

ADDENDUM #2 – March 12, 2024

Re: Request for Proposals
Land Lease for Hotel Development
Middle Tennessee State University
SBC Project No. 366/009-03-2023

From: Middle Tennessee State University
1301 E. Main St., Box 44
Murfreesboro, TN 37132

To: All Prospective Proposers

This Addendum forms a part of the RFP documents and modifies the original RFP Documents issued January 12, 2024

This Addendum consists of one (43) pages.

GENERAL INFORMATION

Ground Lease: The draft Ground Lease for the MTSU P3 Hotel is provided as part of RFP Step II. Developers are asked to review the Ground Lease. During the Step 3 BAFO phase of the RFP, the Developers will be asked to provide comments on the Ground Lease.

Pedestrian Bridge: The University is expected to receive funding in the recently approved federal government appropriations bill that would allow for the construction of a pedestrian bridge over Middle Tennessee Boulevard. This would allow a better connection to campus from Site Two than originally outlined in the RFP documents and could assist with your final site selection.

Addendum #2 dated March 12, 2024, is posted on:
<https://www.mtsu.edu/campusplanning/RFPQ.php>

END OF ADDENDUM #2

GROUND LEASE AGREEMENT

This GROUND LEASE AGREEMENT (the “Lease”), is made and entered into as of this _____ day of _____, 2024 (the “Effective Date”), by and between the State of Tennessee (“State”) on behalf of the Middle Tennessee State University (“University”), and _____ (“Tenant”). As used herein, “Landlord” shall mean and refer to State and University collectively.

WITNESSETH:

WHEREAS, Landlord owns certain parcels of land and improvements in ____ parcels located at [SPECIFIC SITE ADDRESS] comprised of approximately 4.0 +/- acres more particularly described on Exhibit A attached hereto and incorporated herein by reference (“Leased Premises”);

WHEREAS, Tenant desires to lease the Leased Premises for the design, construction, operation, and management of hotel, restaurant, and associated parking (the “Development”), all upon the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, Landlord and Tenant agree as follows:

- (1) **LEASED PREMISES:** Landlord, in consideration of the rents, covenants, agreements and conditions herein set forth, hereby leases to Tenant, and Tenant hereby rents and leases from Landlord, the Leased Premises.

- (2) **Term.**
 - a. **Initial Term.** The initial term of this Lease shall commence on _____ (the “Commencement Date”) and shall continue for _____ years (the “Initial Term”), expiring on [_____] (the “Expiration Date”), subject to terms set forth below and unless terminated earlier in accordance with the provisions of this Lease. “Lease Year” shall mean each consecutive period of twelve (12) full calendar months, following the Rent Commencement Date, provided, however, that if the Commencement Date is a date other than the first day of a calendar month, the first Lease Year shall include that fractional portion of the calendar month in which the Commencement Date occurs and the first full twelve (12) months thereafter, and the last Lease Year shall end on the expiration or earlier termination of this Lease.

 - b. **Renewal Terms.** Tenant shall have the right to renew this Lease for two (2) additional periods of [_____] years each (each of which is referred to herein as a “Renewal Term”), upon the same terms and conditions as the Initial Term except that the number of renewal options shall be reduced by the renewal option then being exercised and any renewal options previously exercised. Tenant may elect to exercise the applicable Renewal Term by delivering written notice to Landlord on or before the date which is three (3) years prior to the end of the Initial Term or the applicable Renewal Term. If Tenant fails to timely deliver written notice of its intent to renew this Lease, Tenant’s right to renew shall terminate, and this Lease shall expire as of the end of the Initial Term or the applicable Renewal Term, as the case may be. Unless waived by Landlord, in writing, Tenant’s right to exercise any renewal option is conditioned on: (i) there being

no Event of Default at the time Tenant exercises such renewal option or at any time prior to or at the commencement of the applicable Renewal Term; and (ii) Tenant not having previously failed to comply with the provisions of this Lease more than two (2) times. If any such condition is not satisfied, Landlord may, at its option and without limiting its other rights and remedies, nullify Tenant's exercise of the applicable renewal option, in which event no extension of the term of this Lease shall result therefrom. The Initial Term and any Renewal Term, if applicable, are referred to herein collectively as the "**Term**".

(3) **RENTAL:**

[The Development will be expected to provide a financial return to the University in the form of ground rent or other equally attractive remuneration. This section will be revised to reflect the lease rental, profit sharing, University use discounts or other similar market revenue streams to the University as such may pertain to the Development. Notwithstanding the foregoing, the University will require that this Lease be a fully triple-net lease with all costs and obligations with respect to the leased real property becoming the responsibility of the Tenant.]

- a. **Net Lease.** It is the intention of the parties that this Lease be a fully net lease. Accordingly, except as otherwise expressly provided herein, Tenant shall pay, when due, all costs, expenses and other liabilities related to the Leased Premises and the Development or the ownership, operation, use, improvement, maintenance, repair or replacement thereof, that are allocable to periods within the Term. In the event Landlord inadvertently pays any cost or expense that the Tenant is obligated to pay under the terms of this Lease, Tenant shall reimburse Landlord for such expense or cost within thirty (30) days after its receipt of a written demand from Landlord. Tenant expressly agrees that nothing contained in this Lease shall require Landlord to furnish to Tenant or any other occupant of the Leased Premises any water, sewer, gas, heat, electricity, light, power, telecommunications and data services or any other utilities, labor, materials, or services of any kind whatsoever.

(4) **AS-IS CONDITION:**

- a. Tenant accepts the Leased Premises in its current condition and is solely responsible for any and all demolition, construction, alterations, improvements, and repairs to meet all applicable federal, state, and local codes and regulations. All such demolition, construction, renovations, alterations, improvements, and repairs must be approved by the Landlord.
- b. Tenant acknowledges it has had full opportunity to inspect the Leased Premises and make an evaluation of the Leased Premises for any and all purposes. Failure or omission of Tenant to acquaint themselves of the existing conditions of the Leases Premises shall in no way relieve Tenant of any obligation with respect to this Lease. Tenant represents that it is a knowledgeable tenant and developer of commercial, residential and mixed use real estate; it is relying solely on its own expertise and that of Tenant's consultants, and not upon any information provided by or on behalf of Landlord or its agents or employees with respect thereto.
- c. Tenant acknowledges and agrees that: (i) Landlord has not made, is not making and specifically disclaims any representation, warranty, guarantee or assurance to Tenant regarding the Leased Premises, express or implied, including, but not limited to, any representation, warranty, guaranty or assurance regarding title, physical condition, value,

suitability, compliance with all applicable governmental constitutions, statutes, laws, orders, ordinances, codes, rulings, regulations and decrees, now in force or hereafter enacted (collectively, “**Applicable Laws**”), zoning, environmental matters or Hazardous Substances; (ii) the Leased Premises are being leased to Tenant “AS IS - WHERE IS” and with all faults; and (iii) except as specifically set forth herein, Tenant is responsible for all costs associated with placing the Leased Premises and the Development in a condition fit for its intended purpose, including, without limitation, the cost of all repairs, replacements, alterations, additions and improvements required to cause the Leased Premises and Development to comply with Applicable Laws.

(5) **TENANT OBLIGATIONS:**

- a. Repair and Maintenance. Throughout the Term, Tenant, at its sole cost and expense, shall keep and maintain all the Leased Premises and Development in good repair and condition in a manner consistent with similar hotel developments of this size and quality and shall make all repairs, replacements, and renewals, foreseen or unforeseen, ordinary or extraordinary, necessary to put or maintain the Leased Premises and Development in such state of repair and condition. Landlord shall not be required to maintain, repair, or rebuild all or any part of the Leased Premises and Development or Tenant parking pursuant to this Lease. Tenant waives the right to (i) require Landlord to maintain, repair or rebuild all or any part of the Leased Premises and Development pursuant to this Lease, or (ii) make repairs at the expense of Landlord pursuant to this Lease by reason of any Applicable Laws, contract, easement, covenant, condition, or restriction at any time in effect. In addition, Tenant shall keep the Leased Premises and Development in a safe and sanitary condition as required by all Applicable Laws.

- b. Compliance with Laws. During the Term, Tenant shall comply with and cause the Leased Premises and Development to be in compliance with (i) all Applicable Laws applicable to the Leased Premises and Development or the uses conducted on the Leased Premises and Development (including, without limitation, the laws set forth in T.C.A. § 71-4-501), (ii) the provisions of any insurance policies required to be maintained by Tenant with respect to the Leased Premises and Development, and (iii) the terms of any easements, covenants, conditions and restrictions affecting the Leased Premises which are permitted encumbrances or are created after the date of this Lease with Tenant’s written approval. If any additions, alterations, changes, repairs or other work of any nature, structural or otherwise, shall be required or ordered or become necessary at any time during the Term because of any of these requirements, the entire expense of the same, irrespective of when the same shall be incurred or become due, shall be the sole liability of Tenant.

In case Tenant, after notice in writing from the Landlord requiring the Tenant to comply with the requirements of this paragraph in regard to a specified condition, shall fail, refuse or neglect to comply therewith, or in the event of an emergency constituting a hazard to the health or safety of the Leased Premises and Development, the Landlord may perform such maintenance or make such repair at its own cost and, in addition to any other remedy the Landlord may have, may add the amount thereof to the rent as additional rent that may then be or thereafter become due hereunder.

- c. Permits. Tenant, at its sole cost and expense, shall be responsible for and shall obtain all governmental permits and approvals necessary or appropriate for the construction of the Development and the related site improvements, including, but not limited to, (i) all

approvals required under land use laws and ordinances, (ii) all required platting, subdivision and zoning approvals, (iii) all required building permits and approvals, and (iv) tap permits or connections for water and sanitary sewer services to the Leased Premises and Development. University agrees, upon Tenant's request, and at no cost to University or the State, to cooperate and assist Tenant in Tenant's efforts to secure any necessary approvals or permits and to join in applications for zoning matters, building permits, certificates of occupancy, and all other applications for licenses, permits and approvals for which the signature of University or the owner is required by applicable law.

- d. Parking. Tenant is responsible for providing all parking to support the construction, operation and use of the Development.
- e. Existing Improvements. The existing improvements within the Leased Premises shall be demolished by the Tenant at the sole cost and expense of the Tenant.
- f. Utilities. Tenant shall be responsible, at its sole cost and expense, for obtaining, connecting, installing, repairing and maintaining all utility lines, connections and facilities on the Leased Premises and shall pay all charges for gas, electricity, telephone and other communication services and all other utilities and similar services rendered or supplied to the Leased Premises following the Commencement Date and throughout the duration of the Term, and all water rents, sewer service charges or other similar charges levied or charged against, or in connection with, the Leased Premises during such time. All utility lines, connections and facilities on the Leased Premises shall be independent of all existing University utility infrastructure.
- g. Maintenance Escrow.
 - 1. Tenant shall, upon the execution hereof, deposit into escrow as security for the full and faithful performance by Tenant of all its maintenance, repair and replacement obligations under this Lease (the "**Maintenance Escrow**") either: (i) [\$ _____] in cash to an account designated by an escrow agent to be selected by Landlord ("**Escrow Agent**") to be held and distributed in accordance with the terms of the [Escrow Agent's standard form of escrow agreement; or (ii) a "clean," unconditional, irrevocable and transferable letter of credit (the "**Letter of Credit**") in the form reasonably acceptable to Landlord in the same amount, satisfactory to Landlord, issued by and drawn on a bank (the "**Issuing Bank**") satisfactory to Landlord, for the account of University.
 - 2. If an Event of Default shall occur and be continuing with respect to Tenant's maintenance, repair and replacement obligations under this Lease, Landlord may apply the whole or any part of the Maintenance Escrow so deposited, or present the Letter of Credit for payment and apply the whole or any part of the proceeds thereof, as the case may be toward any sum which Landlord may expend or be required to expend by reason of Tenant's default in respect of any of Tenant's maintenance, repair and replacement obligations under this Lease.
 - 3. If Landlord applies or retains any part of the proceeds of the Letter of Credit or the Maintenance Escrow so deposited, as the case may be, Tenant, within ten (10) days after demand, shall deposit with Landlord the amount so applied or retained

so that Landlord shall have the full deposit on hand at all times during the Term. If, as a result of any application or use by Landlord of all or any part of the Letter of Credit, the amount of the Letter of Credit then held by Landlord shall be less than the amount of the original Letter of Credit delivered hereunder, Tenant shall, within five (5) days thereafter, provide Landlord with an additional Letter of Credit in an amount equal to the deficiency (or a replacement or amended Letter of Credit in the original amount), and any such additional (or replacement or amended) Letter of Credit shall comply with all the provisions of this section. Notwithstanding anything to the contrary contained in this Lease, if Tenant fails to timely comply with the foregoing, the same shall constitute an Event of Default by Tenant under this Lease, without the necessity of additional notice or the passage of additional grace periods.

4. If Tenant shall fully and faithfully comply with all the terms, provisions, covenants, and conditions of this Lease, the Letter of Credit, or the Maintenance Escrow, as the case may be, shall be returned to Tenant within ninety (90) days after the Expiration Date and after delivery of possession of the Leased Premises to Landlord.
- h. Management Agreement. Notwithstanding anything to the contract herein, additional terms and conditions of for the operation of the Development are set forth in that certain Management Agreement in substantially the form attached hereto as Exhibit B (the ‘**Management Agreement**’). For the avoidance of doubt and notwithstanding anything to the contrary contained herein, the Management Agreement or any updates or revisions thereto shall not be used to amend or waive, and shall not amend or waive, this Lease or any portion thereof. In the event of any irreconcilable conflict between the provisions of this Lease and the Management Agreement, the Lease shall prevail.

[It is the intention of the University that all terms related to the go-forward operation of the Development as set forth in the RFP will be memorialized in a Development Agreement to be entered into in connection with this Lease.]

(6) **TERMINATION:**

- a. Upon the expiration or earlier termination of this Lease, Tenant shall surrender the Leased Premises and Development to Landlord in fully operational form, good order and repair, ordinary wear and tear excepted. If Tenant is not then in default under any of the covenants and conditions hereof, Tenant may remove all personal property and equipment of Tenant, other than permanent fixtures, from the Leased Premises prior to the date of any termination or expiration of this Lease; thereafter all such personal property and equipment not removed shall belong to Landlord without the payment of any consideration.
- b. On the Expiration Date or earlier termination of this Lease, any renovations, alterations, improvements, repairs and new structures constructed shall be surrendered to and become Landlord’s property, owned by Landlord in fee simple, free and clear of all claims by Tenant or any third person, and all liens, security interests and encumbrances, other than the permitted encumbrances and any other encumbrances or liens created in accordance with this Lease or otherwise expressly agreed to by Landlord in writing and, upon Landlord’s request, Tenant agrees to execute, acknowledge and deliver to Landlord a

proper instrument in writing, releasing and quitclaiming to Landlord all right, title and interest of Tenant in and to the Leased Premises and Development and all other improvements thereon. However, the Landlord also reserves the right to require the Tenant, at its sole cost, to remove all additions, structures and other improvements from the Leased Premises upon the expiration or earlier termination of the Lease, or the Landlord reserves the right to remove the additions, structures, and other improvements and Tenant will reimburse Landlord for such costs. In the event that there are any warranties remaining on portions of the Development on the Expiration Date or the earlier termination of this Lease, Tenant shall cause such warranties to be promptly assigned to Landlord at no cost to Landlord.

- c. *[As set forth in Section 4.2 of the RFP, the University will require that the Project have a demonstratable useful life equal to 125% of the Term upon termination of this Lease. The University is open to proposals from the successful proposer as how to best accomplish this requirement (e.g., through a hand-back reserve, required repair and replacement at the time of termination or some other method acceptable to the University.)]*
- d. *[As set forth in Section 10.10.3 of the RFP, the University will require a right to unilaterally buy-out the remainder of the Term of this Lease the Lease. The University will propose the specifics of this right during the lease negotiation process with the successful proposer.]*

(7) **NOTICES:** Until a different address is provided in a notice to the other party, all notices, demands or requests made by either party to the other which are required or permitted by the provisions of this Lease shall be in writing and shall be deemed sufficiently given if: (a) delivered by hand (against a signed receipt); (b) mailed by U.S. certified or registered mail, return receipt requested, postage prepaid; or (c) sent by nationally recognized commercial overnight delivery service at the following address:

To Tenant:

PHONE: _____

To Landlord:

Middle Tennessee State University
ADDRESS
Murfreesboro, Tennessee 37132
PHONE: (xxx)xxx-xxxx

Notwithstanding anything contained in this Lease to the contrary, any notice required to be given by Landlord or Tenant hereunder shall be deemed to be effective as of the date such notice is received or refused as reflected on said notice.

(8) **ASSIGNMENT/SUBLETTING:**

- a. Except in accordance with Section 22 below, neither Tenant nor any court or officer thereof nor any receiver or trustee in bankruptcy shall assign, sublease, license, sell, transfer or in any way mortgage, pledge or hypothecate (collectively “**Assign**”) all or any of (i) its interest in this Lease or (ii) its interest in and to the Leased Premises and Development or any part thereof (an “**Assignment**”), without Landlord’s prior written consent and approval of the process by which the interest is Assigned in accordance with this Section. Landlord’s decision to permit Tenant to assign its interest in this Lease, the Leased Premises and/or

Development may be granted or withheld by Landlord in its sole and absolute discretion. Should Tenant desire to make an Assignment pursuant to this Section (8)(a), Tenant shall cause Landlord to be provided with information regarding any proposed assignee, including audited financial statements and tax returns, credit-worthiness, intended use and other reasonable and relevant information requested by Landlord. Further, Tenant acknowledges that any assignee may be required to execute a new lease or an amendment to this Lease, incorporating other provisions including rent increases and include other provisions or changes deemed necessary by the Landlord.

- b. If Landlord consents to an Assignment (or if this Lease is assigned without Landlord's consent), the terms and conditions of this Lease will in no way be waived or modified by Tenant, including, without limitation, the use which Tenant or its assignee may make of the Leased Premises as set forth in Section 10 below. Further, any assignee shall expressly assume (and shall be deemed to have assumed) all of the Tenant's obligations under the Lease. Landlord's consent to an Assignment will not be deemed to consent to any further Assignment by either Tenant or an assignee.
 - c. If Landlord or a court of competent jurisdiction should ever permit Tenant to assign its interest in this Lease, sell this Lease or sublet or license the Leased Premises, or a portion thereof, for rentals in excess of the rent and amortization of the cost of improvements, additions, and new structures as a result of this Lease, Tenant shall pay the sales price or all of such excess rent or any other excess revenue (which amount shall equal the difference between the rent provided for herein and the excess rent) to Landlord as Additional Rent.
- (9) **INSPECTION:** Landlord, and any agents, employees, officers and independent contractors of Landlord, shall have the right to enter the Leased Premises and Development, at reasonable times, in order to perform its obligations under this Lease or to inspect the Leased Premises and Development.

(10) **PERMITTED USE:**

- a. The Leased Premises shall be continuously used by Tenant throughout the Term only for the Development (the "**Permitted Use**") along with other such uses as may be related or incidental thereto such as (i) provision of services and amenities to hotel guests, and (ii) the operation of a commercial restaurant or bar or the leasing of space in the Leased Premises to a subtenant (a "**Commercial Tenant**") for the operation of a commercial restaurant or bar. Any restaurant or bar space shall not occupy more that [--]% of the total square footage constructed and shall be approved by Landlord, in its sole discretion. Landlord shall approve all leases for the Commercial Tenants (the "**Permitted Lease(s)**"). Tenant shall not have the right to use the Leased Premises for any other purpose unless it obtains Landlord's prior written consent, which consent may be granted or withheld by Landlord in its sole and absolute discretion. Tenant shall not use or permit the Leased Premises and Development to be used in a manner that: (i) unreasonably disturbs any other person or entity; (ii) is illegal or immoral; (iii) damages the reputation of Landlord; (iv) constitutes a nuisance (public or private); or (v) violates or increases the cost of any insurance policy covering the Leased Premises.
- b. Parking at the Development shall be limited to guests and employees of the Development, and licensees, vendors and others providing services to the Development. In no event shall Tenant offer parking at the Development in a manner that competes with the

parking options offered by the University to students, faculty, and visitors of the University.

- c. In no event shall the Leased Premises be used for any purpose which would constitute a public or private nuisance or waste or which would violate any of the provisions of any permitted encumbrances, any legal requirements or any covenants or restrictions applicable to the Leased Premises. Tenant agrees that with respect to the permitted encumbrances and any such covenants or restrictions existing as of the date of this Lease, Tenant shall observe, perform and comply with and carry out the provisions thereof required therein to be observed and performed by Landlord.
- d. Tenant shall not permit any unlawful occupation, business, or trade to be conducted on the Leased Premises or any use to be made thereof contrary to applicable legal requirements. Tenant shall not use, occupy or permit any of the Leased Premises and Development to be used or occupied, nor do or permit anything to be done in or on any of the Leased Premises and Development, in a manner which would (i) make void or voidable any insurance which Tenant is required hereunder to maintain in force with respect to any of the Leased Premises and Development, (ii) affect the ability of Tenant to obtain any insurance which Tenant is required to furnish hereunder, or (iii) cause any injury or damage to any of the Development.
- e. The Development shall include at all times, but subject to a reasonable schedule of holidays and standard closures, the amenities and provide the service levels as set forth in the Development Agreement.

(11) **TAXES AND ASSESSMENTS:**

- a. Tenant is responsible for payment of all federal, state, and local taxes levied against the Leased Premises and Development, leasehold improvements, personal property and all other taxable property and 1) assessed directly to Tenant, 2) assessed as a result of Landlord leasing Leased Premises to Tenant, 3) that result from any improvements made to the Leased Premises, and 4) that result from the operation of the Development.
- b. Subject to the provisions of Section 11.c hereof relating to contests, from and after the Effective Date, Tenant shall, at least thirty (30) days before delinquent or interest or penalties are due thereon, pay and discharge all of the following (collectively, the “**Impositions**”): all taxes of every kind and nature (including real, ad valorem, personal property, gross income, franchise, excise, withholding, profits and gross receipts taxes) on or with respect to the Leased Premises and Development; all charges and/or taxes imposed by any governmental body for any easement or agreement maintained for the benefit of the Leased Premises and Development; all general and special assessments (payable in installments if permitted), levies, permits, inspection and license fees on or with respect to the Leased Premises and Development; all water and sewer rents and other utility charges on or with respect to the Leased Premises and Development; and all other public charges and/or taxes whether of a like or different nature, even if unforeseen or extraordinary, imposed or assessed upon or with respect to the Leased Premises and Development, during (but not prior to) the Term, against Landlord, Tenant or any of the Leased Premises and Development as a result of or arising in respect of the occupancy, leasing, use, maintenance, operation, management, repair or possession thereof, or any activity conducted on the Leased Premises, or the Base Rent or Additional Rent,

including, without limitation, any gross income tax, sales tax, occupancy tax levied by any governmental body on or with respect to such Base Rent or Additional Rent. If received by Landlord, Landlord shall promptly deliver to Tenant any bill or invoice with respect to any Imposition. No failure by Landlord to deliver any such bill or invoice shall relieve Tenant of its responsibility to pay the same in accordance with the terms of this section unless Landlord fails to deliver any such bill or invoice after the due date of such payments. If any assessment against any of the Leased Premises may be paid in installments, Tenant shall have the option to pay such assessment in installments; and, in such event, Tenant shall be liable only for those installments which become due and payable during the Term. Tenant shall prepare and file all tax reports required by governmental authorities which relate to the Impositions. Tenant shall deliver to Landlord copies of all settlements and notices pertaining to the Impositions which may be issued by any governmental authority and receipts for payments of all Impositions made during each calendar year of the Term, within fifteen (15) days after payment thereof.

- c. Tenant may in good faith and at its sole cost and expense contest the validity or amount of (i) the Impositions, and (ii) any other taxes, charges, assessments, or other amounts, charged or assessed against the Leased Premises and Development, in which event the payment thereof may be deferred during the pendency of such contest; provided, however, Tenant shall be required to pay all such taxes and Impositions when they are required as a condition of such tax appeal as required by law or local ordinance. If requested by Tenant, University will cooperate with Tenant as to any such contest; provided, that University shall not be obligated to incur any expense in connection therewith. Nothing herein contained, however, shall be construed to authorize Tenant to allow or to permit the Leased Premises, or any part thereof, to be sold by any city, state, municipal, or other governmental authority for the non-payment of any impositions.

(12) **INDEMNITY/INSURANCE:**

- a. Tenant hereby releases and agrees to indemnify and hold harmless Landlord and all its trustees, officers, employees, directors, agents, and consultants (hereinafter collectively referred to as the “**Indemnitees**”) of and from any and all claims, demands, liabilities, losses, costs, or expenses for any loss including but not limited to bodily injury (including death), personal injury, property damage, expenses, and attorneys’ fees, caused by, growing out of, or otherwise happening in connection with this Lease, due to: (i) any work done in, on or about the Leased Premises or the Development; (ii) any use, non-use, possession, occupation, condition, operation, maintenance or management of the Leased Premises or the Development, or any part thereof, except where such claims are a result of the acts or omissions of University or its agents, servants or employees (in the case of employees, acting within the scope of their employment); (iii) any act or omission of Tenant or any of its agents, concessionaires, contractors, servants, employees, or invitees excluding only the willful acts or gross negligence of University or its agents, contractors, servants or employees (in the case of employees, acting within the scope of their employment); (iv) any accident, injury or death to any person or damage to any property occurring in, on or about the Leased Premises or the Development, except resulting from the acts or omissions of University or its agents, contractors, servants or employees (in the case of employees, acting within the scope of their employment); or (v) any failure by Tenant to perform or comply with any of the covenants, agreements, terms, provisions, conditions or limitations in this Lease required by the provisions of this Lease to be

complied with or performed by Tenant. Tenant further agrees to indemnify, defend and hold Landlord harmless from and against all direct and actual costs, damages, expenses, losses, fines, liabilities and reasonable counsel fees paid, suffered or incurred as a result of any of the above described claims or any actions or proceedings brought thereon; and in the event any action or proceeding is brought against Landlord by reason of any such claim, upon notice from Landlord, Tenant agrees to resist or defend at Tenant's expense such action or proceeding by counsel reasonably satisfactory to Landlord. Tenant's liability under this Section 12(a) and this Lease extends to the acts and omissions of any subtenant of Tenant, or any agent, contractor, employee, or licensee of any such subtenant. In case any action or proceeding is brought against Landlord by reason of any claim mentioned in this Section 12, Tenant, upon notice from Landlord, shall, at Tenant's expense, resist or defend such action or proceeding in Landlord's name, if necessary, by counsel for the insurance company, if such claim is covered by insurance, or otherwise by counsel approved by Landlord. Landlord agrees to give Tenant prompt notice of any such claim or proceeding. This indemnification is binding on the successors and assigns of the Tenant, and this indemnification survives the expiration or earlier termination of the Lease, or the dissolution or, to the extent allowed by Law, the bankruptcy of Tenant.

- b. Throughout the Term, Tenant shall maintain, at its sole cost and expense, general liability insurance for personal injury, death and property damage with limits of said insurance to be no less than [] dollars (\$[]) per claim and per occurrence. The State and the University shall be named as additional insureds under the liability insurance policy. Tenant's insurance shall provide primary coverage. In no event shall the amount of Tenant's insurance coverage limit the liability of the Tenant under this Lease.
- c. Tenant, at its sole expense, shall maintain other insurance coverages maintained by responsible owners of properties similar to the Development, including, but not limited to, cyber liability, liquor/alcohol liability, and other policies related to the operation of the Development. The State and the University shall be named as additional insureds under the liability insurance policy. Tenant's insurance shall provide primary coverage. In no event shall the amount of Tenant's insurance coverage limit the liability of the Tenant under this Lease.
- d. Tenant, at its sole expense, shall keep the Development insured against loss by fire and all of the risk and perils usually covered by an "all risk" endorsement to a policy of fire insurance upon property comparable to the Development, including vandalism and malicious mischief endorsements, in an amount equal to at least one hundred percent (100%) of the replacement cost of the Development. Tenant shall furnish to Landlord evidence of coverage and any renewals or replacements of this insurance. Landlord and the University shall be named an additional insureds under this policy.
- e. Until completion of construction of the Development, and during any period in which reconstruction, alteration or other construction activity is occurring on the Leased Premises, Tenant, at its sole expense, shall maintain builder's risk insurance in an amount not less than the full insurable value of the Development, and materials supplied in connection with the Development. Tenant shall furnish to Landlord evidence of coverage and any renewals or replacements of this insurance. The State and the University shall be named as an additional insured under this policy.
- f. Upon the issuance of a certificate of occupancy for the Development, Tenant, at its sole

expense, shall maintain business interruption insurance insuring against loss of income derived from Tenant's operations on the Leased Premises due to the risks covered by the property insurance required above, in an amount not less than Tenant's net operating income from the Leased Premises (gross rental income less operating expenses) for a twelve (12) month period (provided that during the first 12 months immediately following the initial certificate of occupancy, Tenant shall maintain such business interruption insurance in an amount comparable to similarly situated businesses in the same geographic area as the Leased Premises).

- g. The insurance policy(s) that Tenant is required to obtain under this Lease (the "**Required Policies**") (i) shall be issued by licensed and reputable insurance companies reasonably acceptable to Landlord and rated A-VIII or better by A.M. Best, and (ii) shall contain a waiver of subrogation, and (iii) shall provide that they cannot be amended, cancelled, terminated or not renewed unless Landlord has been given ninety (90) days' prior written notice. Landlord shall have the right to require, from time to time, that Tenant increase the amount of its insurance coverage and/or obtain additional insurance coverage so long as Landlord is acting in a commercially reasonable manner. If Tenant fails to maintain any of the insurance required under this Lease, then, in addition to its other rights and remedies, Landlord may (but shall not be obligated to) purchase such insurance, on behalf of Tenant, in which event Tenant shall reimburse Landlord for the cost of such insurance, upon demand. On the Commencement Date and each anniversary thereof, Tenant shall provide Landlord with certificates evidencing that the insurance Tenant is required to maintain hereunder is in full force and effect. Upon request, Tenant shall furnish Landlord with the original (or a certified copy) of each policy of insurance required hereunder and evidence of the payment of all premiums for the same. Failure to comply will be deemed a material default of this Lease.
- h. The State and the University are to be covered as an insured as respects: liability arising out of the Leased Premises and the Development. Coverage shall contain no special limitations on the scope of protection afforded to Landlord.
- i. The insurance coverage of the policies required in this Section 12 shall be the primary insurance with respect to Landlord and the University. Any insurance or self-insurance maintained by Landlord shall be excess and not contributory to the insurance required in this Section 12.

(13) **CASUALTY:**

- a. Damage or Destruction. If during the Term, the Leased Premises or the Development are damaged or destroyed by fire, tornado, or other catastrophe or casualty, Tenant shall, at its own cost and expense, promptly and diligently repair, restore and replace the Development substantially in compliance with the original Plans (as hereinafter defined) therefor or in compliance with such modified plans as shall be approved in writing by Landlord, and this Lease shall continue in force and effect with no abatement of any Rent hereunder during such repair and restoration. The Tenant shall submit plans for repairs and restoration to the Landlord for approval, which will not be unreasonably withheld. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs, restoration and replacement, and if there are no insurance proceeds or the available insurance proceeds shall be insufficient for said purpose, Tenant shall make up the deficiency out of its own funds.

- b. Landlord's Right to Terminate. If Tenant does not begin to repair, restore or replace the Development or begin any work (e.g. demolition) necessary to remove all debris and the remaining portion of the Development and to place the Leased Premises in safe and proper condition reasonably acceptable to Landlord within sixty (60) days after the occurrence of any casualty, subject to the terms of Section 22, Landlord shall have the right to terminate this Lease upon thirty (30) days written notice to Tenant. If Tenant does not complete the repair, restoration or replacement, or removal of debris from, of the Development within one-hundred eighty (180) days after the occurrence of any casualty, Landlord shall have the right, subject to the terms of Section 22, to terminate this Lease upon thirty (30) days written notice to Tenant. Nothing in this Section 13(b) shall be construed to relieve Tenant of its repair, restoration and replacement obligations set forth in Section 13(a).

(14) **PLANS AND IMPROVEMENT:**

- a. Site Plan Approvals. Tenant represents and warrants to Landlord that Tenant will promptly obtain approval of the site plan and conceptual design for the Development attached hereto as Exhibit C (the "**Site Plan**") by the University, the City of Murfreesboro (the "**City**") and any other required regulatory body. Tenant represents and warrants to Landlord that the Site Plan attached hereto as Exhibit C is a true, correct and complete copy of the Site Plan for which approval will be sought from the City and any other required regulatory body and has not been amended or modified. Tenant agrees not to modify or amend the Site Plan without the University's prior written approval.
- b. Plans and Specifications. Tenant, at its sole cost and expense, shall cause its architect ("**Tenant's Architect**") to prepare complete and final plans and complete detailed specifications covering each building trade required in the demolition of the existing improvements (if necessary), site preparation and construction of the Development (collectively, the "**Plans**"), and shall submit the same to the City, if required, and the University for their respective approval no later than _____ days after the Effective Date. The Plans shall be full and complete in all respects as may be necessary for the demolition/site preparation/construction and determination of the specific scope of the Development. Without limiting the generality of the foregoing, the Plans shall identify the basic materials for the exterior of the Development and shall include preliminary grading and drainage plans, utilities, sewer and utility services connections and locations, locations of ingress and egress to and from public thoroughfares or dedicated rights of way, curbs, gutters, parkways, street lighting, design of the general building interior (including all hotel rooms, conference spaces, restaurants and other dining areas), design and location for all outdoor signs, storage areas, landscaping, and parking areas, all sufficient to enable potential contractors and subcontractors to make reasonably accurate bids and estimates and to enable Landlord and Tenant to make an informed judgment about the design and quality of construction of the Development. After Tenant submits the Plans to the University, the University will have ninety (90) days to approve or disapprove the Plans, and in the event the University does not approve the Plans, the University will advise Tenant in writing and in reasonable detail of the University's objections to the Plans. Failure by the University to approve or disapprove the Plans within such ninety (90) day period will constitute a disapproval by the University. In the event the University disapproves the Plans, Tenant will incorporate the University's objections and comments into the Plans within a reasonable period after Tenant's receipt of such objections and comments (except to the extent such objections and comments do

not comport with Applicable Laws or good engineering practices), and in no event longer than _____ days after receipt of such objections and comments, and resubmit the same to the University, who will then have _____ days to approve or disapprove the revised Plans. In the event the University does not approve the revised Plans, the procedures set forth herein will be followed until such time as the University has approved the revised Plans.

Notwithstanding the foregoing, if, after good faith efforts, the Parties cannot resolve such objections and comments to the Plans within _____ days after the Effective Date, then either Party may, by written notice to the other, terminate this Lease. If the Plans are approved by the University, the University and Tenant will affix thereon the signature of an authorized officer of each of such respective parties and after approval shall be incorporated by reference herein as Exhibit D. In the event Tenant desires to modify or change the Plans after the same have been approved in the manner provided above, Tenant shall submit such modifications or changes to the University for review and consideration and the procedures governing approval of the Plans will apply to any such modifications or changes. Any approval by the University of the Plans will not in any way be construed or deemed to constitute a representation or warranty of the University as to the adequacy or sufficiency of the Plans or the improvements to which they relate, for any reason, purpose or condition, but such approval will merely be the consent of the University as may be required hereunder.

University's approval of Tenant's Plans, shall not constitute a warranty or representation as to the technical sufficiency, adequacy or safety of the plans, structures, any of the component parts, or any other physical condition or feature pertaining to the improvements, it being acknowledged by Tenant that the University has made such approvals solely as a landlord in determining and protecting the value of its property for internal purposes, and not for construction-related matters nor for compliance with all laws, statutes, orders, ordinances, zoning and other regulations and ordinances of federal, state, county, municipal and other governmental authorities having jurisdiction.

- c. Development Agreement. Notwithstanding anything to the contract herein, additional terms and conditions of for the development and construction of the Development are set forth in that certain Development Agreement in substantially the form attached hereto as Exhibit E (the "**Development Agreement**"). For the avoidance of doubt and notwithstanding anything to the contrary contained herein, the Development Agreement or any updates or revisions thereto shall not be used to amend or waive, and shall not amend or waive, this Lease or any portion thereof. In the event of any irreconcilable conflict between the provisions of this Lease and the Development Agreement, the Lease shall prevail.

[It is the intention of the University that all other terms related to the construction of the Development as set forth in the RFP will be memorialized in a Development Agreement to be entered into in connection with this Lease.]

- d. Contract Insurance. Tenant shall require any contractor or subcontractor engaged for demolition or the construction of additions, improvements, or new structures on the Leased Premises to comply with the bonding and insurance requirements as may be required by Landlord.
- e. Liens and Encumbrances. Tenant will not create or permit to be created or to remain, and

will promptly discharge, at its sole cost and expense, any lien, encumbrance or charge upon the Leased Premises, any part thereof or upon Tenant's leasehold interest, which arises out of the use or occupancy of the Leased Premises by Tenant or by reason of any labor or materials furnished or claimed to have been furnished to Tenant or by reason of any construction, addition, alteration or repair of any part of the Leased Premises. If any such lien is filed against the Leased Premises, Tenant shall, within thirty (30) days after notice of the filing thereof, cause such lien to be released or discharged with respect to the Leased Premises by payment or bonding. Nothing contained in this Lease shall be construed as constituting the consent or request of Landlord, expressed or implied, to or for the performance by any contractor, laborer, materialman, or vendor of any labor or services or for the furnishing of any materials for any construction, alteration, addition, repair or demolition of or to the Leased Premises, or any part thereof. Notice is hereby given that Landlord will not be liable for any labor, services or materials furnished or to be furnished to Tenant, or to anyone holding the Leased Premises or any part thereof through or under Tenant, and that no mechanic's or other liens for any such labor, services or materials shall attach to or affect the interest of Landlord in and to the Leased Premises. After prior written notice to Landlord, Tenant shall not be required to discharge or remove any lien referred to in this Section so long as Tenant shall contest, in good faith and at its expense, the existence, the amount or the validity thereof or the amount of the damages caused thereby by appropriate proceedings which shall operate during the pendency thereof to prevent (i) the collection of, or other realization upon, the lien so contested, (ii) the sale, forfeiture or loss of any of the Leased Premises, any Base Rent or any Additional Rent to satisfy the same, (iii) any interference with the use or occupancy of any of the Leased Premises, and (iv) any interference with the payment of any Base Rent or any Additional Rent. In no event shall Tenant pursue any contest with respect to any lien that exposes Landlord to any material risk of defeasance of its interest in all or any part of the Leased Premises. Tenant agrees that each such contest shall be promptly and diligently prosecuted to a final conclusion, except that Tenant shall have the right to attempt to settle or compromise such contest through negotiations. Tenant shall indemnify and hold Landlord harmless against any and all losses, judgments, decrees and costs (including all attorneys' fees and expenses) in connection with any such contest and shall, promptly after the final determination of such contest, fully pay and discharge the amounts levied, assessed, charged or imposed or determined to be payable therein or in connection therewith, together with all penalties, fines, interest, costs and expenses thereof or in connection therewith, and perform all acts the performance of which shall be ordered or decreed as a result thereof.

- f. Landlord Inspection. Landlord and Tenant, or their respective designees, shall meet regularly, no less than monthly, to discuss the Plans and the improvements to be completed by Tenant as part of the Development (collectively, the "Tenant's Work"). Such meetings shall take place as mutually agreed between the Parties. In addition, Landlord shall have the right to attend any Tenant meetings involving the Tenant's Work with Contractors, subcontractors, members, or other individuals associated with the Tenant's Work. Landlord reserves the right to maintain a full-time project representative(s) at the site who shall have such duties and responsibilities as Landlord may assign. University's representative shall not interfere with or be responsible for Tenant's means, methods, techniques, sequences, and procedures for accomplishing the Tenant's Work. In addition, Landlord shall have the right to inspect and/or copy any records, in any form, upon reasonable notice to Tenant, involving the Tenant's Work. Landlord shall promptly provide and share any and all written reports that it prepares or

causes to be prepared, by its staff or independent third parties, respecting the Tenant's Work, in any way, upon preparation or receipt thereof, to Tenant; provided, however, that Landlord shall not be responsible to Tenant in any manner for the contents of any such report or any reliance by Tenant thereon.

- g. Indemnification. Without limiting any other indemnity obligations set forth in this Lease, Tenant shall protect, hold harmless and indemnify Landlord from and against claims, damages, losses and expenses, including reasonable and documented out-of-pocket attorneys' fees, arising out of or resulting from, directly or indirectly, performance of the Tenant's Work or any defects or alleged defects in design or construction, including claims, damages, losses and expenses (including reasonable and documented out-of-pocket attorneys' fees) arising out of or resulting from, directly or indirectly, the negligent acts or omissions of Tenant's contractors, subcontractors, suppliers, and anyone directly or indirectly employed by them. The foregoing indemnity obligation includes any claims by the owners or lessees of adjacent property to the extent controlled by a Tenant.
- h. Right to Terminate. Notwithstanding anything to the contrary contained herein, in the event Tenant fails to complete construction of the Development on or prior to the date that is two (2) years following the Commencement Date, or thereafter ceases operating on the Leased Premises for a continuous period of one hundred twenty (120) days, Landlord shall have the right to recapture the Leased Premises and terminate this Lease by delivering a recapture notice (the "**Recapture Notice**") to Tenant. Notwithstanding the foregoing, the aforesaid two (2) year period, or 120-day period, as applicable, shall be tolled for any of the following events or reasons (collectively, "**Permitted Closures**"): (i) during the performance of Tenant's restoration obligations of the Leased Premises after a casualty; (ii) if Tenant is prevented from being open for business due to force majeure; (iii) during reasonable periods of time while Alterations as permitted hereunder are being made to the Leased Premises; and (iv) during the last month of the Term provided Tenant is actively engaged in vacating the Leased Premises. In the event Landlord sends a Recapture Notice as provided above, Tenant shall have sixty (60) days following Landlord's delivery of such Recapture Notice to Tenant to complete construction of the Development or open for business, and upon such completion or opening, Landlord's recapture right as to such specific construction failure shall automatically be null, void and of no further force or effect. If Tenant does not complete construction of the Development or open for business, as applicable, within such sixty (60) day period, this Lease shall be deemed terminated effective on the sixty-first (61st) day after Tenant's receipt of such Recapture Notice, and Landlord's termination hereunder shall be without any penalty to Tenant, and Tenant shall surrender the Leased Premises in accordance with the terms of Section 16.b. hereof.

(15) **ALTERATIONS:**

- a. At any time during the Term, Tenant, at its sole expense, may make exterior and structural alterations and additions to any portion of the Development ("**Alterations**"), provided that (i) with respect to exterior and structural alterations and additions, Tenant shall first obtain Landlord's prior written consent, which shall not be unreasonably withheld; (ii) construction of Alterations shall be performed in a good and workmanlike manner in accordance with good industry practice for the type of work in question; (iii) construction of Alterations shall be done in compliance with all applicable deed restrictions, building codes, ordinances and other Applicable Laws; (iv) Tenant shall not commence

construction of any Alterations until all licenses, permits and authorizations required for such improvements or Alterations by all governmental authorities having jurisdiction have been obtained; (v) Tenant shall have obtained and shall maintain in force and effect the insurance coverage required in Section 12 with respect to any Alterations; and (vi) after commencement, construction of Alterations shall be prosecuted with due diligence to completion. Tenant acknowledges that Landlord has an interest in assuring that the Development is architecturally and aesthetically harmonious with the University campus. Accordingly, in exercising its reasonable right of approval or disapproval with respect to any proposed exterior alterations or additions, Landlord shall be entitled to take into account any fact or factor which Landlord deems relevant to such decision, including, but not necessarily limited to, the design, quality, materials, color, height, grade, finished elevation and appearance of the proposed alterations or additions. All alterations and additions made to the Development in accordance with this Section shall become part of the Development and shall remain the property of Tenant during the Term. Notwithstanding anything to the contrary contained herein, Tenant shall not make any alterations to the Development that may weaken or impair the structural strength of the Development or lessen the fair market value of all or any portion of the Development.

- b. Tenant shall have no right, authority or power to bind Landlord or any interest of Landlord in the Leased Premises or the Development for any claim for labor or for material or for any other charge or expense incurred in constructing any improvements or performing any Alterations with regard thereto, nor to render Landlord's interest in the Leased Premises liable for any lien or right of lien for any labor, materials or other charge or expense incurred in connection therewith. Tenant shall not be considered the agent of Landlord in the construction, erection or operation of any Alterations. If any liens or claims for labor or materials supplied or claimed to have been supplied to the Leased Premises are filed, Tenant shall, at its own cost and expense, cause the same to be discharged of record or bonded off in accordance with applicable law within thirty (30) days after recording of such lien. Tenant will indemnify, defend, and hold Landlord harmless from and against all costs, liabilities, suits, penalties, claims and demands, including reasonable attorneys' fees, resulting therefrom. The obligations of Tenant contained herein with survive the expiration or termination of the Term.

(16) **DEFAULT & REMEDIES:**

- a. Events of Default. The following shall each be deemed to be a default by Tenant under this Lease (an "**Event of Default**"):
1. Tenant's failure to pay any Rent or other remuneration when due, unless such failure is cured by Tenant within _____ days after it receives written notice from Landlord; provided, however, Landlord shall not be required to give more than two (2) such notices in any Lease Year, and after the second notice in any Lease Year non-payment by Tenant shall be an immediate Event of Default without any notice or cure period. If any Rent is not paid within ten (10) business days after the due date, Tenant shall pay Landlord a late fee equal to five percent (5%) of the delinquent payment. Any Rent which remains unpaid for thirty (30) days after the due date shall accrue Interest from the due date until paid. "Interest" means simple interest calculated on a per annum basis, on any balance due from time to time, from the due date through the date of payment in full, at a per annum rate of twelve percent (12%), but in no event to exceed the maximum legal rate; or

2. Tenant's failure to comply with any of the terms of this Lease related to assignment or subletting set forth in Section 8 herein; or
 3. Tenant's failure to comply with any of the other terms of this Lease, unless such failure is cured within thirty (30) days after Tenant receives written notice from Landlord; provided Landlord shall not be required to send written notice of the same violation more than once (1) time in any Lease Year. Notwithstanding the foregoing, if such failure cannot reasonably be cured within thirty (30) days, no Event of Default shall be deemed to have occurred so long as Tenant commences to cure such failure within thirty (30) days after receiving written notice from Landlord and completes such cure within a reasonable time thereafter, not to exceed ninety (90) days; or
 4. (i) the bankruptcy or insolvency of Tenant, (ii) the filing by or against Tenant of a petition seeking to have Tenant declared bankrupt or insolvent or seeking to reorganize Tenant, unless the petition is dismissed within thirty (30) days after its filing, (iii) the appointment of a receiver or trustee for all or a substantial portion of Tenant's assets, or (iv) the assignment of all or substantially all of Tenant's assets for the benefit of its creditors; or
 5. The abandonment by Tenant of the Leased Premises or the Development; or
 6. Any representation or warranty of Tenant hereunder, or any financial information heretofore provided by Tenant to Landlord shall prove false or misleading in any material respect as of the time made.
- b. Remedies. Upon the occurrence of an Event of Default, Landlord may, in addition to other remedies available hereunder, at law or in equity, subject to the terms of Section 22:
1. Cure any Event of Default of Tenant, on behalf and at the sole cost and expense of Tenant.
 2. Terminate this Lease upon not less than thirty (30) days' notice, whereupon Tenant shall vacate the Leased Premises on or before such date unless such Event of Default shall be cured prior to the effective date of such termination (failing which, Landlord may institute dispossessory proceedings), and to collect from Tenant (i) all Rent and other sums due through the date of such termination, plus (ii) the amount by which the unpaid Rent would have been earned after termination until the time of award exceeds the amount of such rental loss Tenant proves could have been reasonably avoided, plus (iii) the amount unpaid Rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to any costs or expenses incurred by Landlord in (A) in retaking possession of the Leased Premises, including reasonable attorney's fees therefor; (B) in maintaining or preserving the Leased Premises after such Event of Default; (C) in preparing the Leased Premises for reletting to a new tenant including repairs or alterations to the Leased Premises for such reletting; (D) as brokerage fees, leasing commissions and reasonable attorney's fees in connection

with the reletting of the Leased Premises to a new tenant; and (E) any other costs necessary or appropriate to relet the Leased Premises.

3. Without terminating this Lease, re-enter the Leased Premises and proceed to re-let all or any part of the Leased Premises as Landlord, in its discretion, may deem reasonably necessary or appropriate. and to and to collect from Tenant (i) all Rent and other sums as they come due, plus (ii) any other amount necessary to compensate Landlord for all losses, costs and/or damages proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to any costs or expenses incurred by Landlord in (A) in retaking possession of the Leased Premises, including reasonable attorney's fees therefor; (B) in maintaining or preserving the Leased Premises after such Event of Default; (C) in preparing the Leased Premises for reletting to a new tenant including repairs or alterations to the Leased Premises for such reletting; (D) as brokerage fees, leasing commissions and reasonable attorney's fees in connection with the reletting of the Leased Premises to a new tenant; and (E) any other costs necessary or appropriate to relet the Leased Premises.
4. Declare immediately due and payable and to collect from Tenant all Rent due from Tenant for the remaining portion of the Term.
5. Recover from Tenant any other amount necessary to compensate Landlord for all losses, costs and/or damages proximately caused by Tenant's failure to perform its obligations under this Lease or that in the ordinary course of things would be likely to result therefrom, including but not limited to any costs or expenses incurred by Landlord: (A) in retaking possession of the Leased Premises, including reasonable attorney's fees therefor; (B) in maintaining or preserving the Leased Premises after such Event of Default; (C) in preparing the Leased Premises for reletting to a new tenant including repairs or alterations to the Leased Premises for such reletting; (D) as brokerage fees, leasing commissions and reasonable attorney's fees in connection with the reletting of the Leased Premises to a new tenant; and (E) any other costs necessary or appropriate to relet the Leased Premises.
6. Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the state in which the Leased Premises are located.

The foregoing remedies are cumulative and non-exclusive, and the exercise by Landlord of any of its remedies under this Lease shall not prevent the subsequent exercise by Landlord of any other remedies provided herein or by Applicable Laws. All remedies provided for in this Lease may, at the election of Landlord, be exercised alternatively, successively or in any other manner. Landlord's acceptance of Rent following any Event of Default shall not be construed as a waiver of such Event of Default. No custom or practice between the parties in connection with the terms of this Lease shall be construed to waive or lessen Landlord's right to insist upon strict performance of the terms hereof. No act by Landlord with respect to the Leased Premises shall be deemed to terminate this Lease, including, but not limited to, the acceptance of keys or the institution of dispossessory proceedings; it being understood that this Lease may only be terminated by express written notice from Landlord to Tenant. Notwithstanding anything to the contrary herein, Tenant acknowledges and agrees that University's exercise of Landlord's rights and remedies under this Lease, including, without limitation, upon the occurrence of an Event of Default, shall in no way

be limited or restricted by State's status as a "Landlord" under this Lease. If the State's inclusion in the definition in anyway limits University's exercise of Landlord's rights and remedies under this Lease, State shall be read out of the definition of Landlord for such purpose.

(17) **MISCELLANEOUS:**

- a. **Interpretation;** Headings. Whenever the context may require, any pronoun used in this Lease shall include the masculine, feminine and neuter forms. All references to articles, sections and paragraphs shall be deemed references to the articles, sections and paragraphs of this Lease, unless the context shall indicate otherwise. The terms "hereof", "hereunder" and similar expressions refer to this Lease as a whole and not to any particular article, section or paragraph contained herein. The titles of the articles, sections and paragraphs of this Lease are for convenience only and shall not affect the meaning of any provision hereof. Landlord and Tenant have agreed to the particular language of this Lease, and any question regarding the meaning of this Lease shall not be resolved by any rule providing for interpretation against the party who caused the uncertainty to exist or against the draftsman.
- b. **Time of Essence.** FOR PURPOSES OF THIS LEASE, TIME SHALL BE CONSIDERED OF THE ESSENCE.
- c. **No Subordination of Fee.** This Lease is an unsubordinated ground lease. Nothing contained in this Lease shall be or ever will be construed as a subordination of Landlord's fee interest in the Leased Premises or its reversionary interest in the Development to any Mortgage. Upon the expiration or termination of this Lease, any Mortgage of Tenant's interest in the Leased Premises shall be null and void.
- d. **Holding Over.** Unless Landlord expressly agrees otherwise, in writing, if Tenant remains in possession of the Leased Premises and the Development after the expiration or earlier termination of this Lease, then Tenant shall be deemed a tenant at sufferance on all of the terms of this Lease, except the Base Rent shall equal 200% of Base Rent in effect at the time of such expiration or earlier termination of this Lease. The foregoing sentence shall in no event be construed to permit Tenant to remain in possession of the Leased Premises and the Development after the expiration or termination of this Lease. Tenant shall be liable to Landlord for all losses, costs, damages and expenses (including, without limitation, consequential damages, lost profits, reasonable attorneys' fees, court costs and litigation expenses) that Landlord suffers or incurs because of any holding over by Tenant, and Tenant shall indemnify, defend and hold harmless Landlord from and against all claims, lawsuits, liabilities, losses, damages, costs and expenses (including, without limitation, reasonable attorneys' fees, court costs and litigation expenses) arising from delays by Landlord in delivering possession of the Leased Premises and the Development to any person or entity that are caused by Tenant's failure to comply with the terms of this Lease, including, but not limited to, Tenant's failure to timely surrender possession of the Leased Premises and the Development to Landlord.
- e. **Quiet Enjoyment.** Subject to Landlord's rights and remedies under this Lease, Tenant shall peaceably and quietly hold and enjoy the Leased Premises without hindrance or interruption by Landlord or anyone claiming by, through or under Landlord so long as Tenant complies with the terms hereof.

- f. Waiver. No waiver by Landlord or Tenant of any provision of or default under this Lease shall be deemed to have been made, unless the same is in writing and signed by the party charged with making the waiver, and no waiver of any provision of or default under this Lease shall be deemed a waiver of any other provision or default. Landlord's or Tenant's consent to or approval of any act shall not be deemed to waive the requirement to obtain Landlord's or Tenant's consent to or approval of any subsequent act.
- g. Successors and Assigns. This Lease shall be binding on the Landlord, Tenant and their respective successors and assigns; provided the foregoing shall not be construed to permit any assignment of this Lease by Tenant without Landlord's prior written consent.
- h. Severability. If any provision of this Lease is found by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remainder of this Lease will not be affected, and in lieu of each provision that is found to be illegal, invalid or unenforceable, a provision will be added as a part of this Lease that is as similar to the illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable. This Lease constitutes the entire agreement between the parties with respect to the Leased Premises, and all prior negotiations and understandings shall be deemed incorporated herein. This Lease may only be amended or modified by a written instrument signed by both Landlord and Tenant and approved by appropriate State officials, as required. All of Tenant's indemnification obligations and, to the extent not fully performed, all other obligations of Tenant under this Lease, shall survive the expiration or termination hereof.
- i. Memorandum of Lease. The parties shall execute and record a memorandum of this Lease in the form attached hereto as Exhibit F.

(18) **HAZARDOUS SUBSTANCES:**

- a. "**Hazardous Substances**" means and shall be interpreted broadly to include, but not be limited to, any material or substance that is defined, regulated or classified under any Environmental Law or other applicable federal, state or local laws and the regulations promulgated thereunder as (i) a "hazardous substance" pursuant to section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601(14), the Federal Water Pollution Control Act, 33 U.S.C. §1321(14), as now or hereafter amended; (ii) a "hazardous waste" pursuant to section 1004 or section 3001 of the Resource Conservation and Recovery Act, 42 U.S.C. §§6903(5), 6921, as now or hereafter amended; (iii) toxic pollutant under section 307(a)(1) of the Federal Water Pollution Control Act, 33 U.S.C. §1317(a)(1) as now or hereafter amended; (iv) a "hazardous air pollutant" under section 112 of the Clean Air Act, 42 U.S.C. §7412(a)(6), as now or hereafter amended; (v) a "hazardous material" under the Hazardous Materials Transportation Uniform Safety Act of 1990, 49 U.S.C. §5102(2), as now or hereafter amended; (vi) toxic or hazardous pursuant to regulations promulgated now or hereafter under the aforementioned laws or any state or local counterpart to any of the aforementioned laws; or (vii) presenting a risk to human health or the environment under other applicable federal, state or local laws, ordinances or regulations, as now or as may be passed or promulgated in the future. Hazardous Substances shall also mean any substance that after release into the environment or upon exposure, ingestion, inhalation or assimilation, either directly from the environment or directly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavior

abnormalities, cancer or genetic abnormalities and specifically includes, but is not limited to, mold, asbestos, polychlorinated biphenyls (“PCBs”), radioactive materials, including radon and naturally occurring radio nuclides, natural gas, natural gas liquids, liquefied natural gas, synthetic gas, oil, petroleum and petroleum-based derivatives and urea formaldehyde.

- b. **“Environmental Laws”** means any applicable federal, state or local law, regulation or ordinance pertaining to soil, groundwater, air and water quality, the handling, transportation, storage, treatment, usage or disposal of Hazardous Substances (as defined below), air emissions and other environmental matters, and the rules and regulations adopted pursuant thereto.
- c. Tenant agrees not to Release any Hazardous Material on, onto or from the Leased Premises or the Development that could result in a violation of any Environmental Law or in the creation of liability or obligations, including, without limitation, notification, deed recordation or remediation, under any Environmental Law. Tenant will not place on the Leased Premises any underground or aboveground storage tanks, or “PCBs” or “PCB items”, as those terms are defined in 40 C.F.R. §761. Except for Hazardous Substances and other toxic materials brought, kept or used in the Leased Premises by Tenant in commercial quantities similar to those quantities usually kept on similar premises by others in the same business or profession, and which are used and kept in strict compliance with all Applicable Laws, no Hazardous Substances or other toxic materials shall be used, stored, generated, handled, manufactured or released by Tenant or any of Tenant’s employees, agents, contractors, representative, subtenants or invitees on or about the Leased Premises.
- d. If Tenant breaches any of its agreements set forth in this Section, Tenant, at its sole expense, shall promptly take all action required, including remediation of the Leased Premises or the Development, to comply with the covenants herein or applicable legal requirements and, in any event, shall take all action necessary under all applicable Environmental Laws. Tenant shall, at Tenant’s own expense, make all submissions to provide all information required by and comply with all requirements of all governmental authorities. Should any governmental authority or any third-party demand remediation anywhere in the Development because of any release of Hazardous Materials that occurs during the Term, at or from the Leased Premises or which arises at any time from Tenant’s use or occupancy of the Leased Premises, or as a result of Tenant’s actions, or the actions of its employees, contractors, agents, successors and/or assigns, Tenant shall, at Tenant’s own expense, prepare and submit the required plans and all related bonds and other financial assurances and Tenant shall carry out all such cleanup plans. Tenant shall promptly provide all information regarding the use, generation, storage, transportation or disposal of Hazardous Materials requested by Landlord. If Tenant fails to fulfill any duty imposed under this Section 18 within ten (10) business days following Landlord’s request, Landlord may proceed with such efforts and in such case, Tenant shall cooperate with Landlord in order to prepare all documents Landlord deems necessary or appropriate to determine the applicability of the laws to the Leased Premises and Tenant’s use thereof and for compliance therewith; and Tenant shall execute all documents promptly upon Landlord’s request and any expenses incurred by Landlord shall be payable by Tenant as Additional Rent. No such action by Landlord and no attempt by Landlord to mitigate damages under any applicable law shall constitute a waiver of any of Tenant’s obligations or Landlord’s rights under this Section 18. In the event, subsequent to the

Commencement Date and prior to the expiration of the Term, Hazardous Materials on the Leased Premises are introduced by anyone other than Landlord or Tenant (or their agents, employees or contractors) in violation of Environmental Laws, then Tenant shall undertake any required remediation activities.

- e. Tenant shall indemnify, defend and hold harmless Landlord from and against any and all damages, penalties, expenses, claims, losses and liabilities arising as a result of any violation of this Section. The foregoing indemnity shall include, without limitation, an obligation on Tenant's part to reimburse Landlord for any and all costs, expenses and reasonable attorneys' fees incurred by Landlord as a result of Tenant's violation of this section.
- (19) **RIGHTS OF LANDLORD:** Landlord may sell, lease, or transfer its fee interest in the Leased Premises without Tenant's consent; provided, however, that the sale, lease or transfer shall be made expressly subject to the terms of this Lease. Landlord may prepare, execute, and record a declaration of easements, covenants and restrictions or other instrument, encumbering the Leased Premises (or a portion thereof) and governing the use and development thereof; provided, however, that any such instrument shall be subject to the terms of this Lease.
- (20) **RECORDS RETENTION:** The books, records and documentation of Tenant, insofar as they relate to income and expenses used in the calculation of the Rent due under this Lease shall be maintained in conformity with generally accepted accounting principles for a period of five (5) full years from the date of what amounts to the final payment under this Lease, and shall be subject to audit, at any reasonable time and upon reasonable notice by the Comptroller of the Treasury or his duly appointed representative or a licensed independent public accountant.
- (21) **PAYMENT & PERFORMANCE BOND:** Tenant will be required to furnish payment and performance bonds, in a form acceptable to Landlord, within _____ working days after receipt of request or prior to the Commencement Date, whichever occurs first, to guarantee that payment and performance of the contracted services will be properly secured. This will include 1) the contractor(s) to secure payment and performance of contracting services for those completing demolition, construction, renovations, alterations, improvements, or repairs and 2) Tenant to secure payment to the contractor for the work specified in the RFP response.

The penal sum of the bonds shall be equal to 100% of the contract price, covering and including labor and materials, and the Landlord must be a named obligee/beneficiary under such bond(s). The premium of the bonds shall be paid by the Tenant/contractor. The bond shall be executed on the Landlord "payment and performance bond" form, one copy of which is attached to this Lease. Personal checks are not acceptable in the place of performance bonds. However, bank cashier's checks payable to Landlord will be accepted for this purpose. An irrevocable letter of credit or a certificate of deposit, to be held by the Landlord, from either (a) a state or national bank or a state or federal savings and loan association having its principal office in Tennessee or (b) a state or national bank or a state or federal savings and loan association having its principal office located outside Tennessee and that maintains one or more branches in Tennessee which are authorized to accept federally insured deposits may also be accepted in lieu of a performance bond, subject to approval by the Landlord terms and conditions of said irrevocable letter of credit or certificate of deposit.

- (22) **FINANCING:**

- a. Tenant shall have the right during the Term to subject Tenant's leasehold interest in the Leased Premises to one or more mortgages, deeds of trust, assignments of lease, security agreements, or other methods of financing or refinancing (a "**Mortgage**"); provided, that the beneficiary of the Mortgage (the "**Mortgagee**") under any Mortgage must be a bank, savings and loan association, trust or other similar institutional lender regularly engaged in the business of making loans secured by real estate. Upon the written approval of Landlord, to be granted or withheld in its sole discretion, the Mortgagee may be a non-traditional lender. Tenant shall immediately notify Landlord in writing of the name, the name and telephone number of a contact person and the address of any Mortgagee.
- b. Provided Mortgagee and Landlord have entered into the agreement provided in Section 22.h.2 hereof, then if an Event of Default shall have occurred under this Lease, and the applicable grace period for cure by Tenant shall have expired, Landlord shall send a copy of the written notice of the Event of Default to Mortgagee at its address as provided in writing to Landlord by Tenant. Mortgagee shall have thirty (30) days after delivery of the written notice of the Event of Default from Landlord within which to cure or remove the Event of Default, and if the Event of Default cannot with diligence be cured within the thirty (30) day period, then Mortgagee shall have a reasonable time thereafter to effect such cure (not to exceed ninety (90) days), provided that Mortgagee has commenced to cure such Event of Default within the thirty (30) day period, and is actively, diligently and in good faith proceeding with continuity to cure such Event of Default, and provided further that any delay in curing such Event of Default shall not result in a material adverse effect on the value of the Leased Premises. Notwithstanding any other provision of this Lease, Landlord shall not have any right pursuant to this Lease or otherwise to terminate this Lease due to an Event of Default pursuant to Section 16.a.1. unless Landlord shall have first given a copy of the written notice of such Event of Default to Mortgagee and unless Mortgagee shall have failed to cure or remove, or cause to be cured or removed, the Event of Default, within the time required by this Section.
- c. Landlord will accept performance by Mortgagee of any covenant, agreement or obligation of Tenant contained in the Lease with the same effect as though performed by Tenant.
- d. In the event of the rejection or disaffirmance of this Lease pursuant to any debtor relief laws, Landlord will enter into a new lease (the "**New Lease**") of the Leased Premises with any Mortgagee holding a lien that is a first and senior lien upon the leasehold estate of Tenant. The New Lease shall be identical to this Lease and be effective as of the date of rejection or disaffirmance of this Lease and shall be upon the same terms and provisions contained in this Lease (including the amount of the Base Rent and other sums due from Tenant hereunder) and shall have a term equal to the remaining portion of the Term hereof. In order to obtain a New Lease, Mortgagee must make a written request to Landlord for the New Lease within thirty (30) days after Mortgagee is notified of the effective date of rejection or disaffirmance of this Lease, as the case may be, and the written request must be accompanied by a copy of the New Lease, duly executed and acknowledged by Mortgagee or the entity designated by Mortgagee as tenant. In addition, Mortgagee must, within said thirty (30) day period, cure all defaults under this Lease that can be cured by the payment of money or performance of action and pay to Landlord all Base Rent, Additional Rent and other sums that would have been due and payable by Tenant under this Lease but for the rejection, disaffirmance or termination. Mortgagee's rights under this Section are in addition to, and not limited by, Mortgagee's right to cure set forth above.

- e. If Landlord has given Mortgagee notice of Tenant's default and Mortgagee desires to cure Tenant's default but is unable to do so while Tenant is in possession of the Leased Premises, or during the period of time that Mortgagee's proceedings are stayed by reason of Tenant being subject to any debtor relief laws, or if Landlord has elected to terminate this Lease and Mortgagee desires to obtain a New Lease but has not yet acquired Tenant's leasehold interest in this Lease, then Mortgagee shall have the right to postpone the specified date for effecting a cure of this Lease or obtaining a New Lease for a period reasonably sufficient to enable Mortgagee or its designee to acquire Tenant's interest in this Lease by foreclosure of its Mortgage or otherwise, as long as (i) Mortgagee pays Landlord the Base Rent, Additional Rent and other sums due under this Lease during the postponement, (ii) Mortgagee shall have cured all other defaults not requiring possession to cure, (iii) during the postponement, all other obligations of Tenant under this Lease shall be duly performed, to the extent that Mortgagee can do so, and (iv) Mortgagee is actively, diligently and in good faith proceeding with continuity to obtain an appropriate release from any applicable court order or restraint and, upon such release, Mortgagee immediately commences and actively, diligently and in good faith proceeds with continuity to complete all steps and proceedings necessary for the consummation of such foreclosure or transfer in lieu of foreclosure. Mortgagee shall exercise the right to extend the cure period or the date for obtaining a New Lease by giving Landlord written notice prior to the last date that Mortgagee would otherwise be entitled to elect a cure or obtain a New Lease and by tendering to Landlord any Base Rent, Additional Rent and other charges then in default.
- f. If any Mortgage known to Landlord is in effect, Landlord will not accept a voluntary surrender of this Lease without the prior written consent of such Mortgagee, which consent shall not be unreasonably withheld; provided, however, that if any Mortgagee shall fail or refuse at any time to comply with any and all of the applicable provisions of this Section 22, then and thereafter Landlord shall, notwithstanding anything to the contrary contained in this Section 22, have the right to terminate this Lease without regard to the Mortgagee protections contained in this Section 22.
- g. The provisions of this Section 22 are for the benefit of a Mortgagee and may be relied upon and shall be enforceable by a Mortgagee. Neither a Mortgagee nor any other holder or owner of the indebtedness secured by a Mortgage or otherwise shall be liable upon the covenants, agreements or obligations of Tenant contained in this Lease, unless and until Mortgagee or that holder or owner acquires the interest of Tenant.
- h. Certain Conditions; Rights of Landlord.
 - 1. Notwithstanding anything contained herein to the contrary, any Mortgage executed by Tenant shall comply with the following requirements:
 - (i) the Mortgage and all rights acquired thereunder shall be subject to each and all of the covenants, conditions, restrictions and provisions set forth in this Lease and the Declaration, and to all rights of Landlord hereunder and thereunder, except as herein otherwise expressly provided; no Mortgage shall encumber any interest in real property other than Tenant's leasehold interest in the Leased Premises and fee interest in the improvements thereon, or secure more than one debt or contain a cross-default provision or cross-collateralization provision;

- (ii) (A) the aggregate amount of the loan secured by the Mortgage (including any refinancing of any such loan) shall not exceed eighty percent (80%) of the appraised fair market value of the Leased Premises as determined by an independent MAI appraiser reasonably satisfactory to the Mortgagee and Landlord, (B) for permanent loans secured by a Mortgage, interest shall be paid in regular monthly installments over the term of the loan at a _____ year (or less) amortization rate from the date on which the financing takes effect, and (C) the loan secured by the Mortgage shall be due and payable in full no less than _____ years before the expiration of the Term; and
 - (iii) no Mortgage or related loan documents shall contain a lockout or prohibition on prepayment of the outstanding principal balance under such Mortgage or related loan documents.
2. In order for any Mortgagee to be entitled to the benefits provided by this Section 22, the Mortgagee must agree in a written agreement with Landlord in recordable form substantially as follows:
- (i) that the Mortgagee will give Landlord notice of any Event of Default by Tenant under such Mortgage, and that Landlord will have the option, but not the obligation, to exercise either of the following rights within thirty (30) days after receipt of such notice: (A) Landlord may cure said Event of Default within such thirty (30) day period if it shall so choose, unless such Event of Default is of such a nature that it cannot be completely cured within such thirty (30) day period, in which event Landlord shall have such longer period as shall be reasonably necessary to cure such Event of Default if Landlord shall so choose, provided Landlord commences such cure with such thirty (30) day period and thereafter diligently prosecutes such cure to completion, or (B) Landlord may purchase the outstanding loan secured by the Mortgage (the “**Loan**”) and all related documents by giving the Mortgagee written notice of its intent to do so within such thirty (30) day period; and
 - (ii) the purchase price for the Loan shall be the outstanding principal balance of the Loan plus all accrued but unpaid interest; provided, however, the purchase price shall not include any late fees, charges for default, prepayment penalties or other fees or premiums.
3. Tenant shall not unreasonably withhold its consent to any written agreement with Mortgagee that substantially achieves the objectives set forth in Section h above. Tenant hereby consents to any cure by Landlord of any default by Tenant under a Mortgage. Tenant shall reimburse Landlord for all payments made and any incidental costs and expenses incurred, together with interest thereon (which payments, costs, expenses and interest shall be considered Additional Rent hereunder), by Landlord in connection with the cure of any such default or the acquisition of any Loan by Landlord (but excluding the purchase price of any such Loan), including attorneys’ fees, immediately upon receipt of Landlord’s written demand for reimbursement. No provision of this Lease shall be construed as preventing Landlord, following the acquisition of Landlord of any such Loan, from exercising all rights and remedies available to it on account of a default under the Mortgage.

(23) **ADVISORY COMMITTEE.**

- a. An advisory committee (“**Committee**”), composed of [_____] representatives of the University and [_____] representatives of Tenant, will meet at least twice annually, and as often as required and called to meet by Tenant or Landlord, to review and approve (i) the Operations Plan (defined below), and (ii) the Annual Budget (defined below).
- b. On or before [_____] of each year, Tenant shall prepare and deliver to the Committee for its review, discussion, and approval (i) a plan for the operating approach, marketing materials, capital reinvestment plans, and other matters related to the management and operation of the Development (the “**Operations Plan**”) with respect to the upcoming Lease Year, and (ii) an annual budget for the Development with respect to the upcoming Lease Year (“**Annual Budget**”).
- c. [_____] members of the Committee will constitute a quorum, provided at least [_____] representatives of Landlord and [_____] representatives of Tenant are present. A concurring vote of [_____] members of the Committee shall be required for action by the Committee. In the event that the Committee is unable to reach a decision relative to the Operations Plan, the Annual Budget, or other matter subject hereunder to approval by the Committee, then representatives of Landlord shall resolve the deadlock by casting the deciding vote on any matter regarding the Leased Premises.
- d. Tenant shall manage and operate the Development in accordance with the Operations Plan and the Annual Budget with respect to each Lease Year.

(24) **OTHER:**

- a. Individual Liability. No official of the Landlord who is authorized in such capacity and on the behalf of the Landlord to negotiate, make, accept, or approve, or take part in negotiating, making, accepting, or approving any engineering, inspection or material supply contract or any subcontract in connection with the furnishing of equipment and/or furnishing for the Development , shall become directly or indirectly interested personally in this Lease or any part thereof. No officer, employee, architect, attorney, engineer, or inspector of or for the Landlord who is authorized in such capacity on behalf of the Landlord to exercise any legislative, executive, supervisory, or other similar functions in connection with the fabrication or in any part hereof any contract, subcontract, insurance contract, or any other contract pertaining thereto, shall become directly or indirectly interested personally in this Lease or in any part hereof. Violation of this section is grounds for termination of this Lease.
- b. Survival of Terms. All representations, warranties, and indemnities of Tenant under this Lease shall survive the expiration or sooner termination of this Lease.
- c. Authorization and Approvals. University and Tenant represent each to the other that each has obtained all necessary approvals and authorizations from their respective Boards/governing entity for the execution of this Lease; provided further, University shall not be bound by this Lease until all appropriate State officials have approved, as shown by the signatures below.

- d. Approval of Marketing Materials. Landlord shall have the right to approve all signs and materials used by Tenant in the promoting or marketing of space in the Leased Premises which contain a reference to the University, which approval shall not be unreasonably withheld. Tenant and Landlord agree to negotiate and resolve in good faith any disputes relating to all such marketing materials.

- e. Conflicts of Interest. All representatives of Tenant and University shall comply with Landlord policies and State of Tennessee laws applicable to conflicts of interest. Tenant warrants that no part of the Tenant's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Tenant in connection with any work contemplated or performed under this Lease.

Tenant acknowledges, understands, and agrees that this Lease shall be null and void if the Tenant is, or within the past _____ months has been, an employee of the State of Tennessee or if the Tenant is an entity in which a controlling interest is held by an individual who is, or within the past _____ months has been, an employee of the State of Tennessee.

- f. Competitive Procurements. Where practical, procurements efforts carried out by the Tenant pursuant to the terms of this Lease, including goods, materials, supplies, equipment, and/or contracted services, shall be made on a competitive basis, including the use of competitive bidding procedures.

(25) **LOBBYING:** Tenant certifies, to the best of its knowledge and belief, that:

- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the Tenant, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any contract, grant, loan, or cooperative agreement, the Tenant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- c. Tenant shall require that the language of this certification be included in all Subleases and that all Subtenants shall certify and disclose accordingly.

- d. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

(Signatures on following page)

IN WITNESS WHEREOF, this Lease has been executed by the parties hereto as of the date first above written.

LANDLORD:

State of Tennessee

By: _____ Name: Christi Branscom
Title: Commissioner, General Services

Middle Tennessee State University

By: _____ Name: _____
Title: _____

TENANT:

By: _____ Name: _____
Title: _____

APPROVED :

Jonathan Skrmetti, Attorney General & Reporter

Bill Lee, Governor

TENANT NOTARY

STATE OF TENNESSEE COUNTY OF RUTHERFORD

Personally appeared before me, the undersigned, Notary Public for the Rutherford County, DO
HEREBY CERTIFY that _____, of Murfreesboro, Tennessee with
whom I am personally acquainted or proved to me on the basis of satisfactory evidence, to be the same
person whose name is subscribed to the foregoing instrument appeared before me this day in person and
acknowledged that he signed, sealed and delivered that said instrument as his free and voluntary act for
the uses and purposes therein set forth.

Witness my hand and seal, at office in, this _____ day of _____, 2024.

Notary Public.

My Commission Expires: _____

LANDLORD NOTARY

STATE OF TENNESSEE, COUNTY OF DAVIDSON

Before me,____, Notary Public in and for the County and State aforesaid, personally appeared Christi Branscom, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who upon oath acknowledged herself to be Commissioner of the Department of General Services for the State of Tennessee, the within named Landlord, and that she as such representative, executed the foregoing instrument for the purposes therein contained and signed the name of the State of Tennessee, by herself as Commissioner, Department of General Services for the State of Tennessee.

Witness my hand and seal, at office in Nashville, day of Tennessee, this the _____ day of _____, 2024.

Notary Public

My Commission Expires: _____

MIDDLE TENNESSEE STATE UNIVERSITY NOTARY

STATE OF TENNESSEE, COUNTY OF RUTHERFORD

Personally appeared before me, the undersigned Notary Public for Rutherford County,
_____, _____ of
Middle Tennessee State University, with whom I am personally acquainted (or proved to me on the basis
of satisfactory evidence), and who, upon oath, acknowledged that he/she is the
_____ of Middle Tennessee State
University, the within named Landlord, and that he/she as _____,
being authorized so to do, executed the foregoing instrument for the purpose therein contained by
signing the name of Middle Tennessee State University by himself/herself as _____.

Witness my hand and seal, at office in, this _____ day of, 2024.

Notary Public.

My Commission Expires:

Exhibit A
Description of Leased Premises

To be included in lease document when proposals have been evaluated and the successful proposer has selected their site.

Exhibit B
Management Agreement

[To be attached]

**Exhibit C
Site Plan**

[To be attached]

Exhibit D
Plan Approval

[To be attached]

Exhibit E
Development Agreement

[To be attached]

Exhibit F
Memorandum of Lease

PREPARED BY:

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (the “Memorandum”) is made and entered into as of the ____ day of _____, 2024 (the “Effective Date”), by and between the State of Tennessee (“State”) on behalf of Middle Tennessee State University, as landlord (“University”, together with State, the “Landlord”), and _____, a(n) __, as tenant (“Tenant”).

WITNESSETH:

Pursuant to that certain Ground Lease Agreement entered into by Landlord and Tenant, dated of even date herewith (the “Lease”), Landlord has leased (and hereby leases) to Tenant certain real property (the “Premises”) located in Rutherford County, Tennessee and more particularly described on Exhibit A, attached hereto and incorporated herein by this reference.

TO HAVE AND TO HOLD the Leased Premises subject to all the provisions and conditions contained in the Lease.

1. Defined Terms. Any capitalized terms used but not expressly defined in this Memorandum shall have the meaning ascribed to them in the Lease.

2. Landlord’s Address. Xxx,xxx,xxx, Murfreesboro, TN 37132.

3. Tenant’s Address.

4. Initial Term of Lease. The term of the Lease commenced on _____ (the “Commencement Date”) and expires on _____, unless the Lease is earlier terminated or extended in accordance with express terms thereof.

5. Renewal Options. The Lease grants Tenant _____ () option to renew and extend the term of the Lease, which, if exercised and approved by Landlord, shall extend the term of the Lease for an additional period of _____ () years.

6. Lease. The Rent payable by Tenant for the Leased Premises and other terms and conditions governing Tenant’s use and occupancy of the Leased Premises are set forth in the Lease, all of which are incorporated herein by reference.

7. Conflicts. The purpose of this Memorandum is to give notice of the terms and conditions of the Lease. This Memorandum shall not modify in any manner the terms and conditions of the Lease, and the parties agree that this Memorandum is not intended nor shall it be used to interpret the Lease or determine the intent of the parties under the Lease. In the event of any conflicts or

inconsistencies between the terms of the Lease and the terms of this Memorandum, the terms of the Lease shall control.

IN WITNESS WHEREOF, the Landlord and Tenant have executed this Memorandum as of the date first above written.

LANDLORD:

State of Tennessee

By: _____
Name: Christi Branscom
Title: Commissioner, Department of General Services

Middle Tennessee State University

By: _____
Name: _____
Title: _____

TENANT: _____

By: _____
Name: _____
Title: _____

TENANT NOTARY

STATE OF TENNESSEE COUNTY OF RUTHERFORD

Personally appeared before me, the undersigned, Notary Public for the Rutherford County, DO HEREBY CERTIFY that _____, of Murfreesboro Tennessee with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed, sealed and delivered that said instrument as his free and voluntary act for the uses and purposes therein set forth.

Witness my hand and seal, at office in, this _____ day of _____, 2024.

Notary Public

My Commission Expires: _____

LANDLORD NOTARY

_____ day of _____

STATE OF TENNESSEE COUNTY OF DAVIDSON

Before me,____, Notary Public in and for the County and State aforesaid, personally appeared Christi Branscom, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who upon oath acknowledged herself to be Commissioner of the Department of General Services for the State of Tennessee, the within named Landlord, and that she as such representative, executed the foregoing instrument for the purposes therein contained and signed the name of the State of Tennessee, by herself as Commissioner, Department of General Services for the State of Tennessee.

Witness my hand and seal, at office in Nashville, Tennessee, this the _____ day of _____, 2024.

Notary Public

My Commission Expires:

MIDDLE TENNESSEE STATE UNIVERSITY COUNTY OF RUTHERFORD

Personally appeared before me, the undersigned Notary Public for Rutherford County, _____, _____ of Middle Tennessee State University, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged that he/she is the _____ of Middle Tennessee State University, the within named Landlord and that he/she as _____, being authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of Middle Tennessee State University by himself/herself as__.

Witness my hand and seal, at office in, this _____ day of _____, 2024.

Notary Public.

My Commission Expires:

EXHIBIT A

(OF MEMORANDUM OF LEASE)

Description of Premises

Within Rutherford County, Tennessee Deed Book xxx, Page xxxx and described below: