

APPENDIX A



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF GENERAL SERVICES  
HARRISBURG

**Lease Number**

**THIS LEASE AGREEMENT ("LEASE") is executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between The Commonwealth of Pennsylvania, Department of \_\_\_\_\_, acting through the Department of General Services, \_\_\_\_\_ (hereinafter called "LESSEE"), and \_\_\_\_\_, with primary offices located at \_\_\_\_\_, Pennsylvania \_\_\_\_\_ (hereinafter called "LESSOR").**

**WHEREAS, by the Act of April 9, 1929, P.L. 177, as amended, 71 P.S. Section 632(d), the Department of General Services is, with the approval of the Board of Commissioners of Public Grounds and Buildings, authorized and empowered to rent proper and adequate offices, rooms or accommodations for any department, board of commission which cannot be properly and adequately accommodated with offices, rooms and accommodations in the Capitol Buildings; and**

**WHEREAS, in cases where a branch office has been established outside of the Capital City, it has been established with the approval of the Executive Board.**

**NOW THEREFORE, in consideration of the following mutual promises and intending to be legally bound hereby, LESSOR and LESSEE agree to the following terms and conditions:**

**1. PREMISES. LESSOR hereby lets unto LESSEE for use by the Department of \_\_\_\_\_, \_\_\_\_\_, the premises, or part of the building, situated at \_\_\_\_\_, \_\_\_\_\_, in the County of \_\_\_\_\_, Pennsylvania, more specifically described on the plan and/or specifications attached hereto marked Exhibit "A", and consisting of \_\_\_\_\_ net usable square feet (the "PREMISES") together with the appurtenances thereto, including, but not limited to the parking area as more fully set forth below, as well as adequate means of ingress and egress to the PREMISES. The parties agree that for the purposes of this LEASE, "net usable square feet" has been computed by measuring the area to be used by the Using Agency from the inside of the perimeter walls surrounding this area, excluding stairwells, elevator shafts, public restrooms not**

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within the leased space, mechanical and building equipment rooms and any area used by the LESSOR. LESSOR lets unto LESSEE \_\_\_\_\_ ( ) parking spaces situate \_\_\_\_\_, Pennsylvania. The lease of the parking space is included in the rent provided in Paragraph 3 hereof.

2. **TERM.** The term of the LEASE shall commence on \_\_\_\_\_, 20\_\_\_\_, or such other date that the PREMISES are accepted for occupancy by the LESSEE. In the event the PREMISES are not ready for occupancy at the time the LEASE term commences, said term shall extend for \_\_\_\_\_ ( ) years from said commencement or acceptance date with any option terms provided for herein being adjusted accordingly.

3. **RENT.** LESSEE shall pay LESSOR rent for the use and occupancy of the PREMISES. The rental rate for the first year of the LEASE shall be \_\_\_\_\_ and 00/100 Dollars (\$ ) per net usable square foot per year. During the first year of the LEASE, LESSEE shall pay RENT each month in the amount of \_\_\_\_\_ and 00/100 Dollars (\$ ) (“Initial Rent”) comprising an annual rental of \_\_\_\_\_ and 00/100 Dollars (\$\_\_\_\_\_).

The rental rate shall be comprised of Base Rent of \_\_\_\_\_ and 00/100 Dollars (\$ ) per net usable square foot per year and “Additional Rent”. The Additional Rent for the first year of the LEASE shall be \_\_\_\_\_ and 00/100 Dollars (\$ ) per net usable square foot per year. The Additional Rent (and, therefore, the RENT) for the second and succeeding years of the term of the LEASE shall be adjusted in accordance with Paragraph 4 below.

The source of funds for this lease may be federal funds. If this lease is funded by federal funds, then landlord agrees that delay in the timely payment of rent by the Commonwealth shall not constitute an event of default or cause for termination of this lease, if such delay is due to the failure of the Federal Government to disperse funds to the Commonwealth. The Commonwealth agrees to pay all arrearages upon the resumption of federal funding including any penalties provided herein.

4. **RENT ADJUSTMENT.** An annual adjustment to the RENT, up to a maximum annual amount of 5% of the preceding years’ Additional Rent, shall be made to cover increases or decreases in the costs of real estate taxes, utilities, water, sewer, trash removal, insurance and janitorial services. The actual amount of the adjustment (increase or decrease) shall be determined by annually applying the CPI-U, NE Cities index (Consumer Price Index for all Urban Consumers, Northeast Cities index, all items, as found in table 11 of the CPI Detailed Report published by the U.S. Department of Labor, Bureau of Labor

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Statistics) to the amount of the Additional Rent for the preceding year of the LEASE.

LESSOR and LESSEE agree that the CPI-U, NE Cities Index reported four months prior to each anniversary date of the LEASE, including any option periods, shall be used to determine the amount of the adjustment. LESSEE shall, without the necessity of a request from LESSOR, apply the percentage of change in the Index to the Additional Rent and then add the adjusted Additional Rent to the Base Rent to calculate the RENT, to be paid for the following year of the LEASE.

The Additional Rent shall not be adjusted to reflect actual costs incurred by LESSOR during the term of this LEASE, nor shall the amounts paid as Additional Rent be adjusted to reflect changes in the above LESSOR costs.

5. **OPTIONS.** LESSEE, at its sole discretion, shall have the option to renew this LEASE for additional terms. In order to exercise an option, LESSEE must give LESSOR \_\_\_\_\_ ( ) months' prior written notice before expiration of the then current term. LESSEE shall have the following options:

	<u>Beginning Date</u>	<u>Expiration Date</u>	<u>Base Rent</u>
1st Renewal Term			
2nd Renewal Term			

Additional Rent, as provided for and calculated during the original term of the LEASE in accordance with Paragraph 4, above, shall be added to the "Base Rent" set forth above. During the option term(s), additional Rent adjustments will be made and applied during each and every year of the option term(s) and will continue to be calculated in the same fashion as in the initial term or preceding option term, if any, and in accordance with Paragraph 4 above.

6. **HOLDOVER/TERMINATION.** Should LESSEE holdover in possession after the expiration of the initial term of this LEASE (without exercising the option) or any option renewal term (without exercising any remaining option), such holding over shall not be deemed to extend the term of this LEASE or any renewal, but the tenancy thereafter shall continue from month to month, subject to the covenants and conditions of this LEASE, until either party shall give the other \_\_\_\_\_ ( ) months' notice in writing of their intention to terminate the tenancy. In the event Lessee decides to holdover rather than exercise an option under Paragraph 4, LESSEE shall pay the amount of the monthly rent specified for such option for each month of occupancy as a holdover tenant.

7. **CANCELLATION.** It is understood and agreed between the parties hereto that if the governmental function for which the PREMISES are being

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leased, is abolished, limited, or restricted, by any Act of Legislature, including a failure of sufficient appropriation by the General Assembly to continue payment of the RENT or any other amount hereunder, or by Law of Congress, or by any Action taken under authority conferred by such acts or laws, or decision of court; then the LESSEE shall have the right to cancel this LEASE by giving one month's notice in writing. At the option of the parties, if they have agreed on the total costs of renovations prior to the execution of this LEASE and the Lease is canceled pursuant to the provisions of this Paragraph, if the Agency's annual appropriations permit, LESSEE shall reimburse LESSOR for any unamortized costs of renovations performed by LESSOR pursuant to this LEASE at LESSEE'S request, and which are peculiar to LESSEE'S tenancy. The agreed on costs of such renovations are \$\_\_\_\_\_.

8. **LESSOR'S DUTY TO MITIGATE DAMAGES.** In the event LESSEE abandons the leased PREMISES, the LESSOR has an affirmative duty, to proceed in good faith and with due diligence, to make reasonable efforts to mitigate its damages or prevent further loss.

9. **SERVICES.** LESSOR, at its sole cost and in return for the rent paid by LESSEE pursuant to this Lease, shall provide, maintain, and pay the periodic charges for heat, ventilation and air conditioning: all energy used and consumed on the PREMISES including but not limited to gas, oil, electric; water and sewer; hot and cold water; snow and ice removal from walks, driveways, and parking area; janitorial services and supplies in accordance with Exhibit "B"; trash removal (from LESSOR's property); lawn and shrub care services; and lavatories and water coolers in accordance with Department of Labor and Industry requirements.

The rental rate provided in this LEASE presumes a normal workweek from Monday through Friday, at the hours of 7:00 A.M. to 7:00 P.M. LESSEE may use the PREMISES beyond these hours. The building will be accessible seven days a week, twenty-four hours a day.

10. **DISADVANTAGED BUSINESS PARTICIPATION COMMITMENT.** To the extent that LESSOR has made commitments to disadvantaged businesses in its Disadvantaged Business Submittal, those commitments are set forth in Exhibit E, which is attached hereto and made a part hereof. LESSOR agrees to meet and maintain those commitments through the lease term, including any renewals and extensions. Any proposed change must be submitted to the Pennsylvania Department of General Services, Bureau of Minority and Women Business Opportunities ("BMWBO"), which will make a recommendation as to a course of action to the tenant Commonwealth agency. If LESSOR has made commitments to disadvantaged businesses in Exhibit E, LESSOR shall complete the LESSOR's Quarterly Utilization Report and submit it to the tenant Commonwealth agency

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and BMWBO within ten (10) workdays at the end of each calendar quarter during the term of the LEASE.

11. **TAXES.** LESSOR agrees to pay, prior to delinquency and directly to the taxing authority, all real estate taxes and municipal assessments applicable to the PREMISES.

12. **MAINTENANCE.** LESSOR, at its sole cost and in return for the rent paid by LESSEE pursuant to this Lease, shall maintain, repair and provide the continuous upkeep of the exterior of the building(s), all internal building systems, including but not limited to, electrical, lighting, plumbing, heating, ventilation equipment, air conditioning, elevators, escalators, and/or lifts, and as more specifically stated in the Agency Specifications and below:

a. **LIGHTING** - All lighting shall be maintained at working levels which meet the minimum standard of the American Illuminating Engineering Society Lighting Handbook, Current Edition in effect at the time of the commencement of the LEASE. LESSOR shall provide, install and replace all light bulbs, tubes, ballasts and starters.

b. **HEATING, VENTILATION AND AIR CONDITIONING - HVAC** systems shall be designed, maintained and operated in a manner which maximizes energy efficiency. All equipment and systems shall be in operating order 24 hours per day and shall be serviced and maintained by LESSOR. Systems shall be inspected and serviced regularly to insure proper balancing and calibration.

Exhaust systems shall be provided for ventilation of toilet rooms, lunch areas, smoke rooms, conference rooms and operate and comply with state and local regulations. Note: All HVAC systems shall be designed in accordance with the current ASHRAE standards (where practical) but, ASHRAE 90-75 shall be the standard for new buildings unless the building codes of the local municipality require a more strict standard, in which event the standard required by the municipality will apply.

Heating and air conditioning systems shall provide and maintain an inside automatically controlled temperature under all conditions of 75 degrees F in summer (with a tolerance of -2 degrees to 73 degrees) and 67 degrees in winter (with a tolerance of +2 to 69 degrees). The winter temperature may be increased and the summer temperature may be decreased, by written notice from LESSEE upon an official change in Commonwealth policy as announced through

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the Commonwealth management directives system. The temperature standards for Commonwealth-owned facilities are currently established in Management Directive 720.5. Relative humidity shall be maintained at 40-60%, where practical. Fall and spring change-over adjustments shall be made as necessary to effect optimal temperatures in the PREMISES.

Mechanical ventilation shall be provided on a year-round basis. Ventilation air introduced into occupied spaces shall be free of outside contaminants and tempered according to the season. Air conditioning systems can be used for winter time ventilation, provided the outside air component must be heated before delivery into the occupied space:

1. For systems introducing 100% outside air, ventilation shall provide a minimum of 20 cfm per occupant or 0.25 cfm per square foot of floor area, whichever is greater.
2. For air recirculation systems, fresh outside air shall be introduced into the systems at a rate of 20 cfm per occupant. (Where design occupancy is unknown it shall assumed to be 7 persons per 1,000 sq. ft., of floor space).
3. In special cases where air recirculation systems are equipped with air cleaning devices designed to remove odorous and gaseous contaminants, the fresh outside air component may be reduced to 5 cfm per occupant.

c. JANITORIAL SERVICES, if a part of this LEASE, shall be provided in accordance with Exhibit "B".

d. LESSOR shall be responsible for maintaining the building(s) and its internal systems in good condition and shall make all repairs caused by ordinary wear and tear, damage by fire or other casualty and any other cause except such damage caused by LESSEE'S negligence, or the negligence of LESSEE's agents, business invitees or guests. The building(s) and its internal systems shall be maintained to provide reliable, energy efficient service without unusual interruption, disturbing noises, exposure to fire and safety hazards, uncomfortable drafts, excessive air velocities, etc. Without additional charge, LESSEE may require LESSOR to test once a year, with adequate notice, such systems as fire alarm, sprinkler, emergency generator, or other safety systems in the building to insure

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proper operation. The testing and inspection of the systems (and its equipment) must be done in accordance with applicable codes, and inspection certificates must be displayed as appropriate and/or provided to LESSEE at LESSEE's request.

e. LESSOR shall submit, within one month after the commencement date of this LEASE and each year thereafter, current certifications from reputable contractors that all fire suppression systems are being serviced and tested on an acceptable periodic basis. Certificates shall be submitted for the following items, where applicable: sprinkler system, fire alarm system, emergency light, and fire extinguishers.

f. LESSOR shall submit within one month after the commencement date of this LEASE and annually thereafter, current certifications from its insurance or service company, wherever is applicable, that all boilers, pressure vessels, and elevators are being serviced and inspected on an acceptable periodic basis.

g. LESSOR shall be responsible for the exterior maintenance of the facility including but not limited to landscaping, lawn and shrub care and parking lots, (including policing, that is, assuring that the number of parking spaces provided for LESSEE are available for use by LESSEE, its employees and invitees, but not including security for the parking area) except as otherwise provided in this Lease.

h. LESSOR must have a building superintendent or a locally-designated representative available to proactively manage the PREMISES and promptly respond to LESSEE's requests to correct any Lease deficiency.

i. LESSOR shall repaint the PREMISES every (\_\_\_\_) years during the term of this Lease and any option terms. LESSEE may waive any repainting if, in its sole judgment, it determines that said repainting is not necessary;

13. **CONSTRUCTION OR ADDITIONAL ALTERATIONS.** LESSOR shall, at its cost and expense, and in return for the rent paid by LESSEE pursuant to this LEASE, construct and renovate the PREMISES substantially in accordance with the plans and/or specifications listed and set forth in Exhibit "A" (the "Work"). Prior to occupancy, minor punch list items and the due dates for completion of said punch list items shall be established and agreed upon by LESSOR and LESSEE. LESSOR agrees and acknowledges that the using agency has no

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authority to initiate or authorize change orders to the Work. All change orders to the Work must be signed and authorized by the Department of General Services, Bureau of Real Estate and/or Bureau of Public Works. Any change orders which exceed \$5,000.00 and all change orders when the aggregate of change orders will exceed \$50,000.00 must also be signed and authorized by the Commonwealth Office of the Budget. Failure of the LESSOR to obtain the required signatures shall relieve the Commonwealth from any obligation to pay for any work described in such change order(s). LESSOR shall not receive remuneration which is in addition to the rent for any construction or alterations to the PREMISES outside of the scope of the Work, unless LESSEE has, by a fully executed lease amendment containing the details of said construction or alterations, as well as the specific cost, agreed to such payment.

Except as otherwise provided herein, LESSEE shall not make, or permit to be made, any alterations, improvements or additions to the PREMISES without the prior written consent of the LESSOR, which consent shall not be unreasonably withheld. All alterations, improvements or additions to the PREMISES shall comply with all applicable laws.

Except as otherwise provided herein, LESSOR shall not make, or permit to be made, any alterations, improvements or additions to the PREMISES without the prior written consent of the LESSEE. All alterations, improvements or additions to the PREMISES shall comply with all applicable laws.

In all its procurement documents for renovations to the PREMISES, the LESSOR shall require that any insulation provided for the renovations must contain the minimum percentage of postconsumer recovered paper or recovered material as shown below for the applicable product:

<b>MATERIAL TYPE</b>	<b>PERCENTAGE BY WEIGHT</b>
Cellulose loose-fill and spray on	75% postconsumer recovered paper
Perlite composite board	23% postconsumer recovered paper
Plastic rigid foam, polyisocyanurate/ polyurethane:	
Rigid foam	9% recovered material
Foam-in-place	5% recovered material
Glass ridge foam	6% recovered material
Phenolic ridge foam	5% recovered material
Rock wool	75% recovered material

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"Postconsumer recovered paper" is defined as "Any paper, paperboard and fibrous wastes from retail stores, office buildings, homes and so forth, after they have passed through their end-usage as a consumer item including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards and used cordage; as well as all paper, paperboard and fibrous wastes that enter and are collected from municipal solid waste."

"Recovered materials" is defined as "Waste material and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process."

The LESSOR shall require the contractor to provide the LESSOR with documentary evidence that the insulation provided for the renovations was produced with the required minimum percentage of post consumer recovered paper or recovered material.

14. **CONFLICT BETWEEN LEASE AND SPECIFICATIONS.** To the extent that there are any conflicts between the requirements in Paragraphs 12 "Maintenance," Paragraph 13 "Construction or Additional Alterations" and the plans and/or specifications "Exhibit A," the LESSOR shall maintain/construct the PREMISES in accordance with the stricter standard.

15. **COMPLETION.** AFTER receipt of a fully executed copy of this LEASE, LESSOR agrees:

a. Within \_\_\_\_\_ (\_\_\_\_) days, to furnish the using agency detailed plans, specifications, drawings and other relevant construction documents (collectively "Documents") pertaining to the construction of and/or renovation of the PREMISES. Within thirty (30) days the using agency shall review and approve or reject the Documents. The approved Documents shall become Exhibit A to this LEASE and replace those plans and specifications that were attached as Exhibit A at the time of execution of the LEASE. If in the event the using agency review exceeds thirty (30) days the Completion schedule shall be extended accordingly to incorporate the number of days exceeding the initial thirty (30) day review period.

b. Within \_\_\_\_\_ (\_\_\_\_) days of using agency approval of the Documents, to commence construction and/or renovation of the PREMISES.

c. Within \_\_\_\_\_ (\_\_\_\_) days of commencement of construction, to complete all construction and/or renovation

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work in accordance with the approved Documents including final clean-up and the securing of all occupancy licenses or permits required by any governmental entity for occupancy.

d. The entire project shall be completed within \_\_\_\_\_(\_\_\_\_) days.

e. Upon completion of construction/renovation and preparation of the PREMISES so that it is ready for occupancy, LESSOR, at its sole expense, shall:

1. Arrange for field measurements of the PREMISES and verification of the total usable area in the building by a licensed architect and/or engineer.

2. Provide LESSEE with a written certificate from the architect/engineer that shall include a sealed set of drawings showing, in red, any changes in the dimension of the PREMISES in the total usable area of the building from the last set of drawings which the LESSOR provided to the Commonwealth's Bureau of Real Estate. The certificate shall: (i) include the date(s) when the measurements were done; (ii) specify the usable area in the PREMISES and the entire building; and (iii) state that the usable area was determined based upon the Commonwealth's usable area definition. The certificate must be signed by the architect/engineer and bear his seal.

3. At LESSEE's request, furnish complete as-built drawings of the completed structure in autoCAD version 12.0 on a 3 1/2 inch floppy diskette, and hard copy, drawn to a minimum 1/8 inch -- 1 foot scale.

Time is of the essence. If LESSOR fails or refuses to comply with provisions a), b), c), or d) of this paragraph, LESSEE, after giving LESSOR thirty (30) days' notice in writing, shall have the right to terminate this LEASE and/or exercise any other remedy it may have under the LEASE or at law. Furthermore, in addition to these rights, LESSOR shall pay LESSEE, at LESSEE's option, as liquidated damages, one percent of the annual rental of this LEASE for each and every day the PREMISES are not ready for occupancy by the date provided for in provision c) above.

No rents shall be due or payable until the construction/renovations required under Paragraph 12 are substantially completed as determined by the Using Agency in accordance with the Plans and Specifications listed in Exhibit A

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and LESSOR has complied with Provisions a), b), c), and d) of this paragraph. Upon completion of the construction/renovations, the Using Agency shall provide the Department of General Services', Bureau of Real Estate, with written verification of construction and/or renovations. It is further understood that in accordance with Paragraph 2 hereof, the commencement date of this LEASE will be automatically changed to the date of acceptance of the construction and/or renovations and LESSOR compliance with provisions a), b), c), and d) of this paragraph. The termination date and the beginning and expiration date of any renewal terms shall also be automatically changed.

The Commonwealth shall receive any net useable square feet within the leased premises in excess of that stated in the LEASE free of any and all costs or charges.

In the event there is less net usable square feet than stated in the LEASE the Commonwealth shall pay only for the net useable square feet provided and/or shall have the option to exercise its rights under the LEASE if it deems, in its sole judgment, that the amount of net usable square feet being provided is insufficient to meet its needs.

16. PAYMENT OF PREVAILING MINIMUM WAGES. LESSOR and LESSOR's contractor(s) must comply with the following conditions, provisions and requirements in the construction of the building, substantial rehabilitation of the building and/or substantial alterations to the PREMISES:

a. LESSOR and LESSOR's contractors shall pay at least the wage rates as determined by the Secretary of the Pennsylvania Department of Labor and Industry and shall comply with the conditions of the Prevailing Wage Act of August 15, 1961, 43 P.S. § 165-1 et seq., and the regulations issued thereto, to assure the full and proper payment of the rates.

b. Workers in the construction of the building, substantial rehabilitation of the building and/or substantial alterations to the PREMISES shall be paid at least the general prevailing minimum wage rates as set forth in the prevailing minimum wage predetermination, issued by the Secretary of labor and Industry, that is attached to, and made a part of the lease as Exhibit "D".

c. These requirements apply to work performed in the construction of the building, substantial rehabilitation of the building and/or substantial alterations to the PREMISES by LESSOR, LESSOR's contractor(s) and all subcontractors.

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d. LESSOR shall insert in all its contracts for the construction of the building, substantial rehabilitation of the building and/or substantial alterations to the PREMISES and shall require the contractor(s) to insert in each of its subcontracts the stipulations contained in these provisions.

e. No workers may be employed in the construction of the building, substantial rehabilitation of the building and/or substantial alterations to the PREMISES except in accordance with the classifications in the prevailing minimum wage predetermination of the Secretary. If additional or different classifications are necessary, LESSOR shall request the Department of General Services to petition the Secretary of Labor and Industry for rates for additional or different classifications.

f. Workers employed or working in the construction of the building, substantial rehabilitation of the building and/or substantial alterations to the PREMISES shall be paid unconditionally, regardless of whether a contractual relationship exists or the nature of a contractual relationship which may be alleged to exist between a contractor, subcontractor and worker, at least once a week, without deduction or rebate, on any account, either directly or indirectly except authorized deductions, the full amounts due at the time of payment, computed at the rates applicable to the time worked in the appropriate classification. Nothing in the lease, the Prevailing Wage Act or the regulations promulgated pursuant to the Act prohibits the payment of more than the general prevailing minimum wage rates as determined by the Secretary to a worker on a public work.

g. LESSOR shall require its contractor(s) and each subcontractor to post for the entire period of the construction of the building, substantial rehabilitation of the building and/or substantial alterations to the PREMISES the wage determination decisions of the Secretary, including the effective date of changes thereof, in a prominent and easily accessible place or places at the site of the work and at the places used by them to pay workers their wages. The posted notice of wage rates shall contain the following information:

1. The name of project.
2. The name of the Commonwealth agency that will be the tenant in the facility.

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3. The crafts and classifications of workers listed in the Secretary's general prevailing minimum wage rate determination for the particular project.

4. The general prevailing minimum wage rates determined for each craft and classification and the effective date of changes.

5. A statement advising workers that if they have been paid less than the general prevailing minimum wage rate for their job classification or that the contractor or subcontractor are not complying with the act or this title, they may file a protest in writing with the Secretary of Labor and Industry within 3 months of the date of the occurrence, objecting to the payment to a contractor to the extent of the amount due or to become due to them as wages for work performed on the public work project. A worker paid less than the rate specified in the contract shall have a civil right to action for the difference between the wage paid and the wages stipulated in the contract, which right of action shall be exercised within 6 months from the occurrence of the event creating the right.

h. LESSOR shall require its contractor(s) and each subcontractor to keep an accurate record showing the name, craft or classification, number of hours worked per day and the actual hourly rate of wage paid, including employee benefits, to each worker employed by him in connection with the public work. The record shall include deductions from each worker. The record shall be preserved for 2 years from the date of payment and shall be open at reasonable hours to the inspection of the Department of General Services, the Department of Labor and Industry and the tenant agency.

i. Apprentices shall be limited to numbers in accordance with a bona fide apprenticeship program registered with and approved by The Pennsylvania Apprenticeship and Training Council and only apprentices whose training and employment are in full compliance with The Apprenticeship and Training Act (43 P.S. §§ 90.1-90.10), approved July 14, 1961, and the regulations issued thereto shall be employed on the public work project. A worker using the tools of a craft who does not qualify as an apprentice within this subsection shall be paid the rate predetermined for journeymen in that particular craft or classification.

j. Wages shall be paid without deductions except authorized deductions. Employers not parties to a contract requiring

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contributions for employee benefits which the Secretary of Labor and Industry has determined to be included in the general prevailing minimum wage rate shall pay the monetary equivalent thereof directly to the workers.

k. Payment of compensation to workers for work performed on public work on a lump sum basis, or a piece work system, or a price certain for the completion of a certain amount of work, or the production of a certain result shall be deemed a violation of the Prevailing Wage Act and the lease, regardless of the average hourly earnings resulting therefrom.

l. LESSOR shall require its contractor(s) and each subcontractor to file a statement each week and a final statement at the conclusion of the work on the contract under oath, and in form satisfactory to the Secretary, certifying that workers have been paid wages in strict conformity with the provisions of the contract as prescribed by this provision or if wages remain unpaid to set forth the amount of wages due and owing to each worker respectively.

m. The provisions of the Prevailing Wage Act (43 P.S. §§ 165-1 through 165-17) and the regulations issued thereto (34 Pa. Code §§ 9.101 through 9.112) are incorporated by reference in the LEASE.

n. As used in this paragraph, “substantial rehabilitation” is the conversion or adaptation of an existing facility into a safe, structurally sound building, by gutting and extensive reconstruction, to make the building suitable for use by LESSEE.

o. As used in this paragraph, “substantial alterations” are those alterations to an existing facility by LESSOR in accordance with the specifications, plans, or drawings contained in the LEASE or where the final plans, drawings or specifications must be reviewed and approved by LESSEE.

17. **INSURANCE**. LESSOR shall procure and maintain at its expense, the following types of insurance, issued by companies acceptable to LESSEE and authorized to conduct such business under the laws of the Commonwealth of Pennsylvania:

a. Worker's Compensation Insurance for all of the LESSOR's employees and those of any contractor, engaged in work at the PREMISES in accordance with the Worker's Compensation Act of 1915 and any supplements or amendments thereof.

b. Public liability and property damage insurance to protect LESSEE, LESSOR and any and all contractors from claims for

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damages for personal injury (including bodily injury), sickness or disease, accidental death and damage to property, including loss of use resulting from property damage, which may arise from services performed by LESSOR, its agents or employees under this LEASE or from an alleged defective, dangerous or untenantable condition of the PREMISES. The limits of such insurance shall be in an amount not less than \$500,000.00 each person and \$2,000,000.00 each occurrence, personal injury and property damage combined. Such policies shall be occurrence rather than claims-made policies and shall name the Commonwealth of Pennsylvania as an additional insured.

Prior to occupancy of the PREMISES, LESSOR shall provide LESSEE with current certificates of insurance. These certificates shall contain a provision that the coverage afforded under the policies will not be canceled or changed until at least thirty (30) days' written notice has been given to LESSEE.

18. **HOLD HARMLESS.** LESSOR shall save and hold harmless LESSEE, and its officers, agents and employees or any of them from any and all claims, demands, actions or liability (including, but not limited to, consequential damages and reasonable attorney's fees) of any nature based upon or arising out of:

- a. any service performed by LESSOR, its agents or employees under this LEASE, except such services as are properly performed at the express direction of LESSEE;
- b. any actual or alleged defective, dangerous or untenantable condition of the PREMISES.
- c. violations of, or noncompliance of the PREMISES with, any statute, ordinance, rule or regulation of any governmental authority.

19. **ENCUMBRANCES.** LESSOR covenants that it has good and clear title to the PREMISES or that it has the right and authority from the owner of the PREMISES to lease the Premises. LESSOR covenants that LESSEE shall enjoy peaceful and uninterrupted possession of the PREMISES during the term of this LEASE. LESSOR shall provide LESSEE and any mortgagee that may hold an encumbrance against the PREMISES, an estoppel certificate or Non-Disturbance and Attornment Agreement with respect to matters related to this LEASE and/or the status of performance of obligations by the parties under this LEASE.

20. **DAMAGE/DESTRUCTION.** In the event of damage to the PREMISES by fire, flood, lightning, or other Act of God, or act of terrorism rendering it impossible or substantially inconvenient for LESSEE to continue to occupy or use the PREMISES for its operations, the LESSOR, after notice from the LESSEE

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of the condition shall have sixty (60) days to repair and/or restore the PREMISES to a tenantable condition. If LESSOR fails to repair and/or restore the PREMISES within said period of sixty (60) days, or if LESSOR fails to make reasonable progress during the sixty (60) day period, as determined by LESSEE in its sole discretion, LESSEE may, at its option: a.) terminate this LEASE by giving LESSOR thirty (30) days' written termination notice or b.) after first giving LESSOR fifteen (15) days' written notice, repair and restore the PREMISES to a tenantable condition, and deduct such costs made in restoration of the PREMISES from the RENT due the LESSOR. At LESSEE'S option, payment of RENT shall abate as long as the PREMISES remains in an untenable condition after notice to LESSOR and shall resume only after the condition has been substantially corrected. Such abatement shall be prorated on the portion of the PREMISES that is or remains untenable.

21. **EVENTS OF DEFAULT.** Any one or more of the following events shall constitute an "Event of Default":

- a. Failure of LESSOR to provide the services without disruption or interruption as stipulated in this LEASE.
- b. Failure of LESSOR to maintain the PREMISES in tenantable condition.
- c. Failure of LESSOR to provide peaceful and uninterrupted possession of the PREMISES by LESSEE.
- d. Failure of LESSOR to perform or observe any other lease obligations.

22. **REMEDY.** Upon the occurrence and during the continuance of an Event of Default, LESSEE may, after giving LESSOR thirty (30) days' written notice (during the thirty (30) day period, LESSOR shall have the opportunity to correct the event of default), exercise one or more of the following remedies:

- a. Perform, on behalf of and at the expense of LESSOR, any obligation of LESSOR under this LEASE which LESSOR has failed to perform and of which LESSEE shall have given LESSOR notice, the cost of which performance by LESSEE shall be payable by LESSOR to LESSEE upon demand or deducted by LESSEE from the RENT or any other amount due LESSOR by LESSEE.
- b. Terminate this LEASE and the tenancy created hereby.

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c. Abate payment of RENT as long as the "Event of Default" remains in effect. After corrective action has been completed by LESSOR, LESSEE shall pay LESSOR the withheld rent less any costs suffered by LESSEE or the tenant agency resulting from the event of default.

d. Exercise any other legal and/or equitable rights or remedies available to LESSEE.

23. **REGULATIONS.** With full understanding by LESSOR of the intended use of the PREMISES by LESSEE, LESSOR agrees to make the PREMISES conform to all governmental zoning and occupancy rules and regulations and be approved by the Department of Labor and Industry, in addition to any other local, state, federal or governmental agencies having jurisdiction for regulations covering occupancy, fire and panic, toilet rooms, safety, chemical or other codes pertaining to the property.

LESSOR, at its sole expense, shall promptly take action to comply with changes in any code or regulation requirements when such changes occur in local, state or federal codes or regulations during the term of the LEASE and any renewal thereof. If such changes result from the use of the PREMISES by LESSEE, LESSEE shall reimburse LESSOR for the reasonable costs of compliance.

24. **VENDING.** The Commonwealth reserves the right to install and operate vending machines on the PREMISES without any additional payment to LESSOR or any sharing of the income derived from the operation of the vending machines. LESSOR shall not install or operate any vending machines in the PREMISES unless requested by the using agency. If the PREMISES is located in a multi-tenant building, LESSOR may install vending machines in the common areas of the building. All receipts from the operation of vending machines, after costs of goods sold, and all commissions paid by a commercial vending concern shall accrue to the licensed blind vendor operating a vending facility on the PREMISES or, if none, to the Employment Fund for the Blind.

25. **RECYCLING.** LESSOR will provide a collection system, to be pre-approved by the LESSEE, for the removal of recyclable materials from the PREMISES in compliance with local codes and ordinances, and Act 101 of 1988. LESSOR must provide suitable containers, dumpsters, etc., for collecting and storing recyclable materials in the PREMISES and on LESSOR's property. LESSOR will assume all costs related to the disposal and removal of recyclable materials unless LESSEE notifies LESSOR in writing of its intention to do so.

26. **OFFSET PROVISION.** LESSOR agrees that LESSEE may set off the amount of any state tax liability or other debt of LESSOR or its subsidiaries that

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is owed to the Commonwealth and not being contested on appeal against any payments due the LESSOR under this or any other contract with the Commonwealth.

27. **ASBESTOS.** LESSOR hereby agrees to strictly adhere to the provisions of Exhibit "C" to this LEASE. In addition, LESSOR further agrees to protect, indemnify and save harmless LESSEE from and against any and all liabilities, losses, damages, costs, expenses, cause of action, suits, claims, demands or judgments of any nature arising from any injuries to, or the death of any person growing out of or connected with the presence of asbestos in the PREMISES.

28. **NO ORAL MODIFICATION.** This LEASE may not be modified orally. Except as provided in this LEASE, all modifications must be by written amendment signed by both parties.

29. **INTERPRETATION.** This LEASE shall be construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania.

30. **COMPLIANCE WITH LAWS.** LESSOR agrees to comply with all federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations and ordinances affecting the PREMISES.

31. **DISPUTES.** In the event of a controversy or claim arising from the LEASE, LESSOR must, within six (6) months after the cause of action accrues, file a written claim with the Director of the Bureau of Real Estate, Department of General Services, for a determination. The claim shall state all grounds upon which LESSOR asserts a dispute exists. If the LESSOR fails to file a claim or files an untimely claim, the LESSOR is deemed to have waived its right to assert a claim in any forum.

The Director of the Bureau of Real Estate, Department of General Services, shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of LESSEE and the LESSOR. The Director of the Bureau of Real Estate shall send his/her written determination to LESSOR. If the Director of the Bureau of Real Estate fails to issue a final determination within 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The determination of the Director of

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the Bureau of Real Estate shall be the final order of the Department of General Services.

Within fifteen (15) days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, LESSOR may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, LESSOR shall proceed diligently with the performance of the LEASE in a manner consistent with the determination of the Director of the Bureau of Real Estate, and LESSEE shall compensate the LESSOR pursuant to the terms of the LEASE.

32. **ASSIGNMENT.** LESSOR may not assign this LEASE without the prior written approval of LESSEE, which approval shall not be unreasonably withheld. Use of the PREMISES by another Commonwealth agency shall not be deemed a sublease or assignment and shall not require the consent or approval of LESSOR.

33. **BINDING SUCCESSOR AND ASSIGNS.** All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective successors and assigns of the said parties.

34. **CONTRACTOR INTEGRITY PROVISIONS.** It is essential that those who seek to contract with the Commonwealth of Pennsylvania ("Commonwealth") observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth procurement process.

In furtherance of this policy, Lessee agrees to the following:

- a. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting with the Commonwealth.
- b. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to Contractor employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all Contractor employees.
- c. Contractor, its affiliates, agents and employees shall not influence , or attempt to influence, any Commonwealth employee to

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breach the standards of ethical conduct for Commonwealth employees set forth in the *Public Official and Employees Ethics Act*, 65 Pa.C.S. §§ 1101 et seq.; the *State Adverse Interest Act*, 71 P.S. § 776.1 et seq.; and the [Governor's Code of Conduct, Executive Order 1980-18](#), 4 Pa. Code § 7.151 et seq., or to breach any other state or federal law or regulation.

d. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person at the direction or request of any Commonwealth official or employee.

e. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person, the acceptance of which would violate the [Governor's Code of Conduct, Executive Order 1980-18](#), 4 Pa. Code § 7.151 et seq., or any statute, regulation, statement of policy, management directive or any other published standard of the Commonwealth.

f. Contractor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any Commonwealth official or employee.

g. Contractor, its affiliates, agents, employees, or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the contract, except as provided in the contract.

h. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.

i. Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data, or records provided to, or prepared by, Contractor under this contract without the prior written approval of the Commonwealth, except as

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required by the *Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104*, or other applicable law or as otherwise provided in this contract. Any information, documents, reports, data, or records secured by Contractor from the Commonwealth or a third party in connection with the performance of this contract shall be kept confidential unless disclosure of such information is:

1. Approved in writing by the Commonwealth prior to its disclosure; or
2. Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior Commonwealth approval; or
3. Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or
4. Necessary for purposes of Contractor's internal assessment and review; or
5. Deemed necessary by Contractor in any action to enforce the provisions of this contract or to defend or prosecute claims by or against parties other than the Commonwealth; or
6. Permitted by the valid authorization of a third party to whom information, documents, reports, data, or records pertain; or
7. Otherwise required by law.

j. Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has not been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the Commonwealth agency contracting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following:

1. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.

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2. Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Contractor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual or entity associated with:

- (a) obtaining;
- (b) attempting to obtain; or
- (c) performing a public contract or subcontract.

Contractor's acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval or acquiescence.

- 3. Violation of federal or state antitrust statutes.
- 4. Violation of any federal or state law regulating campaign contributions.
- 5. Violation of any federal or state environmental law.
- 6. Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.
- 7. Violation of the *act of June 2, 1915 (P.L. 736, No. 338)*, known as the *Workers' Compensation Act, 77 P.s. 1 et seq.*
- 8. Violation of any federal or state law prohibiting discrimination in employment.
- 9. Debarment by any agency or department of the federal government or by any other state.
- 10. any other crime involving moral turpitude or business honesty or integrity.

Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause upon such notification or when the Commonwealth otherwise learns that Contractor has been officially notified, charged, or convicted.

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k. If this contract was awarded to Contractor on a non-bid basis, Contractor must, (as required by *Section 1641* of the *Pennsylvania Election Code*) file a report of political contributions with the Secretary of the Commonwealth on or before February 15 of the next calendar year. The report must include an itemized list of all political contributions known to Contractor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:

1. Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed an aggregate of one thousand dollars (\$1,000) by any individual during the preceding year; or
2. Any employee or members of his immediate family whose political contribution exceeded one thousand dollars (\$1,000) during the preceding year.

To obtain a copy of the reporting form, Contractor shall contact the Bureau of Commissions, Elections and Legislation, Division of Campaign Finance and Lobbying Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.

l. Contractor shall comply with requirements of the *Lobbying Disclosure Act, 65 Pa.C.S. § 13A01 et seq.*, and the regulations promulgated pursuant to that law. Contractor employee activities prior to or outside of formal Commonwealth procurement communication protocol are considered lobbying and subject the Contractor employees to the registration and reporting requirements of the law. Actions by outside lobbyists on Contractor's behalf, no matter the procurement stage, are not exempt and must be reported.

m. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or in these provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or Commonwealth Inspector General in writing.

n. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these contractor integrity provisions in connection with the submission of the bid or

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proposal, during any contract negotiations or during the term of the contract.

**o. Contractor shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of the Office of Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refers to or concern this contract.**

**p. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.**

**q. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Paragraph 17.**

**1. "Confidential information" means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Contractor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through an act or omission of Contractor; or e) has not been independently developed by Contractor without the use of confidential information of the Commonwealth.**

**2. "Consent" means written permission signed by a duly authorized office or employee of the Commonwealth, provided**

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that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this contract.

3. “Contractor” means the individual or entity that has entered into this contract with the Commonwealth, including those directors, officers, partners, managers, and owners having more than a five percent interest in Contractor.

4. “Financial interest” means:

(a) Ownership of more than a five percent interest in any business; or

(b) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.

5. “Gratuity” means tendering, giving or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the [Governor’s Code of Conduct, Executive Order 1980-18](#), the *4 Pa. Code* § 7.153(b), shall apply.

6. “Immediate family” means a spouse and any unemancipated child.

7. “Non-bid basis” means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

8. “Political contribution” means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or

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any valuable thing, to a candidate for public office or to a political committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

**35. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE. LESSOR shall comply with all applicable provisions of the state and federal constitution, laws, regulations and judicial orders pertaining to nondiscrimination/sexual harassment and equal employment opportunity, including the provisions of the Nondiscrimination/Sexual Harassment Clause that follows:**

a. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the lease agreement or any subcontract, LESSOR, each subcontractor, or any person acting on behalf of LESSOR or subcontractor shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

b. Neither LESSOR nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract on account of gender, race, creed, or color.

c. LESSOR and each subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.

d. LESSOR and each subcontractor shall not not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contracts relates.

e. LESSOR and each subcontractor shall, within the time periods requested by the Commonwealth, furnish all necessary employment documents and records and permit access to their books, records, and accounts by the contracting agency and the Bureau of Minority and Women Business Opportunities (BMWBO), for purpose of

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ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment. Within fifteen (15) days after execution of the lease agreement, Lessee shall be required to complete, sign and submit Form STD-21, the "Initial Contract Compliance Data" form. If LESSOR has fewer than five employees or its employees are all from the same family or who have completed the Form STD-21 within the past 12 months, it may, within the 15 days, request an exemption from the Form STD-21 submission requirement from the contracting agency.

f. LESSOR shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.

g. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place LESSOR in the Contractor Responsibility File.

**36. ACCESSIBILITY TO THE PREMISES BY INDIVIDUALS WITH DISABILITIES.** LESSOR shall be responsible for, and shall bear the financial burden for, ensuring that the PREMISES comply with the building accessibility requirements of the Americans with Disabilities Act and its title II regulations as well as the Universal Accessibility Act (Act of September 1, 1965, P.L. 459, No. 235) and its implementing regulations. LESSOR's responsibilities shall include, but shall not be limited to, removal of any structural or communication barriers for accessibility to the PREMISES by individuals with disabilities and providing auxiliary aids and services as required. LESSEE shall only be responsible for providing program accessibility to individuals with disabilities unless alterations, improvements and additions to the PREMISES are required in order to provide program accessibility, in which case, LESSOR shall be responsible. LESSOR shall defend any suit or proceeding brought against LESSEE on account of any alleged violation of any federal or state statute or regulation relating to accessibility to buildings by individuals with disabilities. LESSOR shall indemnify and hold LESSEE harmless from any and all damages, costs and expenses, awarded therein against LESSEE.

LESSOR understands and agrees that pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. Section 35.101 et seq., no individual with a disability shall, on the basis of the disability, be excluded from participation in this LEASE or from activities provided for under this LEASE. As a condition of accepting and

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executing this LEASE, LESSOR agrees to comply with the "General Prohibitions Against Discrimination" 28 C.F.R. Section 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to the benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors and lessors.

The LESSOR shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the LESSOR'S failure to comply with the provisions of this Paragraph.

**37. CONTRACTOR RESPONSIBILITY PROVISIONS.** For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee, or subgrantee, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant, or subgrant with the Commonwealth, or with a person under contract, subcontract, grant, or subgrant with the Commonwealth or its state affiliated entities, and state-related institutions. The term contractor may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the Commonwealth.

- a. The contractor must certify, in writing, for itself and all its subcontractors, that as of the date of its execution of any Commonwealth contract, that neither the contractor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the contractor cannot so certify, then it agrees to submit, along with the bid/proposal, a written explanation of why such certification cannot be made.
- b. The contractor must also certify, in writing, that as of the date of its execution, of any Commonwealth contract it has no tax liabilities or other Commonwealth obligations.
- c. The contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the contractor shall have an obligation to inform the contracting agency if, at any time during the term of the contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity.

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Such notification shall be made within 15 days of the date of suspension or debarment.

d. The failure of the contractor to notify the contracting agency of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the contract with the Commonwealth.

e. The contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the contractor's compliance with the terms of this or any other agreement between the contractor and the Commonwealth, which results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The contractor shall not be responsible for investigative costs for investigations that do not result in the contractor's suspension or debarment.

f. The contractor may obtain the current list of suspended and debarred Commonwealth contractors by either searching the internet at <http://www.dqs.state.pa.us/debarment.htm> or contacting the:

Department of General Services  
Office of Chief Counsel  
603 North Office Building  
Harrisburg, Pennsylvania 17125  
Telephone No. (717) 783-6472  
FAX No. (717) 787-9138

**38. RIGHT TO KNOW LAW REQUIREMENTS**

a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, applies to this LEASE.

b. If the LESSEE needs the LESSOR'S assistance in any matter arising out of the RTKL related to this LEASE, it shall notify the LESSOR using the legal contact information provided in this LEASE. The LESSOR, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the LESSEE.

c. Upon written notification from the LESSEE that it requires the LESSOR's assistance in responding to a request under the RTKL for information in the LESSOR's possession, constituting, or alleged to

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constitute, a public record in accordance with the RTKL (“Requested Information”), the LESSOR shall:

1. Provide the LESSEE, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the LESSOR’s possession arising out of this LEASE that the LESSEE reasonably believes is Requested Information and may be a public record under the RTKL; and
  2. Provide such other assistance as the LESSEE may reasonable request, in order to comply with the RTKL with respect to this LEASE.
- d. If the LESSOR considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the LESSOR considers exempt from production under the RTKL, the LESSOR must notify the LESSEE and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the LESSOR explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The LESSEE will rely upon the written statement from the LESSOR in denying a RTKL request for the Requested Information unless the LESSEE determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the LESSEE determine that the Requested Information is clearly not exempt from disclosure, the LESSOR shall provide the Requested Information within five (5) business days of receipt of written notification of the LESSEE’S determination.
- f. If the LESSOR fails to provide the Requested Information within the time period required by these provisions, the LESSOR shall indemnify and hold the LESSEE harmless for any damages, penalties, costs, detriment or harm that the LESSEE may incur as a result of the LESSOR’S failure, including any statutory damages assessed against the LESSEE.
- g. The LESSEE will reimburse the LESSOR for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

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h. The LESSOR may file a legal challenge to any LESSEE decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the LESSOR shall indemnify the LESSEE for any legal expenses incurred by the LESSEE as a result of such a challenge and shall hold the LESSEE harmless for any damages, penalties, costs, detriment or harm that the LESSEE may incur as a result of the LESSOR'S failure, including any statutory damages assessed against the LESSEE, regardless of the outcome of such legal challenge. As between the parties, the LESSOR agrees to waive all rights or remedies that may be available to it as a result of the LESSEE'S disclosure of Requested Information pursuant to the RTKL.

i. The LESSOR'S duties relating to the RTKL are continuing duties that survive the expiration of this LEASE and shall continue as long as the LESSOR has Requested Information in its possession.

39. **NOTICE.** Any notice or demand from LESSEE to LESSOR or from LESSOR to LESSEE shall be in writing and shall be delivered by hand or by deposit in United States mail, postage prepaid, via registered or certified mail. If to LESSOR, in an envelope addressed to the attention of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If to LESSEE, in an envelope addressed to the attention of:

Director  
Bureau of Real Estate  
Department of General Services  
505 North Office Building  
Harrisburg, Pennsylvania 17125

40. **EXHIBITS AND ADDENDA PART OF LEASE.** Included in and made a part of this LEASE, whether or not referred to in the body of this LEASE and with the same force and effect as though fully set forth hereto are Exhibits "A" through "E".

41. **CANCELLATION OF CURRENT LEASE BETWEEN PARTIES (# \_\_\_\_\_).** LEASE between the parties hereto, dated \_\_\_\_\_, and beginning \_\_\_\_\_, is hereby canceled as of \_\_\_\_\_, only if (1) this LEASE is approved by the Board of Commissioners of Public Grounds and Buildings before \_\_\_\_\_, and (2) any construction, renovations or improvements which are required are completed and accepted before then. If either the date of approval by the Board of Commissioners of Public Grounds and Buildings or the date of

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completion/acceptance of any construction, renovations or improvements occur on or after \_\_\_\_\_, then the LEASE dated \_\_\_\_\_ and beginning \_\_\_\_\_, is hereby canceled as of the later of: (1) the date of Board approval, and (2) the date of completion/acceptance.

**42. EXECUTION DATE. LESSOR ACKNOWLEDGES THAT THIS LEASE IS SUBJECT TO FINAL EXECUTION BY THE SECRETARY OF GENERAL SERVICES AND APPROVAL BY THE OFFICE OF GENERAL COUNSEL, OFFICE OF THE ATTORNEY GENERAL AND THE BOARD OF COMMISSIONERS OF PUBLIC GROUNDS AND BUILDINGS AND THAT UNTILE THE PROPERLY SIGNED, EXECUTED AND APPROVED LEASE IS SENT TO LESSOR, THIS LEASE WILL NOT BE VALID OR BINDING . THE EXECUTION DATE OF THIS LEASE (“EXECUTION DATE”) SHALL BE THE DATE WHEN THE LEASE IS SIGNED BY THE SECRETARY OF GENERAL SERVICES AFTER ALL OTHER APPROVALS HAVE BEEN OBTAINED, WHICH DATE SHALL BE ENTERED ON THE APPROPRIATE LINE OF THE FIRST PAGE OF THIS LEASE.**

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IN WITNESS WHEREOF, the parties hereto have duly executed these presents, and intend to be legally bound thereby, the day and year first above written.

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

Lessor

COMMONWEALTH OF PENNSYLVANIA  
Acting Through  
DEPARTMENT OF GENERAL SERVICES

ATTEST:

\_\_\_\_\_

By \_\_\_\_\_ (SEAL)  
Secretary of General Services

BOARD OF COMMISSIONERS OF PUBLIC GROUNDS AND BUILDINGS

\_\_\_\_\_

STATE TREASURER

\_\_\_\_\_

GOVERNOR

APPROVED AS TO FORM AND LEGALITY

OFFICE OF GENERAL COUNSEL

OFFICE OF ATTORNEY GENERAL

By \_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

**APPENDIX A**

**EXHIBIT B**

**GENERAL INFORMATION**

The janitorial service will provide all of the equipment and supplies to meet the cleaning requirements. (See chart)

The janitorial service will also supply the following:

Liquid hand soap

Toilet tissue

Liners for sanitary napkin receptacles

Paper towels

Sanitary napkins

Paper cups (if necessary)

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**JANITORIAL SPECIFICATIONS**

General Office Cleaning	Daily	Weekly	Monthly	Four Months	Semi-Annually	Annually	As Needed	Other
1. Empty all waste receptacles. Replace plastic liners. Remove trash to designated area.	X							
2. Clean trash cans.							X	
3. Maintain separation and removal of recyclables in accordance with local agreement.	X							
4. Empty and clean ashtrays.	X							
5. Clean and polish water coolers.	X							
6. Thoroughly clean entrance doors (inspect daily).		X						
7. Clean window glass on inside and outside of entrance doors and reception partition.	X							
8. Dust woodwork, files, bookcases, partitions, ledges, window sills, desks and work stations and other office furniture and equipment.		X						
9. Clean passenger elevator walls.		X						
10. Dust venetian blinds with treated cloth.				X				
11. Vacuum upholstered furniture.					X			
12. Wash all window glass inside and out.						X		
13. Wash venetian blinds.						X		
14. Dust all grills, vents, louvers and diffusers.				X				
15. Wash all grills, vents, louvers, diffusers and fluorescent lights and covers.						X		
16. Wash all doors and door knobs.						X		
17. Spot clean doors, handles & metal surfaces.							X	

**APPENDIX A**

**JANITORIAL SPECIFICATIONS**

<b>Rest Room Cleaning</b>	<b>Daily</b>	<b>Weekly</b>	<b>Monthly</b>	<b>Four Months</b>	<b>Semi-Annually</b>	<b>Annually</b>	<b>As Needed</b>	<b>Other</b>
1. Wash sinks, urinals, and toilet bowls using scouring powder to remove stains, clean under sides, wash both sides of toilet seats and tile walls near urinals with disinfectant.	<b>X</b>							
2. Empty, clean and reline all sanitary napkin receptacles.	<b>X</b>							
3. Fill and maintain mechanical operation of all toilet tissue dispensers, sanitary napkin dispensers, towel, soap, and paper cup dispensers. Ensure that replacement supplies are available to CAO staff.	<b>X</b>							
4. Polish flushmaster, piping, toilet hinges, dispensers, and other metal work in rest rooms.		<b>X</b>						
5. Clean shower stalls.		<b>X</b>						
6. Wash tile walls, stall partitions and fixtures with disinfectant.			<b>X</b>					
7. Polish mirrors.	<b>X</b>							

**JANITORIAL SPECIFICATIONS**

**APPENDIX A**

<b>Office Floors</b>	<b>Daily</b>	<b>Weekly</b>	<b>Monthly</b>	<b>Four Months</b>	<b>Semi-Annually</b>	<b>Annually</b>	<b>As Needed</b>	<b>Other</b>
1. Sweep and wet mop tile floors in kitchen, worker entrance area, client and worker traffic areas and the elevator. Vacuum these areas if carpeted.	X							
2. Sweep and wet mop/vacuum all other floors in the general office area.	X							
3. Sweep floors and stairs in stair wells.		X						
4. Spot clean carpets or tile floors including stair wells and elevators.							X	
5. Apply nonskid wax and buff tile floors.			X					
6. Strip all tile floors of old finish and apply two coats of antiskid wax and buff.					X			
7. Steam clean carpeting in high traffic areas identified in No. 1 above.					X			
8. Steam clean carpeting in low traffic areas identified in No. 3 above.						X		

**JANITORIAL SPECIFICATIONS**

	<b>Daily</b>	<b>Weekly</b>	<b>Monthl</b>	<b>Four Months</b>	<b>Semi-Annually</b>	<b>Annual</b>	<b>As Needed</b>	<b>Other</b>
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**APPENDIX A**

<b>Kitchen Cleaning</b>			<b>y</b>		<b>y</b>	<b>y</b>		
1. Wash all counter surfaces, sinks, and table tops.	<b>X</b>							
2. Wipe with a damp cloth the refrigerator doors and microwave doors and the stove.	<b>X</b>							
3. Clean the interior of the refrigerator, stove, microwave per local plan.								<b>X</b>
4. Clean kitchen cabinets.					<b>X</b>			

**JANITORIAL SPECIFICATIONS**

<b>Office Walls and Ceilings</b>	<b>Daily</b>	<b>Weekly</b>	<b>Monthl y</b>	<b>Four Months</b>	<b>Semi- Annuall y</b>	<b>Annuall y</b>	<b>As Needed</b>	<b>Other</b>
1. Dust all ceilings.					<b>X</b>			

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2. Dust walls removing and cleaning pictures, charts, etc.					X			
3. Wash walls and woodwork if appropriate as per local agreement.						X		
4. Spot clean ceiling tiles, walls and woodwork.							X	

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**JANITORIAL SPECIFICATIONS**

Other Cleaning	Daily	Weekly	Monthly	Four Months	Semi-Annually	Annually	As Needed	Other
1. Clean janitor's sink and neatly store cleaning equipment and supplies in designated locations.	X							
2. Replace light bulbs.							X	

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EXHIBIT C

ASBESTOS

1. LESSOR certifies that an asbestos survey has been completed relative to the entire building in which the space is located in accordance with the following criteria:

- a. Building(s) must be inspected by PAL&I-certified inspector(s), each with a minimum of one (1) year experience in conducting building inspections for asbestos-containing materials (ACM).
- b. Samples must be collected and analyzed in numbers no less stringent than AHERA guidelines.
- c. Sample analysis must be performed by laboratory(ies) accredited under the NVLAP program for asbestos bulk sample analysis.
- d. All suspect materials must be analyzed for asbestos, except for the following:
  1. Roofing materials
  2. Undamaged firedoors
  3. Exterior siding
- e. Suspect materials not analyzed must be reported as "assumed-ACM".
- f. Physical and hazard assessments of all ACM and assumed-ACM must be performed by PAL&I-certified management planner(s), each with a minimum of one year experience in preparing management plans for ACM in buildings.

Two complete copies of the management plan, including a completed Table C-1, must be submitted to LESSEE for review prior to the issuance of a lease. The management plan must include copies of all bulk sample analysis results, floor plans or diagrams indicating the location of all ACM and assumed-ACM, and explicit recommendations for each area of ACM found or assumed. Table C-1 must list all materials tested or assumed, regardless of the results. For materials verified by laboratory analysis to be non-ACM, only the first four (4) columns of Table C-1 must be completed.

2. LESSOR agrees that any and all recommendations made by the professional preparing the above management plan to repair, remove,

## APPENDIX A

encapsulate, or otherwise abate any or all ACM or assumed-ACM in the building(s) will be completed prior to occupancy by LESSEE. As a minimum requirement, all ACM or assumed-ACM with any degree of damage must be restored to an undamaged condition prior to occupancy of the premises by LESSEE. LESSEE will not be responsible for any expenses incurred in complying with the recommended actions, or for lease payments prior to occupancy. This work must be completed in accordance with the following criteria:

- a. LESSOR will notify LESSEE of all asbestos-related work, in writing, at least twenty (20) days prior to commencement of such work. When responding to emergency situation, notification to the LESSEE must occur as soon as possible, but no later than 12 hours after commencement of the work.
- b. Abatement contractor must be PAL&I-certified as a contractor and have a minimum of two (2) years experience in performing asbestos abatement work.
- c. Workers must be PAL&I-certified as asbestos abatement workers.
- d. Workers must be supervised by a PAL&I-certified abatement supervisor with a minimum of one (1) year experience in asbestos abatement.
- e. The services of an independent consulting firm must be retained during the course of abatement to monitor the contractor's performance, conduct air monitoring both inside and outside of critical barriers each day abatement is conducted, and conduct clearance testing.
- f. Daily air monitoring will consist of collecting a minimum of two (2) samples inside, and two (2) outside, each individual work area. Sample volume must exceed 1800 liters and analysis should be by phase contrast microscopy using NIOSH 7400 performed by an AIHA-accredited laboratory. Analysis results greater than or equal to .01 fibers per cubic centimeter for samples collected outside of the critical barriers will require prompt action on the part of the LESSOR, at the LESSOR'S sole cost, to protect LESSEE'S employees health and safety.
- g. For clearance testing of projects involving the disturbance of a quantity of ACM or assumed-ACM less than or equal to 160 square feet of 260 linear feet, five (5) samples must be collected and analyzed by phase contrast microscopy using NIOSH 7400

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performed by an AIHA-accredited laboratory. The volume of each sample must exceed 1800 liters. Analysis results greater than or equal to .01 fibers per cubic centimeter for any of the samples will result in failure of the testing, and will require recleaning until all five (5) sample results are less than .01 fibers per cubic centimeter.

h. For clearance testing of projects involving the disturbance of a quantity of ACM or assumed-ACM greater than 160 square feet of 260 linear feet, the guidelines of 40 CFR Part 763, Subpart E, Appendix A, Section IV (Mandatory Interpretation of Transmission Electron Microscopy Results to Determine Completion of Response Actions) shall apply.

i. Verbal results of clearance monitoring following abatement must be provided to LESSEE prior to removal of primary barriers. In addition, copies of all air monitoring results and hygienist's reports must be delivered to LESSEE within thirty (30) days following completion of any abatement action.

This work must be completed, and written certification by the LESSOR'S consultant provided, within thirty (30) days prior to the date LESSEE would otherwise take possession of the premises. LESSEE may elect to terminate this lease by written notice to the LESSOR if these requirements are not met.

3. LESSOR further agrees that during the period of time that the building(s) contains damaged ACM or damaged assumed-ACM in any form, air monitoring will be conducted at approximately one (1) month intervals, at the LESSOR'S sole expense. Air monitoring shall begin within seventy two (72) hours following discovery by, or notification to, the LESSOR that damaged ACM or damaged assumed-ACM exists. One sample for each 10,000 square feet of floor area must be collected, with a minimum of three (3) samples collected and analyzed per air monitoring interval. Sample volume must exceed 1800 liters and analysis should be by phase contrast microscopy using NIOSH 7400 or equivalent performed by an AIHA-accredited laboratory. Verbal results of air monitoring must be provided to LESSEE within forty eight (48) hours of the laboratory's notification to the LESSOR, with copies of the written laboratory report to follow within fifteen (15) days. Analysis results greater than or equal to .01 fibers per cubic centimeter in any sample will require action, within forty eight (48) hours, on the part of the LESSOR and at the LESSOR'S sole cost, to protect LESSEE'S employees by undertaking during non-working hours the following:

a. Repair all damaged ACM and damaged assumed-ACM, and remove all debris suspected of containing asbestos.

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- b. Remove and replace damaged ACM and damaged assumed-ACM with other appropriate building materials and restore the building to a safe condition, or**
- c. Encapsulate, enclose, encase, or other appropriate containment method on the damaged ACM and damaged assumed-ACM.**

**This work must be completed in compliance with the criteria listed in Section 2. In addition to the LESSOR'S testing responsibility, LESSEE retains the right to collect any samples and conduct any testing.**

**Regardless of air monitoring results, all damaged ACM and damaged assumed-ACM must be repaired to abated within sixty (60) days from the date of discovery by, or notification to, the LESSOR. If the required repairs or abatement is not completed within this time period, LESSEE may either terminate this lease immediately without prior notice, or make any changes, repairs, and alterations LESSEE deems necessary to protect the health and safety of its employees.**

**4. LESSEE shall be entitled to claim from LESSOR all consequential damages arising out of LESSOR'S breach of warranty and representations contained in this Exhibit. Furthermore, if LESSEE or its agents repair or abate ACM and assumed-ACM pursuant to this Exhibit, LESSOR shall reimburse LESSEE, within fifteen (15) days, for all costs and expenses associated therewith, including, but not limited to costs of repair, abatement and disposal of ACM and assumed-ACM, costs of restoration, costs of air quality and materials testing and analysis, relocation and incremental rental expenses, and related fees of consultants and experts.**

**LESSOR agrees to abide by all applicable federal, state, and local regulations. LESSOR further agrees to protect, indemnify and save harmless LESSEE from and against any and all liabilities, losses, damages, costs, expenses, causes of action, suits, claims, demands or judgments of any nature arising from any injuries to, or death of any person growing out of or connected with the presence of asbestos in the demised premises.**

