenance pursuant to this Section 8.

9. LIENS. Tenant shall keep the Premises free from all liens, including mechanic's liens, arising from any act or omission of Tenant or those claiming under Tenant. Landlord shall have the right to post and maintain on the Premises or the building in which the Premises are situated such notices of non-responsibility as are provided for under the lien laws of the state in which the Premises are located.

10. UTILITIES. Tenant shall pay promptly for all water and sewer facilities, gas and electrical services, including heat and light, garbage collection, and all other facilities and utility services used by Tenant or provided to the Premises during the Term. If the heating and air-conditioning systems are not on separate meters, Tenant shall pay its proportionate share of such charges based upon the actual use of the heat and air conditioning by Tenant and by the other tenants of the building in which the Premises are situated within ten (10) days after billings therefore. Tenant shall arrange for regular and prompt pickup of trash and garbage and shall store such trash and garbage in only those areas designated by Landlord. However, if Landlord elects to arrange for garbage collection on a cooperative basis for Tenant and other tenants, Tenant shall pay its proportionate share of the garbage collection charges, within ten (10) days after billings therefore. Landlord shall not be liable for any interruption of utility services to the Premises.

11. ICE, SNOW, AND DEBRIS. Tenant shall keep the walks in front of the Premises free and clear of ice, snow, rubbish, debris, and obstructions. Tenant shall save and protect Landlord from any injury whether to Landlord or Landlord's property or to any other person or property caused by Tenant's failure to perform Tenant's obligations under this Section 11. Tenant's obligations under this Section 11 shall be performed at Tenant's cost and expense.

12. WAIVER OF SUBROGATION. Neither party shall be liable to the other for any loss or damage caused by fire or any of the risks enumerated in a standard fire insurance policy with an extended coverage endorsement, including sprinkler leakage insurance, if any. All claims or rights of recovery for any and all such loss or damage, however caused, are hereby waived.

Without limiting the generality of the foregoing, said absence of liability shall exist whether or not such loss or damage is caused by the negligence of either Landlord or Tenant or by any of their respective agents, servants or employees.

13. INJURY TO TENANT'S PROPERTY. Landlord shall not be liable for any injury to any property of Tenant or to any person in or upon the Premises resulting from fire or collapse of the building in which the Premises are located or any portion thereof or any other cause, including but not limited to damage by water, gas or steam, or by reason of any electrical apparatus in or about the Premises. Landlord shall not be responsible for securing the Premises or providing security to the Building.

14. DAMAGE OR DESTRUCTION.

(a) Partial Destruction. If the Premises shall be partially damaged by fire or other cause, and Section 14(b) below does not apply, the damages to the Premises shall be repaired by Landlord, and all Base Rent until such repair shall be made shall be apportioned according to the part of the Premises which is useable by Tenant, except when such damage occurs because of the fault of Tenant. The repairs shall be accomplished with all reasonable dispatch. Landlord shall bear the cost of such repairs unless the damage occurred from a risk which would not be covered by a standard fire insurance policy with an endorsement for extended coverage, including sprinkler leakage, and the damage was the result of the fault of Tenant, in which event Tenant shall bear the expense of the repairs. However, if the holder of any indebtedness secured by the Property requires that the insurance proceeds be applied to such indebtedness, then Landlord shall have the right to terminate this Lease.

(b) Substantial Damage. If the buildings situated on the Property or the building in which the Premises are located or the Premises, or any of them, are 50% or more destroyed during the Term by any cause, Landlord may elect to terminate the Lease as of the date of damage or destruction by notice given to Tenant in writing not more than 45 days following the date of damage. In such event all rights and obligations of the parties shall cease as of the date of termination. In the absence of an election to terminate, Landlord shall proceed to restore the Premises, if damaged, to substantially the same form as prior to the damage or destruction, so as to provide Tenant useable space equivalent in quantity and character to that before the damage or destruction. Work shall be commenced as soon as reasonably possible, and thereafter proceed without interruption, except for work stoppages on account of matters beyond the reasonable control of Landlord. From the date of damage until the Premises are restored or repaired, Base Rent shall be abated or apportioned according to the part of the Premises useable by Tenant, unless the damage occurred because of the fault of Tenant. Landlord shall bear the cost of such repairs unless the damage occurred from a risk which would not be covered by a standard fire insurance policy with an endorsement for extended coverage, including sprinkler leakage, and the damage was the result of the fault of Tenant, in which event Tenant shall bear the expense of the repairs.

(c) Restoration. If the Premises are to be restored by Landlord as above provided in this Section 14, Tenant, at its expense, shall be responsible for the repair and restoration of all items which were initially installed at the expense of Tenant (whether the work was done by Landlord or Tenant) or for which an allowance was given by Landlord to Tenant, together with Tenant's stock in trade, trade fixtures, furnishings, and equipment; and Tenant

shall commence the installation of the same promptly upon delivery to it of possession of the Premises and Tenant shall diligently prosecute such installation to completion.

15. EMINENT DOMAIN.

(a) Partial Taking. If a portion of the Premises is condemned and neither Section 15(b) nor Section 15(c) apply, the Lease shall continue in effect. Landlord shall be entitled to all the proceeds of condemnation, and Tenant shall have no claim against Landlord as a result of condemnation. Landlord shall proceed as soon as reasonably possible to make such repairs and alterations to the Premises as are necessary to restore the remaining Premises to the condition as comparative as reasonably practicable to that existing at the time of condemnation. Base Rent shall be abated to the extent that the Premises are untenable during the period of alteration and repair. After the date on which title vests in the condemning authority, Base Rent shall be reduced commensurately with the reduction in value of the Premises as an economic unit on account of the partial taking. However, if the holder of any indebtedness secured by the Property requires that the condemnation proceeds be applied to such indebtedness, then Landlord shall have the right to terminate this Lease.

(b) Substantial Taking of the Property. If a condemning authority takes any substantial part of the Property or any substantial part of the building in which the Premises are located, the Lease shall, at the option of Landlord, terminate as of the date title vests in the condemning authority. In such event all rights and obligations of the parties shall cease as of the date of termination. Landlord shall be entitled to all of the proceeds of condemnation, and Tenant shall have no claim against Landlord as a result of the condemnation.

(c) Substantial Taking of Premises. If a condemning authority takes all of the Premises or a portion sufficient to render the remaining Premises reasonably unsuitable for Tenant's use, the Lease shall terminate as of the date title vest in the condemning authority. In such event all rights and obligations of the parties shall cease as of the date of termination. Landlord shall be entitled to all of the proceeds of condemnation, and Tenant shall have no claim against Landlord as a result of the condemnation.

(d) Definition. Sale of all or any part of the Premises to a purchaser with the power of eminent domain in the face of a threat or probability of the exercise of the power shall be treated for the purpose of this Lease as a taking by condemnation.

16. BANKRUPTCY. Subject to Section 17, this Lease shall not be assigned or transferred voluntarily or involuntarily by operation of law. It may, at the option of Landlord, be terminated, if Tenant be adjudged bankrupt or insolvent, or makes an assignment for the benefit of creditors, or files or is a party to the filing of a petition in bankruptcy, or commits an act of bankruptcy, or in case a receiver or trustee is appointed to take charge of any of the assets of Tenant or sub lessees or assignees in or on the Premises, and such receiver or trustee is not removed within 30 days after the date of his appointment, or in the event of judicial sale of the personal property in or on the Premises upon judgment against Tenant or any sub lessees or assignee hereunder, unless such property or reasonable replacement therefore be installed on the Premises. To the extent permitted by law, this Lease or any sublease hereunder shall not be considered as an asset of a debtor-in-possession, or an asset in bankruptcy, insolvency, receivership, or other judicial proceedings.

17. DEFAULT. The following shall be events of default:

(a) Failure of Tenant to pay any Base Rent, or Additional Rent when due or failure of Tenant to pay any other charge required under this Lease when due.

(b) Failure of Tenant to execute the documents described in Section 21 or 22 within the time required under such Sections; failure of Tenant to provide or maintain the insurance required of Tenant pursuant to Section 4(e); or failure of Tenant to comply with any governmental law, order, rule, regulation, ordinance or directive applicable to the Premises within 24 hours within written demand by Landlord.

(c) Failure of Tenant to comply with any term or condition or fulfill any obligation of this Lease (other than the failures described in Sections 17(a) or 17(b)), within ten (10) days after written notice by Landlord specifying the nature of the default with reasonable particularity. If the default is of such nature that it cannot be completely remedied within the ten (10) day period, this provision shall be complied with if Tenant begins correction of the default within the ten (10) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. Landlord shall not be obligated to give written notice for the same type of default more than twice; at Landlord's option a failure to perform an obligation after the second notice shall be an automatic Event of Default, without notice or an opportunity to cure.

(d) The abandonment of the Premises by Tenant or the failure of Tenant for fifteen (15) days or more to operate the business activities described in Section 6 of this Lease in the Premises unless such failure is excused under other provisions of this Lease.

(e) The bankruptcy or the occurrence of other acts specified in Section 16 of this Lease which give Landlord the option to terminate.

18. REMEDIES ON DEFAULT. In the event of a default, Landlord may, at Landlord's option, exercise anyone or more of the rights and remedies available to a landlord in the state in which the Premises are located to redress such default, consecutively or concurrently, including the following:

(a) Landlord may elect to terminate Tenant's right to possession of the Premises or any portion thereof by written notice to Tenant. Following such notice, Landlord may re-enter, take possession of the Premises and remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages. To the extent permitted by law, Landlord shall have the right to retain the personal property belonging to Tenant which is on the Premises at the time of re-entry, or the right to such other security interest therein as the law may permit, to secure all sums due or which become due to Landlord under this Lease. Perfection of such security interest shall occur by taking possession of such personal property or otherwise as provided by law.

(b) Following re-entry by Landlord, Landlord may relet the Premises for a term longer or shorter than the Term and upon any reasonable terms, including the granting of rent concessions to the new tenant. Landlord may alter, refurbish or otherwise change the character or use of the Premises in connection with such reletting. Landlord shall not be required to relet for any use or purpose which Landlord may reasonably consider injurious to its property or to any tenant which Landlord may reasonably consider objectionable. No such

reletting by Landlord following a default by Tenant shall be construed as an acceptance of the surrender of the Premises. If rent received upon such reletting exceeds the Rent received under this Lease, Tenant shall have no claim to the excess.

(c) Following re-entry Landlord shall have the right to recover from Tenant the following damages:

(i) All unpaid or other charges for the period prior to re-entry, plus interest at a rate equal to six percent (6%) per annum.

(ii) An amount equal to the Rent lost during any period during which the Premises are not relet, if Landlord uses reasonable efforts to relet the Premises. If Landlord lists the Premises with a real estate broker experienced in leasing commercial property in the metropolitan area in which the Premises are located, such listing shall constitute the taking of reasonable efforts to relet the Premises.

(iii) All costs incurred in reletting or attempting to relet the Premises, including but without limitation, the cost of cleanup and repair in preparation for a new tenant, the cost of correcting any defaults or restoring any unauthorized alterations and the amount of any real estate commissions or advertising expenses.

(iv) Reasonable attorney's fees incurred in connection with the default, whether or not any litigation is commenced.

(d) Landlord may sue periodically to recover damages as they accrue throughout the Term and no action for accrued damages shall be a bar to a later action for damages subsequently accruing. To avoid a multiplicity of actions, Landlord may obtain a decree of specific performance requiring Tenant to pay the damages stated in Section 18(c) above as they accrue. Alternatively, Landlord may elect in anyone action to recover accrued damages plus damages attributable to the remaining Term equal to the difference between the Rent under this Lease and the reasonable rental value of the Premises for the remainder of the Term, discounted to the time of the judgment at the rate of six percent (6%) per annum.

(e) In the event that Tenant remains in possession following default and Landlord does not elect to re-enter, Landlord may recover all back Rent and other charges, and shall have the right to cure any nonmonetary default and recover the cost of such cure from Tenant, plus interest from the date of expenditure at the Interest Rate. In addition, Landlord shall be entitled to recover attorney's fees reasonably incurred in connection with the default, whether or not litigation is commenced. Landlord may sue to recover such amounts as they accrue, and no one action for accrued damages shall bar a later action for damages subsequently accruing.

(f) The foregoing remedies shall not be exclusive but shall be in addition to all other remedies and rights provided under applicable law, and no election to pursue one remedy shall preclude resort to another remedy.

19. SURRENDER AT EXPIRATION

(a) Condition of Premises. Upon expiration of the Term or earlier termination Tenant shall deliver all keys to Landlord and surrender the Premises in first-class

condition and broom clean. Except as provided in section 7 (see Exhibit C), improvements and alterations constructed by Tenant shall not be removed or restored to the original condition unless the terms of Landlord's consent provides otherwise or unless Landlord requests Tenant to remove such improvements or alterations, in which event Tenant shall remove the same and restore the Premises. Depreciation and wear from ordinary use for the purpose for which the Premises were let need not be restored, but all repair for which Tenant is responsible shall be completed to the latest practical date prior to such surrender. Tenant's obligations under this Section 19 shall be subject to the provisions of Section 14 relating to damages or destruction.

(b) Fixtures.

(i) Except as set forth in Exhibit C, all fixtures placed upon the Premises during the Term, other than Tenant's trade fixtures, shall, at Landlord option, become the property of Landlord. Movable furniture, decorations, floor covering other than hard surface bonded or adhesively fixed flooring, curtains, drapes, blinds, furnishing and trade fixtures shall remain the property of Tenant if placed on the Premises by Tenant; provided, however, if Landlord granted Tenant an allowance for improvements, installation, floor coverings, curtains, drapes, blinds or other items, such items shall at Landlord's option become the property of Landlord notwithstanding the installation thereof by Tenant.

(ii) If Landlord so elects, Tenant shall remove any or all fixtures which would otherwise remain the property of Landlord, and shall repair any physical damage resulting from the removal. If Tenant fails to remove such fixtures, Landlord may do so and charge the cost to Tenant with interest at the Interest Rate. Tenant shall remove all furnishings, furniture and trade fixtures which remain the property of Tenant. If Tenant fails to do so, this shall be an abandonment of the property, and Landlord may retain the property and all rights of Tenant with respect to it shall cease. Landlord may effect a removal and place the property in public or private storage for Tenant's account. Tenant shall be liable to Landlord for the cost of removal, transportation to storage, with interest on all such expenses from the date of expenditure at the Interest Rate.

(iii) The time for removal of any property or fixtures which Tenant is required to remove from the Premises upon termination shall be as follows:

(1) On or before the date the Lease terminates because of expiration of the Term or because of a default under Section 17.

(2) Within 30 days after notice from Landlord requiring such removal where the property to be removed is a fixture which Tenant is not required to remove except after such notice by Landlord, and such date would fall after the date on which Tenant would be required to remove other property.

(c) Holdover.

(i) If Tenant does not vacate the Premises at the time required, Landlord shall have the option to treat Tenant as a tenant from month-to-month, subject to all of the provisions of this Lease except the provision for the Term, and except the Base Rent provided herein shall double during the period of the month-to-month tenancy. Failure of Tenant to remove fixtures, furniture, furnishings or trade fixtures which Tenant is required to remove under this

Lease shall constitute a failure to vacate to which this Section 19(c) shall apply if the property not removed will substantially interfere with occupancy of the Premises by another tenant or with occupancy by Landlord for any purpose including preparation for a new tenant.

(ii) If a month-to-month tenancy results from a holdover by Tenant under this Section 19(c), the tenancy shall be terminable at the end of any monthly rental period on written notice from Landlord given not less than ten (10) days prior to the termination date which shall be specified in the notice. Tenant waives any notice which would otherwise be provided by law with respect to a month-to-month tenancy.

20. ASSIGNMENT AND SUBLETTING. Tenant shall not assign this Lease or sublet all or any part of the Premises without the written consent of Landlord, which consent will not be unreasonably withheld. Without limiting the generality of the foregoing, it shall not be unreasonable for Landlord to withhold its consent if the proposed assignee or sublessee does not have the net worth of Tenant and/or does not have an established record of high-quality operations. Tenant shall remain primarily liable, after any assignment or sublease, for the payment of all Rent and other charges under this Lease and for the performance of all of Tenant's obligations under this Lease, notwithstanding such assignment or subletting by Tenant.

21. SUBORDINATION. Tenant's interest hereunder shall be subject and subordinate to all mortgages, trust deeds, and other financing and security instruments placed on the Premises by Landlord from time to time ("Mortgages") except that no assignment or transfer of Landlord's rights hereunder to a lending institution as collateral security in connection with a Mortgage shall affect Tenant's right to possession, use and occupancy of the Premises so long as Tenant shall not be in default under any of the terms and conditions of this Lease. The provisions of this Section 21 shall be self-operating. Nevertheless, Tenant agrees to execute and acknowledge an instrument in recordable form which expressly subordinates Tenant's interest hereunder to the interests of the holder of any Mortgage within ten (10) days after request by Landlord. As an accommodation to Landlord and at its request, Tenant shall furnish Landlord current and past balance sheets and operating statements certified as accurate and up to date by Tenant and in the form requested by the holder of any Mortgage to which Landlord applies for financing concerning the Property or any prospective purchaser of the Property.

22. ESTOPPEL CERTIFICATE. Tenant shall from time to time, upon not less than ten (10) days prior notice, submit to Landlord, or to any person designated by Landlord, a statement in writing, in the form submitted to Tenant by Landlord, certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, identifying the same by the date thereof and specifying the nature thereof), that to the knowledge of Tenant no uncured default exists hereunder (or if such uncured default does exist, specifying the same), the dates to which the Rent and other sums and charges payable hereunder have been paid, that Tenant has no claims against Landlord and no defenses or offsets to rental except for the continuing obligations under this Lease (or if Tenant has any such claims, defenses or offsets, specifying the same), and any other information concerning this Lease as Landlord reasonably requests.

23. PERFORMANCE BY LANDLORD. Landlord shall not be deemed in default for the nonperformance or for any interruption or delay in performance of any of the terms,

covenants and conditions of this Lease if the same shall be due to any labor dispute, strike, lockout, civil commotion or like operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, inability to obtain labor, services or materials, through acts of God, or other cause beyond the reasonable control of Landlord, providing such cause is not due to the willful act or neglect of Landlord. Tenant shall look only to Landlord's estate and property in the Property (or the proceeds thereof) for the satisfaction of any judgment against Landlord resulting from a default by Landlord hereunder, and no other property or assets of Landlord or its partners or principals, disclosed or undisclosed, shall be subject to levy, execution, or other enforcement procedure for the satisfaction of any such judgment.

24. LANDLORD'S RIGHT TO CURE DEFAULT. If Tenant shall fail to perform any of the covenants or obligations to be performed by Tenant, Landlord, in addition to all other remedies provided herein, shall have the option (but not the obligation) to cure such default after thirty days' written notice to Tenant. All of Landlord's expenditures incurred to correct the default shall be reimbursed by Tenant upon demand with interest from the date of expenditure at the Interest Rate. Landlord's right to cure defaults is for the sole protection of Landlord and the existence of this right shall not release Tenant from the obligation to perform all of the covenants herein provided to be performed by Tenant or deprive Landlord of any other right which Landlord may have by reason of such default by Tenant.

25. INSPECTION; CHANGES. Landlord, Landlord's agents and representatives, shall have the right to enter upon the Premises at reasonable times for the purpose of inspecting the same, for the purpose of making repairs or improvements to the Premises or the building in which the Premises are located, for showing the Premises during the final ninety days of the Term, or for any other lawful purpose.

26. FOR SALE AND FOR RENT SIGNS. During the period of ninety days prior to the date for the termination of this Lease, Landlord may post on the Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for rent" or "for lease".

27. ATTORNEY'S FEES. In the event a suit, action, arbitration, or other proceeding of any nature whatsoever, including without limitation any proceeding under the U.S. Bankruptcy Code, is instituted, or the services of an attorney are retained, to interpret or enforce any provision of this Lease or with respect to any dispute relating to this Lease, the prevailing or non-defaulting party shall be entitled to recover from the losing or defaulting party its attorneys', paralegals', accountants', and other experts' fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith. In the event of suit, action, arbitration, or other proceeding, the amount thereof shall be determined by the judge or arbitrator, shall include fees and expenses incurred on any appeal or review, and shall be in addition to all other amounts provided by law.

28. NOTICES. Any notice required or permitted under this Lease shall be in writing and shall be deemed given when actually delivered or when deposited in the United States mail as certified or registered mail, addressed to the addresses set forth on the last page of this Lease or to such other addresses as may be specified from time to time by either of the parties in the manner above provided for the giving of notice.

29. BROKERS. [INTENTIONALLY OMITTED]

30. LATE CHARGES. Tenant acknowledges that late payment by Tenant to Landlord of any Base Rent due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs may include, without limitation, processing and accounting charges and late charges which may be imposed on Landlord under the terms of any Mortgage. Accordingly, if any Rent is not received by Landlord within ten (10) days after it is due, Tenant shall pay to Landlord a late charge equal to five percent (5%) of the overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs incurred by Landlord by reason of the late payment by Tenant. Acceptance of any late charge by Landlord shall in no event constitute a waiver of Tenant's default with respect to the overdue amount in question, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.

31. RULES AND REGULATIONS. Tenant and its employees and agents shall faithfully observe and comply with the rules and regulations for the Property attached as Exhibit D and such changes to such rules and regulations as Landlord may from time to time promulgate (the "Rules and Regulations"). Landlord shall not be liable to Tenant for any violation of the rules and Regulations by any other person, including any other tenant.

32. MISCELLANEOUS PROVISIONS.

(a) This Lease does not grant any rights of access to light or air over any part of the Property.

(b) Time is of the essence of this Lease.

(c) The acceptance by Landlord of any Rent or other benefits under this Lease shall not constitute a waiver of any default. Any waiver by Landlord of the strict performance of any of the provisions of this Lease shall not be deemed to be a waiver of subsequent breaches of the same character or of a different character, occurring either before or subsequent to such waiver, and shall not prejudice Landlord's right to require strict performance of the same provision in the future or of any other provision of this Lease.

(d) This Lease contains the entire agreement of the parties. This Lease shall not be amended or modified except by agreement in writing, signed by the parties hereto.

(e) Subject to the limitations on the assignment or transfer of Tenant's interest in this Lease, this Lease shall be binding upon and inure to the benefit of the parties, their respective heirs, personal representatives, successors, and assigns.

(f) No remedy herein conferred upon or reserved to Landlord or Tenant shall be exclusive of any other remedy herein provided or provided by law, but each remedy shall be cumulative.

(g) In interpreting or construing this Lease, it is understood that Tenant may be more than one person, that if the context so requires, the singular pronoun shall be taken to mean and include the plural, and that generally all grammatical changes shall be made, assumed, and implied to make the provisions hereof apply equally to corporations,

partnerships, and individuals.

(h) Section headings are for convenience and shall not affect any of the provisions of this Lease.

(i) If any provision of this Lease or the application thereof to any person or circumstance is, at any time or to any extent, held to 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 held invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

(j) All agreements (including, but not limited to, indemnification agreements) set forth in this Lease, the full performance of which are not required prior to the expiration or earlier termination of this Lease, shall survive the expiration or earlier termination of this Lease and be fully enforceable thereafter.

(k) Each person executing this Lease on behalf of Tenant hereby covenants and warrants that Tenant is duly incorporated and validly existing under the laws of its state of incorporation; Tenant has full corporate right and authority to enter into this Lease and to perform all of the Tenant's obligations under this Lease; and each person signing this Lease on behalf of the corporation is duly and validly authorized to do so.

(l) Notwithstanding any language to the contrary in this Lease, Tenant in its sole discretion may terminate this Lease at any time for its convenience by providing no less than ninety (90) days prior written notice to Landlord. If Tenant terminates the Lease for its convenience, Tenant is only obligated to pay Landlord the Rent that will have accrued through the month that the termination is effective. Landlord is not entitled to Rent that Tenant would have paid through the remainder of the Term, lost profits or any other consequential damages that may result from Tenant terminating the Lease for its convenience.

33. ARBITRATION

a. Disputes to Be Arbitrated. If any dispute arises between the parties [as to a matter which this lease says should be arbitrated, or as to any other question involving apportionment or valuation], either party may request arbitration and appoint as an arbitrator an independent real estate appraiser having knowledge of valuation of rental properties comparable to the premises. The other party shall also choose an arbitrator with such qualifications, and the two arbitrators shall choose a third. If the choice of the second or third arbitrator is not made within 10 days of the choosing of the prior arbitrator, then either party may apply to the presiding judge of the judicial district where the premises are located to appoint the required arbitrator.

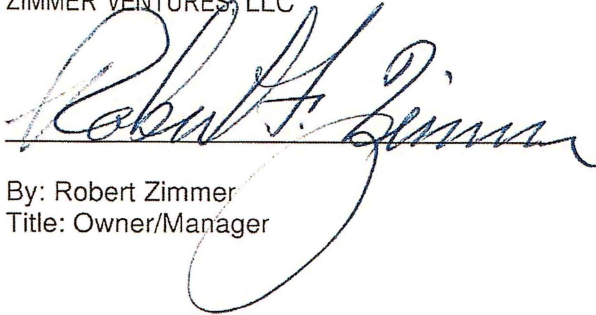
b. Procedure for Arbitration. The arbitrator shall proceed according to the Oregon statutes governing arbitration, and the award of the arbitrators shall have the effect therein provided. The arbitration shall take place in the county where the leased premises are located. Costs of the arbitration shall be shared equally by the parties, but each party shall pay its own attorney fees incurred in connection with the arbitration.

34. EXHIBITS AND ADDITIONAL PROVISIONS. The following exhibits are attached to this Lease and are incorporated as if they are fully set out within this instrument.

- Exhibit A (Premises Outline);
- Exhibit B (Transit Office Ceiling and Floor Plan);
- Exhibit C (Improvements to Be Removed Upon Lease Termination);
- Exhibit D (Rules and Regulations);
- Exhibit E (Renewal Options); and
- Exhibit F (Covenants, Conditions and Restrictions).

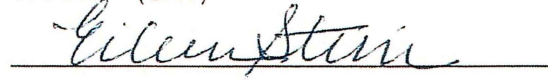
IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the date first set forth above.

Landlord:
ZIMMER VENTURES, LLC



By: Robert Zimmer
Title: Owner/Manager

Tenant:
CITY OF CANBY, an Oregon Municipal Corporation, acting on behalf of CANBY AREA TRANSIT (CAT)



By: Eileen Stein
Title: City Administrator
Address: PO Box 930 / 222 NE 2nd Avenue
Canby, OR 97013