

FIRST AMENDMENT TO LEASE

This is the First Amendment to that certain lease by and between the CITY OF SALEM, an Oregon municipal corporation ("Lessee") and 960 Liberty, LLC (as assigned to Swift Mountain, LLC) ("Lessor") dated June 26, 2018 ("Lease").

RECITALS:

Whereas, pursuant to the Lease, Lessor leased to Lessee, certain real property located at 960 Liberty Street SE, Salem, Marion County, Oregon, as described in the Lease; and

Whereas, Lessor and Lessee are desirous of amending the Lease to provide additional square footage to the premises.

Now therefore, the Parties agree to amend the Lease as follows:

1. PREMISES

Landlord does hereby lease to Tenant, and Tenant does hereby lease from Landlord, upon the terms, conditions and covenants herein set forth, the following property: Suite 150 and Suite 170 in the Building located at 960 Liberty Street SE, Salem, Marion County, Oregon (the "Building"), containing approximately ~~4,678~~ 2,305 rentable square feet of the Building (the "Premises") as shown on the attached floor plan marked as Exhibit "A" attached hereto and incorporated herein by this reference. The Project is hereby defined as the Building together with the real property including parking lot and exterior common areas (the "Project").

6. BASE RENT

(a) **Monthly Base Rent shall be payable in advance on the first day of each month as follows (revised rate beginning in Year 3 shall be effective August 1, 2020):**

Year 1:	\$2,768.70/mo
Year 2:	\$2,824.07/mo
Year 3:	\$2,880.55/mo <u>\$4,161.55/mo</u>
Year 4:	\$2,938.16/mo <u>\$4,244.78/mo</u>
Year 5:	\$2,996.92/mo <u>\$4,329.67/mo</u>

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Tenant shall pay equivalent to first months rent for Sixty (60) day holding period prior to August 1, 2018 possession date.

- (b) **Rent Commencement.** Monthly Base Rent (Section 6a) shall commence August 1, 2018.
- (c) **Operating Expenses.** Operating expenses to be adjusted annually to actual cost in accordance with Sections 13 and 16(a) below on January 1st of each year and will also be reduced by any property tax exemption amount if received by the Tenant.

9. COMMON AREAS

Landlord shall grant to Tenant and Tenant's employees, agents, customers and invitees the non-exclusive right during the Lease Term and any Renewal Term to use in common with others granted the use thereof the Project common areas (the "Common Areas") which shall be those areas, indoors and outdoors, provided by Landlord for the general use of the tenants of the Project and shall include, without limitation, the restrooms, if any, for the use of more than one tenant or the public, parking areas, roadways, pedestrian sidewalks, delivery areas, landscaped areas, smoking area, and all other areas or improvements which may be provided by Landlord for the general use of tenants of the Project and their agents, employees and customers. Tenant's employees shall park off-site in either the designated parking lot across Liberty Street SE or in area street parking and have 1 red hang tag permitted for use of 960 parking lot at no additional cost. The manner in which the Common Areas shall be maintained shall be at the sole discretion of the Landlord; however, Landlord agrees to maintain the Common Areas in a manner comparable to other similar Buildings in the Salem, Oregon area. The expenditures incurred in maintaining the Common Area shall be part of the Operating Expenses and shall be pursuant to Section 11 hereof. Landlord shall be responsible for the operation, management and maintenance of the Common Areas. The manner in which the Common Areas shall be maintained shall be at the sole discretion of the Landlord; provided however, that Landlord shall use reasonable efforts not to unduly interfere with or disrupt Tenant's occupancy of the Building. Tenant's Proportionate Share of the Common Areas equals 453 210 square feet.

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IN WITNESS WHEREOF the Parties have executed this instrument in their respective names by their duly authorized representatives as of the date above written.

LESSEE:

SWIFT MOUNTAIN, LLC
(assigned from 960 Liberty, LLC)

By: George Miller
George Miller
8/3/2020 | 21:09 PDT
Date: _____

LESSEE:

CITY OF SALEM

By: Steven D. Powers
Steven D. Powers, City Manager
Date: 08/06/2020

COMMERCIAL LEASE

This Commercial Lease (the "Lease") is made this 26th day of June, 2018, between 960 LIBERTY, LLC, hereinafter called the ("Landlord") and City of Salem hereinafter called the ("Tenant"). (Landlord and Tenant are, separately, a "Party" and, collectively, the "Parties".)

1. PREMISES

Landlord does hereby lease to Tenant, and Tenant does hereby lease from Landlord, upon the terms, conditions and covenants herein set forth, the following property: Suite 170 in the Building located at 960 Liberty Street SE, Salem, Marion County, Oregon (the "Building"), containing approximately 1,678 rentable square feet of the Building (the "Premises") as shown on the attached floor plan marked as Exhibit "A" attached hereto and incorporated herein by this reference. The Project is hereby defined as the Building together with the real property including parking lot and exterior common areas (the "Project").

Tenant's proportionate share of net Building square footage for purposes of Sections 9 and 11 shall be 6.43% (the "Tenant's Proportionate Share").

2. POSSESSION DATE

Tenant shall take possession of the Premises on August 1, 2018 (the "Possession Date").

3. TERM OF LEASE

The initial term of this Lease (the "Lease Term") shall be five (5) years from Possession Date (August 1, 2018).

4. OPTION TO RENEW

Landlord may grant the Tenant the right to continue to lease on a year to year basis at a then agreed to lease rate.

5. SUMMARY OF RENT

Tenant shall pay the base rent for the Premises and any operating expenses provided herein without deduction or offset as set forth in Section 6 below.

Rent for any partial month during the Lease Term shall be prorated to reflect the number of days during the month that Tenant occupies the Premises. Operating expenses means amounts determined under Section 13 and 16(a) of this Lease and any other sums payable by Tenant to Landlord under this Lease. Landlord may at its option impose a late charge of \$.05 for each \$1 of rent for rent payments made more than five (5) days late in lieu of interest for the first month of delinquency, without waiving any other remedies available for default. Failure to impose a late charge shall not be a waiver of Landlord's rights hereunder. Notwithstanding anything contained herein, late charges, interest and any late payment, fee or penalty will not accrue until after the 10th day of the month.

6. BASE RENT

(a) **Monthly Base Rent** shall be payable in advance on the first day of each month as follows:

Year 1: \$2,768.70/mo
Year 2: \$2,824.07/mo
Year 3: \$2,880.55/mo
Year 4: \$2,938.16/mo
Year 5: \$2,996.92/mo

Tenant shall pay equivalent to first months rent for Sixty (60) day holding period prior to August 1, 2018 possession date.

(b) **Rent Commencement.** Monthly Base Rent (Section 6a) shall commence August 1, 2018.

(c) **Operating Expenses.** Operating expenses to be adjusted annually to actual cost in accordance with Sections 13 and 16(a) below on January 1st of each year and will also be reduced by any property tax exemption amount if received by the Tenant.

7. THE IMPROVEMENTS

Tenant will take space in "AS-IS" condition. If any changes are required by the Tenant, cost will be paid for Tenant.

8. CONDITION OF PREMISES

Landlord shall provide Tenant with ample opportunity to inspect the Premises and the Improvements during the last five (5) days before the Possession Date.

9. COMMON AREAS

Landlord shall grant to Tenant and Tenant's employees, agents, customers and invitees the non-exclusive right during the Lease Term and any Renewal Term to use in common with others granted the use thereof the Project common areas (the "Common Areas") which shall be those areas, indoors and outdoors, provided by Landlord for the general use of the tenants of the Project and shall include, without limitation, the restrooms, if any, for the use of more than one tenant or the public, parking areas, roadways, pedestrian sidewalks, delivery areas, landscaped areas, smoking area, and all other areas or improvements which may be provided by Landlord for the general use of tenants of the Project and their agents, employees and customers. Tenant's employees shall park off-site in either the designated parking lot across Liberty Street SE or in area street parking and have 1 red hang tag permitted for use of 960 parking lot at no additional cost. The manner in which the Common Areas shall be maintained shall be at the sole discretion of the Landlord; however, Landlord agrees to maintain the Common Areas in a manner comparable to other similar Buildings in the Salem, Oregon area. The expenditures incurred in maintaining the Common Area shall be part of the Operating Expenses and shall be pursuant to Section 11 hereof. Landlord shall be responsible for the operation, management and maintenance of the Common Areas. The manner in which the Common Areas shall be maintained shall be at the sole discretion of the Landlord; provided however, that Landlord shall use reasonable efforts not to unduly interfere with or disrupt Tenant's occupancy of the Building. Tenant's Proportionate Share of the Common Areas equals 153 square feet.

10. OPERATING EXPENSE ADJUSTMENT

Except as otherwise stated herein, Tenant's proportionate share of all operating expenses, as adjusted each year on a calendar basis, from the calendar year 2018 shall be included in Tenant's Base Rent. As used herein "operating expenses" shall mean all costs of operating and maintaining the Building as determined by standard real estate accounting practice, including, but not limited to: water and sewer service; trash removal; the cost of natural gas and electricity provided to the Building; janitorial and cleaning supplies and services; parking; landscaping and exterior lighting maintenance; routine maintenance of the Project, except to those areas exclusive to individual tenants; administration costs and management fees, security services, if any; real property taxes and assessments, insurance premiums; licenses, permits for the operation and maintenance of the Project.

TAX EXEMPT STATUS: Landlord acknowledges Tenant's non-profit status and understands that Tenant (at no cost to Landlord) will apply for a real property tax exemption for the Premises. If a real property tax exemption is obtained, the amount of real property taxes exempted as a result of Tenant's non-profit status will serve to reduce Tenant's share of operating expenses. Tenant will promptly send to Landlord any documents and relevant correspondence substantiating any exemption.

11. SECURITY DEPOSIT

As partial consideration for the execution of this Lease, Tenant agrees to pay to Landlord the sum of **Two Thousand Seven Hundred Sixty-Eight and 70/100 (\$2,768.70)** as a security deposit (the "Security Deposit"), the receipt of which is hereby acknowledged. If Tenant shall default with respect to any covenant or condition of this Lease, including but not limited to the payment of the Rent, Landlord, without waiving any other remedies it may have, may apply all or any part of such deposit to the payment of any sum in default or any other sum which Landlord may be required to spend or incur by reason of Tenant's default. If Tenant shall have fully complied with all of the covenants and conditions of this Lease, but not otherwise, the Security Deposit shall be released to Tenant within thirty (30) days after the expiration or sooner termination of this Lease, or the final Renewal Term, as applicable.

12. RIGHT OF POSSESSION

Tenant's right to possession under this Lease shall commence on the Possession Date and shall continue during the Lease Term and the Renewal Term so long as Tenant fully and timely performs its obligations hereunder. Possession shall be granted to Tenant upon mutual execution of this Lease. Prior to the Possession Date, Tenant may, at Tenant's sole and exclusive risk, cost and expense, install tenant improvements, fixtures and other equipment, so long as such activities do not interfere with Landlord or the construction work then in progress. Should Tenant hold over and remain in possession of the Premises after the expiration of the Lease Term, or the last Renewal Term for which Tenant shall have exercised its option, without Landlord's consent, it shall not create an extension of this Lease, but shall only create a month-to-month tenancy. Base rents will increase by fifty percent (50%) in the event of a Hold-Over tenant.

13. PAYMENT FOR UTILITIES

Tenant shall pay for all telephone, data transmission services, cable TV and other such additional services as may be required by Tenant during the Lease Term and the Renewal Term.

Landlord shall pay for all HVAC, light, water, power, sewer, janitorial services, exterior lighting services, general garbage pickup and natural gas during the Lease Term and the Renewal Term, which costs shall be included in Tenant's prorate share of operating costs.




14. DISPUTES

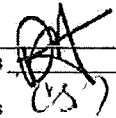
If Tenant disputes any computation of operating expenses or rent adjustment under Sections 10 and 11 of this Lease, it shall give notice to Landlord not later than sixty (60) days after the notice from Landlord describing the computation in question, but in any event not later than thirty (30) days after expiration or earlier termination of this Lease. If Tenant fails to give such a notice, the computation by Landlord shall be binding and conclusive between the parties for the period in question. If Tenant gives a timely notice, Landlord shall provide to Tenant a list of not less than three (3) Certified Public Accountants and Tenant shall select one from the list to resolve the dispute. The decision of the selected accountant shall be conclusive. Each party shall pay one-half of the fees for making such determination. Nothing herein shall reduce Tenant's obligations to make all payments as required by this Lease.

15. USE OF PREMISES

Tenant shall use the Premises during the Lease Term for the conduct of professional office uses and reasonably related activities and for no other purpose. Tenant shall not use or knowingly permit upon any part of the Premises any article which may be dangerous, unless safeguarded as required by law, nor allow or cause any condition on the Premises which constitutes a nuisance, public or private, or which may make void or voidable any insurance in force with respect to the Premises. Tenant shall not use or permit the use of the Premises for any purpose which would adversely affect the value or character of the Premises or which would constitute strip or waste. Tenant shall comply, at Tenant's own expense, with all laws and regulations of any municipal, county, state, federal or other public authority respecting Tenant's particular use of the Premises.

16. REPAIRS AND MAINTENANCE

- (a) The following shall be the responsibility of the Landlord and the costs thereof prorated to Tenant as set forth as operating expenses:
 - (i) Maintenance of the parking lot, landscaping, grounds, heating, ventilation, air conditioning system, parking lot lighting and plumbing and wiring contained within the walls.
 - (ii) The Project's responsibilities do not include obligations specifically imposed upon Tenant below.
- (b) The following shall be the responsibility of the Tenant:
 - (i) All repairs or maintenance, other than ordinary wear and tear, necessitated by acts of Tenant, or any person on the Premises with Tenant's consent or for Tenant's benefit.
 - (ii) Any repairs required under Tenant's obligation to comply with laws and regulations as set forth in this Lease.
 - (iii) All repairs or maintenance of Tenant's tenant improvements, fixtures and equipment.
 - (iv) To notify Landlord of the need for repairs or maintenance which are the Project's responsibility under this Lease.



- (c) If either Party fails or refuses to make repairs which are required by this Lease, the other Party may make the repairs and charge the actual costs of repairs to the defaulting Party. Such expenditures shall be reimbursed on demand, together with interest at ten percent (10%) per annum from the date of expenditure. Except in an emergency creating an immediate risk of personal injury or property damage, neither Party may perform repairs which are the obligation of the other Party and charge the other Party for the resulting expense unless, at least thirty (30) days before work is commenced, the defaulting Party is given notice in writing outlining with reasonable particularity the repairs required, and such Party fails, within that time, to initiate such repairs in good faith. The right to repair and charge and other remedies on default shall be cumulative.

17. TAX ON RENTALS

If any governmental authority shall in any manner levy a tax on rentals payable under this Lease or a tax in any form against Landlord measured by income derived from the leasing or rental of the Premises, such tax shall be paid by Tenant either directly or through Landlord; provided, however, that Tenant shall not be liable to pay any net income tax imposed on Landlord.

18. CARE OF LEASED PREMISES

Tenant shall take good care of the Premises and shall, at the expiration or termination of this Lease, surrender and deliver up the Premises to Landlord in as good condition as when received by Tenant from Landlord or as thereafter improved, reasonable use and wear and damage by fire or other casualty excepted. All damage or injury done to the Premises by Tenant or by any persons who may be in or upon the Premises with the consent of Tenant shall be paid for by Tenant.

19. REMOVAL OF TENANT'S TRADE FIXTURES

All of Tenant's trade fixtures installed, affixed and/or otherwise attached to the Premises by Tenant (the "Trade Fixtures") shall be the property of Tenant. Any and all such Trade Fixtures may at any time and from time to time during the term of this Lease, or at the termination of this Lease, either by default or otherwise, be removed by Tenant from the Premises without any obligation on the part of Tenant to replace said Trade Fixtures. Tenant shall be allowed a reasonable time to remove the Trade Fixtures from the Premises and Tenant shall be responsible for repairing any damage caused thereby and for restoration of any carpet, walls or ceiling where Trade Fixtures were removed.

20. ACCESS

Tenant shall permit Landlord and Landlord's agents to enter into and upon the Premises at all reasonable times for the purpose of inspecting the same upon reasonable notice to Tenant. Nothing contained in this Section shall be deemed to impose any obligation upon Landlord not expressly stated elsewhere in this Lease. Landlord shall have the right to enter the Premises for the purpose of showing the Premises to prospective tenants within the period of ninety (90) days prior to the expiration or sooner termination of the Lease Term, or any Renewal Term. Landlord shall have 24-hour access in the event of an emergency.

21. INDEMNIFICATION/INSURANCE

Indemnification by Tenant: Tenant shall defend and indemnify Landlord and hold Landlord harmless from and against any and all liability, damages, costs or expenses, including reasonable attorney fees, arising from any act, omission or negligence of Tenant, or the officers, contractors, licensees, agents, servants employees, guests, invitees or visitors of Tenant, in or about the Premises, or arising from any accident, injury or damage, howsoever and by whomsoever caused, to any person or property, occurring

in or about the Premises; provided, that the foregoing provision shall not be construed to make Tenant responsible for loss, damage, liability or expense resulting from injuries to third parties caused by the sole negligence of Landlord, or of any officer, contractor, licensee, agent, servant, employee, guest, invitee or visitor of Landlord.

Indemnification by Landlord: Landlord shall defend and indemnify Tenant and hold Tenant harmless from and against any and all liability, damages, costs or expenses, including reasonable attorney fees, arising from any act, omission or negligence of Landlord, or the officers, contractors, licensees, agents, servants employees, guests, invitees or visitors of Landlord, in or about the Premises, or arising from any accident, injury or damage, howsoever and by whomsoever caused, to any person or property, occurring in or about the Premises; provided, that the foregoing provision shall not be construed to make Landlord responsible for loss, damage, liability or expense resulting from injuries to third parties caused by the sole negligence of Tenant, or of any officer, contractor, licensee, agent, servant, employee, guest, invitee or visitor of Tenant.

Tenant agrees, during the term of this Lease or any renewal or extension thereof, to maintain in force and effect, at Tenant's expense, in a responsible insurance company or companies, with Landlord and Landlord's Property Manager endorsed thereon as an additional insured or otherwise covered, and to supply Landlord/Property Manager with proof thereof at any time upon request:

(a) Public liability insurance with limits of at least \$1,000,000.00 for bodily injury and property damage combined; and

Landlord shall not be liable for any loss or damage to person or property sustained by Tenant, or other persons, which may be caused by the Premises, or any improvements thereon or appurtenances thereto, or by any other cause of whatsoever nature, unless caused by the negligence of Landlord.

22. ASSIGNMENT AND SUBLETTING

Except as hereinafter provided, Tenant shall not assign Tenant's interest in this Lease without the prior written consent of Landlord, which consent shall not be unreasonably withheld.

Landlord consents to the subletting by Tenant of the whole or part of the Premises to an entity that shall operate the Premises for the intended purpose, as described in Section 16 of the Lease. No such subletting shall relieve Tenant of Tenant's liability under this Lease. Consent to such subletting shall not operate as a waiver of the necessity for consent to any subsequent assignment or subletting, and the terms of such consent shall be binding upon any person holding by, under or through Tenant.

Any transfer, voluntarily or involuntarily, by Tenant of this Lease by merger, consolidation or liquidation, or any change of more than ten percent (10%) in the ownership of, or power to control of, Tenant, shall constitute an assignment for purposes of this section.

Tenant may conditionally assign Tenant's interest in the Lease to secure financing with the consent of Landlord, which consent shall not be unreasonably withheld.

23. LANDLORD'S INTERFERENCE WITH TENANT

Any repairs, maintenance 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 use of the Premises by Tenant. Landlord or Landlord's agent have the right to enter the Premises at reasonable times, upon twenty-four hours advance written notice to Tenant, in order to examine the condition thereof or to make such repairs as Landlord shall deem necessary or desirable. Landlord shall respect Tenant's professional needs and responsibilities while exercising rights under this paragraph. If Landlord's activities materially interfere or

disturb Tenant's business, Tenant's rent will be abated proportionately for the period of substantial interference and/or substantial disturbance.

24. CHANGES, ALTERATIONS AND ADDITIONS BY TENANT

Tenant shall not make any changes, alterations or additions, including the initial tenant improvements, in or to the Premises, nor contract for any such changes, alterations or additions, without first obtaining Landlord's written consent which consent shall not be unreasonably withheld or unduly delayed.

Prior to requesting Landlord's consent to any such changes, alterations or additions, Tenant shall provide Landlord with all relevant plans, specifications, names and addresses of contractors, copies of proposed contracts and any permits required in such form as may be required by Landlord. In addition, Landlord shall be furnished such surety bonds, cash deposits or securities or other indemnification's as Landlord may require to indemnify Landlord against potential liens, costs, damages or expenses relating to such changes, alterations or additions.

All permanently attached partitions, plumbing, electrical wiring, additions to or improvements upon the Premises, whether installed by Landlord or Tenant, shall be and become a part of the Building as soon as installed and the property of Landlord unless otherwise provided in this Lease.

25. PARKING

Parking spaces are grouped into two areas, one on the north side of the Building for customer parking and the parking lot across Liberty Street SE to the west of the Building. Tenant shall have 1 designated red hang tag permitted. Tenant's other employees shall park off site in either the designated parking lot across Liberty Street SE or in area street parking.

26. SIGNAGE

Tenant shall not install any free standing sign outside the Premises nor inscribe any inscription, nor post, place or in any manner display any sign, notice, picture, placard or poster, or any advertising matter whatsoever, anywhere in or about the Premises or the Building at places visible (either directly or indirectly as on outline or shadow on a glass pane) from anywhere outside the Premises without first obtaining Landlord's written consent thereto which consent shall not be unreasonably withheld. Any such consent by Landlord shall be upon the understanding and condition that Tenant will remove the same at the expiration or sooner termination of this Lease or any Renewal Term and Tenant shall repair any damage to the Premises or the Building caused thereby. Tenant, at Tenant's sole expense and with the prior written approval of the Landlord, shall be allowed signage on the monument sign visible from Liberty Street SE subject to City of Salem sign codes, signage on the interior Building directory and on the suite door(s) consistent with existing Building signage.

27. LIABILITY TO THIRD PERSONS

Tenant shall pay as due all claims, which are Tenant's responsibility under this Lease for work done on and or services rendered or material furnished to the Premises and shall keep the Premises free from any liens. If Tenant fails to pay any such claims or to discharge any lien, Landlord may do so and collect the cost as additional rent. Any amount so added shall bear interest at ten percent (10%) per annum from the date expended by Landlord and shall be payable on demand. Such action by Landlord shall not constitute a waiver of any right or remedy, which Landlord may have on account of Tenant's default.

Tenant may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, so long as Landlord's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Tenant shall, within ten (10) days after knowledge of the filing, secure the discharge of the lien or deposit with Landlord cash or a sufficient corporate surety bond or other surety satisfactory to Landlord in an amount sufficient to discharge the lien plus any reasonable costs, attorney fees and other charges that would accrue as a result of a foreclosure or sale under the lien.

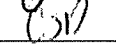
Tenant shall indemnify and defend Landlord from any claim, loss or liability arising out of, or related to, any activity of Tenant on the Premises or any condition of the Premises in the possession or under the control of Tenant, except to the extent caused by Landlord's own willful act, negligence, or failure to affect any repair or maintenance required by this Lease. Tenant's duty to indemnify shall not apply to damage to Tenant or Tenant's property for which Landlord may be liable. Tenant shall maintain and furnish Landlord evidence of liability insurance covering Tenant's activities on the Premises, naming Landlord as additional named insured.

28. WAIVER OF SUBROGATION RIGHTS

Neither Landlord nor Tenant shall be liable to the other for loss arising out of damage to, or destruction of the Premises, the Building or the Improvements or the contents of any thereof, when such loss is caused by any of the perils which are or could be included within or insured against by a standard form of fire insurance with extended coverage, including sprinkler leakage insurance. All such claims for any and all loss, however caused, hereby are waived. Such absence of liability shall exist whether or not the damage or destruction is caused by the negligence of either Landlord or Tenant or by any of their respective agents, servants or employees. It is the intention and agreement of Landlord and Tenant that the rentals reserved by this Lease have been fixed in contemplation that both Parties shall fully provide their own insurance protections at their own expense, and that both Parties shall look to their own respective insurance carriers for reimbursement of any such loss and, further, that the insurance carriers involved shall not be entitled to subrogation under any circumstances against any Party to this Lease. Neither Landlord nor Tenant shall have any interest or claim in the other's insurance policy or policies, or the proceeds thereof, unless specifically covered therein as a joint assured.

29. DAMAGE AND DESTRUCTION OF THE PREMISES

In the event of substantially total destruction of the Building by fire or other casualty, either Party may terminate this Lease as of the date of said fire or casualty. In the event of damage to the Building by fire or other casualty to the extent of fifty percent (50%) or more of the sound value of the Building, Landlord may or may not elect to repair the Building. Written notice of Landlord's election shall be given Tenant within thirty (30) days after the occurrence of said damage. If such notice is not so given, Landlord conclusively shall be deemed to have elected not to repair. In the event Landlord elects not to repair the Building, this Lease shall terminate with the date of the damage. If the Building is partially destroyed and the damage does not amount to fifty percent (50%) of the sound value thereof, or if greater than such extent and Landlord elects to repair, then Landlord shall repair the Building with all convenient speed and shall have the right to take possession of and occupy, to the exclusion of Tenant, all or part of said Building in order to make the necessary repairs. Tenant hereby agrees to vacate, upon request, all or any part of the Building in order to make the necessary repairs. For the period of time between the day of the damage and until repairs have been substantially completed, there shall be such an abatement of the Rent as the nature of the injury or damage and its interference with the occupancy of the Premises by Tenant shall warrant. If however, the damage is slight, Landlord shall not cause any material interference with the occupation of the Premises by Tenant, then there shall be no abatement of the Rent and Landlord shall repair the damage with all convenient speed. If, however, if such damage cannot be repaired within one hundred twenty (120) days after the date of such damage, then Tenant shall have the option of terminating this Lease upon written notice to Landlord. If Tenant exercises its option to terminate this

Lease, then in such case, Tenant shall pay rent apportioned to the date of damage and shall immediately surrender the Premises to Landlord, who may enter and repossess the same.

30. CONDEMNATION

If the Premises or any portion are taken or damaged under any right of eminent domain or any transfer in lieu thereof, Landlord shall have the option of terminating this Lease upon the giving of written notice within sixty (60) days after the taking. The term "eminent domain" shall include the exercise of any similar governmental power and any purchase or other acquisition in lieu of condemnation.

Proceeds from eminent domain shall be paid to Landlord. Tenant shall make no claim to any portion thereof, except that Tenant may make a claim in the condemnation proceedings for the value of Tenant's interest in any improvement constructed by Tenant, so long as the claim does not reduce the amount of Landlord's claim, and except to the extent such award has been made specifically to Tenant. Tenant shall have the right to file a claim against the condemnor for any taking of fixtures and improvements owned by or paid for by Tenant and for relocation expenses.

31. LANDLORD'S WARRANTY

Landlord warrants it has the right to lease the Premises free of all encumbrances, except those as set forth below. Subject to these exceptions, Landlord will defend Tenant's right to quiet enjoyment of the Premises from the lawful claims of all persons during the Lease Term. The exceptions are as follows:

- (a) Mortgages or trust deeds to finance the Project.
- (b) Easements, conditions and restrictions of record.

32. SUBORDINATION TO MORTGAGES & ESTOPPEL CERTIFICATES

This Lease shall be subject and subordinate at all times to the lien of existing mortgages (or trust deeds) and of mortgages (or trust deeds), which may be made in the future a lien on the Premises. If required by Landlord's lender, Tenant shall execute subordination, non-disturbance and attornment agreements and/or estoppel certificates.

Within ten (10) business days after written request from Landlord, Tenant shall execute and deliver to Landlord a certificate stating whether or not this Lease has been modified and is in full force and effect and specifying any modifications or alleged breaches by the other party. Such certificate shall also state the amount of monthly Base Rent, the dates to which Rent has been paid in advance, and the amount of any security deposit or prepaid Rent. Failure to deliver such certificate within the specified time shall be conclusive upon the party from whom the certificate was requested that the Lease is in full force and effect and has not been modified, except as may be represented by the party requesting the certificate, and that Rent payments and the amount of security deposit are as represented by the party requesting the certificate. Unless Tenant has presented a modification or alleged breach to the Landlord prior to the date of Landlord's written request, Tenant shall not be allowed to introduce new modifications or potential breaches as a condition to the estoppel execution and deliverance.

33. RULES AND REGULATIONS

Tenant agrees that Landlord has the right, at any time and from time to time, for the general welfare of the Project and its occupants, to impose reasonable rules and regulations of general application governing the conduct of occupants of the Project and their use of the Common Areas. Tenant agrees to comply with any and all such reasonable rules and regulations imposed by Landlord.

34. FORCE MAJEURE

In the event that either party hereto shall be delayed, hindered in or prevented from performing any act required hereunder by reason of strikes, lockouts, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, adverse weather conditions or any other reason of a like nature not the fault of or beyond the control of the party delayed in performing such act, then performance of such act shall be excused for the period of the delay and the period allowed for the performance of such act shall be extended for a period equivalent to the period of such delay. Notwithstanding anything contained herein to the contrary, Tenant shall not be excused from the payment of rent or other sums of money which may become due under the terms of this Lease.

35. QUIET ENJOYMENT

Landlord hereby covenants and agrees that if Tenant shall perform all of the covenants and agreements herein stipulated to be performed by Tenant, Tenant shall at all times during the continuance hereof have peaceable and quiet enjoyment and possession of the Premises without any interference or hindrance from Landlord or any person or persons claiming by, through, or under Landlord.

36. RELATIONSHIP TO PARTIES

The relationship of the Parties to this Lease is that of landlord and tenant. Landlord is not a partner or joint venturer with Tenant in any respect for any purpose in the conduct of Tenant's business or otherwise.

37. DEFAULT

If the premises are deserted or vacated by Tenant for more than ninety (90) days, or if proceedings are commenced against Tenant under a bankruptcy act or for the appointment of a trustee or receiver of Tenant's property either before or after the commencement of the Lease Term, or if Tenant fails to perform any of Tenant's obligations under this Lease and the failure continues for more than thirty (30) days after written notice of the default is given by Landlord to Tenant, Tenant shall be in default and Landlord shall have all rights available to Landlord in law or equity for breach of this Lease, unless such default or breach of the Lease reasonably takes longer than thirty (30) days to cure, Tenant shall have such additional time as necessary to cure, provided that Tenant shall have commenced to cure within said thirty (30) day period and thereafter diligently pursue said cure to completion.

If Landlord fails to pay any installment of taxes or assessment or any interest, principal, costs or other charges upon any lease, mortgage or deed of trust or other lien or encumbrances affecting the premises, and to which this Lease may be subordinate when any of the same become due, or Landlord fails to make any repairs or do any work required of Landlord by the provisions of this Lease, and the failure continues for more than thirty (30) days after written notice of default is given by Tenant to Landlord, Landlord shall be in default and Tenant shall have all rights available to Tenant in law or equity for breach of this Lease.

If Tenant fails to pay Rent within ten (10) business days after written notice from Landlord, only one such written notice from Landlord is required in any 12-month period, Tenant shall be in default and Landlord shall have the option to terminate this Lease. In the event of termination of this Lease, Landlord shall use its best efforts to mitigate Tenant's damages and shall be entitled to recover the following amounts as damages:

- (a) The loss of reasonable rental value from the date of default until a new tenant has been, or with the exercise of reasonable efforts could have been, secured up to and including the date of termination.

- (b) The reasonable costs of reentry and re-letting including the cost of any clean-up, broker commissions, attorney's fees, and advertising costs necessary to re-let the Premises.
- (c) Any excess of the value of the rent and all of Tenant's other obligations under this Lease over the reasonable expected return from the Premises for the period commencing on the date of award and continuing through the end of the term. The present value of future amounts will be computed using a discount rate equal to the prime loan rate of the United States National Bank of Oregon, or its successors, in effect on the date of trial.

Failure by either Landlord or Tenant to insist upon the strict performance of any term or condition of this Lease, or the failure to exercise any right or remedy available on a breach of this Lease, shall not be deemed to be a waiver of any such breach or of any term or condition. No waiver of any breach shall affect or alter any term or condition of this Lease, and each such term or condition shall continue in full force and effect with respect to any other existing or subsequent breach of this Lease.

If Tenant shall be in default under the terms of this Lease, Landlord may cure such default on behalf of Tenant in which event Tenant shall reimburse Landlord for all sums paid to affect the cure, together with interest at the rate of ten percent (10%) per annum and reasonable attorney fees.

If Landlord shall be in default under the terms of this Lease, Tenant may cure such default on behalf of Landlord in which event Landlord shall reimburse Tenant for all sums paid to affect the cure, together with interest at the rate of ten percent (10%) per annum and reasonable attorney fees.

Time is of the essence of this Lease with respect to the performance by either Party of the obligations under this Lease.

38. SURRENDER AT EXPIRATION

Tenant shall, on the last day of the Lease Term, or upon the sooner termination thereof, peaceably and quietly surrender the Premises to Landlord, broom-clean, including all alterations, replacements, changes or additions placed by Tenant thereon, in as good condition and repair as at the Possession Date and as any new structures, replacements, additions or improvements constructed, erected added or placed thereon by Tenant are when completed, with normal wear and tear excepted.

All fixtures placed upon the Premises during the Lease Term other than Tenant's Trade Fixtures shall, at Landlord's option, become the property of Landlord. Moveable furniture, decorations, floor coverings other than hard surface bonded or adhesively fixed flooring, curtains, blinds, furnishings and trade fixtures shall remain the property of Tenant if placed on the Premises by Tenant.

If Landlord so elects and so notifies Tenant at the time approval is given for the installation thereof, 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 from the date of expenditure. 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 or, by notice in writing given to Tenant within twenty (20) days after removal was required, Landlord may elect to hold Tenant to Tenant's obligation of removal. If Landlord elects to require Tenant to remove, Landlord may affect removal and place the property in public storage for Tenant's account. Tenant shall be liable to Landlord for the cost of removal, transportation to storage and storage with interest on all such expenses from the date of expenditure by Landlord.

39. INTEREST

If either Party shall fail to pay, when due, any Rent or other amounts or charges required to be paid to the other under this Lease, any unpaid amounts shall bear interest from the date due to the date of payment at the rate of ten percent (10%) per annum.

40. RECORDATION

This Lease shall not be recorded without the consent in writing of Landlord. Upon written request of Tenant, Landlord shall execute and acknowledge a Memorandum of this Lease in a form suitable for recording and Tenant may record the Memorandum.

41. ENTIRE AGREEMENT

This Lease is intended to set forth the entire agreement of the Parties and any provision contained in prior agreements of the Parties and not set forth herein are nullified and of no effect.

42. NOTICES

All notices under this Lease shall be in writing and shall be (i) delivered in person with a legible signed receipt provided, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid, or (iii) sent to by a nationally-recognized overnight courier that provides a signed delivery receipt, addressed as follows:

(a) Notices to Landlord shall be sent to Landlord: 960 Liberty LLC, PO Box 231, Salem, OR, 97308-0231.

(b) Notices to Tenant shall be sent to Tenant at the address of:
City of Salem
Attn: Real Property Services Manager
350 Commercial St NE
Salem, OR 97301

(c) Invoices to Tenant shall be sent to the address of:
City of Salem
Accounts Payable
555 Liberty St SE, Suite 230
Salem, OR 97301

43. CAPTIONS AND CONSTRUCTION

The titles of sections of this Lease are not a part of this Lease and shall not affect the construction or interpretation of any part thereof. This Lease shall be construed and governed by the laws of the State of Oregon.

44. SUCCESSORS

All of the covenants, agreements, terms and conditions contained in this Lease shall apply to and be binding upon Landlord and Tenant and their respective heirs, executors, administrators and successors.

45. DISPUTE RESOLUTION

Except that Landlord shall retain Landlord's right to commence an eviction action pursuant to the provisions of Section 38 hereof, Landlord and Tenant voluntarily waive all right to bring legal action in state or federal court, or attempt to compel arbitration to resolve any dispute regarding this Lease. In the

event of any dispute regarding this Lease, the parties agree to submit such dispute to a person who shall listen to each person's position, review any written information a party wants to present and make a final and binding decision. No formal discovery such as exists in the Oregon Rules of Civil Procedure shall be available to any party. A request for a party to provide information to the requesting party may be made to the decision maker and both parties agree to comply with any decision made by this person regarding such a request. The decision maker's ruling shall be given the same effect and enforceability as is afforded arbitration awards under the Oregon Revised Statutes. There shall be no right to appeal any order or decision made by the decision maker, and there shall be no claim against the decision maker by any party to this Lease. Each party must pay for the decision maker's fees and costs on an equal basis.

In the event of such a dispute, the Parties shall attempt to agree upon a person to be the decision maker, after which, if such agreement is not reached within thirty (30) days, the Parties shall select the name of a decision maker from a list of three names of individuals with at least ten (10) years of private legal practice in Western Oregon to be supplied by the U.S. Arbitration and Mediation Service in Portland, or its successor, and, if the parties are unable to agree upon one individual, the three persons named on the list shall serve as a panel to render the decision.

If such decision includes an effect upon the title to the land, either party shall have the right to appeal and try that issue in the Oregon court system.

46. REMEDIES CUMULATIVE

Each right and remedy provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Tenant or Landlord of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the party in question of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

IN WITNESS WHEREOF, this Lease has been executed effective as of the date first above set forth.

LANDLORD:

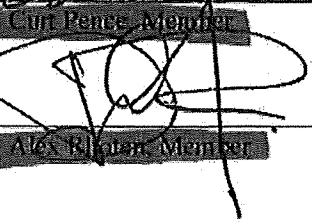
960 LIBERTY, LLC

By:



Curt Pence, Member

By:

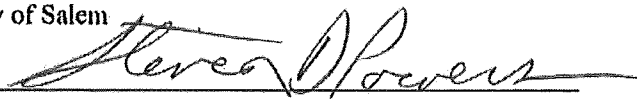


Alex Blanton, Member



TENANT:

City of Salem

By: 

This lease is subject to final costs and/or all City/State Authority approvals.

EXHIBIT A

Landlord Initials

Tenant Initials

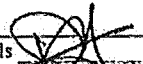



EXHIBIT 'A' - SUITE 170

