

ORDINANCE NO. 9998

1 AN ORDINANCE authorizing the County Executive to  
2 enter into an agreement for a ten-year lease  
3 agreement for 44,145 square feet of ground and sale  
4 of a 1,895 square foot building at Boeing Field/King  
County International Airport.

5 PREAMBLE:

6 The King County council finds and the county executive recognizes  
7 that unique circumstances make a negotiated direct sale of a  
8 1,895 square foot county-owned facility in the best interests of  
9 the public, pursuant to King County Code 4.56.100(A)(2).

10 In accordance with the provision of K.C.C. 4.56.190(C), the King  
11 County council may adopt an ordinance permitting the county to  
12 enter into lease agreements of county property which contain  
13 terms in excess of five years. It is proposed to terminate the  
14 existing monthly rental agreement of X-Ray, Inc. and enter into  
15 a ten-year lease agreement on a parcel of ground. It has been  
16 determined that a negotiated sale is favorable to and in the best  
17 interest of the county. The effective date of the lease will be  
18 May 1, 1991.

19 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

20 SECTION 1. The King County executive is hereby authorized to execute  
21 a ten-year lease agreement with X-Ray, Inc. on a 44,145 square foot parcel  
22 of ground at Boeing Field/King County International Airport, effective May  
23 1, 1991. King County shall receive \$1,581.86 per month as base rent, plus  
24 leasehold excise tax, for the 44,145 sq. ft. parcel of ground.  
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## LEASE AGREEMENT

1. PARTIES. This Lease dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, is between King County, a municipal corporation and a political subdivision of the State of Washington, and X-Ray Inc. of which the majority stock is owned by Peripheral Systems, Inc., an Oregon corporation, herein called "Lessee."

2. PREMISES. At the commencement of this agreement, King County and Lessee agree to the termination of an existing Rental Agreement dated April 1, 1989. King County hereby leases to Lessee, upon the following terms and conditions, premises located in King County, Washington legally described as follows:

See Exhibit "A"

3. TERM.

- A. This lease term shall be for 10 years and shall begin on the 1st day of May 1991, and end on the 30th day of April 2001.
- B. If King County is unable to deliver possession of the premises by the date specified for the commencement of the term as a result of causes beyond King County's reasonable control, King County shall not be liable for any damage caused for failing to deliver possession, and this lease shall not be void or voidable. Lessee shall not be liable for rent until King County delivers possession of the premises to Lessee, but the term shall not be extended by the delay. If King County does not deliver possession of the premises to Lessee WITHIN SIXTY (60) days after commencement of the term, Lessee can elect to terminate this lease by giving notice to King County at any time before the date King County delivers possession of the premises to Lessee.

4. RENT AND PURCHASE OF BUILDING. Lessee shall pay to King County a rent of One Thousand Five Hundred Eighty-one and 86/100 (\$1,581.86) DOLLARS, payable in advance on or before the first (1st) day of each and every calendar month of the lease term. Lessee shall also pay a Leasehold Excise Tax of Two Hundred Three and 11/100 (\$203.11) DOLLARS per month. The rent is adjustable as set forth in the King County General Terms and Conditions. All rents and tax shall be made payable to the KING COUNTY INTERNATIONAL AIRPORT and are to be received in the office of the:

King County Airport Administration  
King County International Airport  
P. O. Box 80245  
Seattle, Washington 98108

Said rental is exclusive of any other sale, franchise, business or occupation, or other tax based on rents. Should any such taxes apply during the life of this lease the rent shall be increased by such amount.

By entering into this agreement, Lessee agrees to purchase the 1,895 square foot County owned office/warehouse facility located on the lease premises (described in Exhibit "B.") The purchase price will be \$19,800 plus Washington State Sales Tax of \$1,623.60 for a total of \$21,423.60. This total will be amortized over a 60-month period at 10 percent interest. The monthly payment for the building will be \$455.24. The total purchase price, inclusive of interest, will be \$27,314.40. If Lessee elects to pay the remaining balance in one payment, there will be no penalty for early payment. Said building shall be subject to Paragraph 5(B) of the General Terms and Conditions of this Agreement.

5. SECURITY AND DAMAGE DEPOSIT. At the time of the signing of this Lease, the Lessee, shall pay the first (1st) month's rent and leasehold tax. In addition, the Lessee shall deposit with King County the sum of Four Thousand Six Hundred (\$4,600.00) DOLLARS as a security deposit for the payment of rent and tax. The security deposit is the only sum to be credited toward payment of the last month's rent upon Lessee's termination of the Lease and shall be increased proportionally to any future rent increases. The return of this deposit, or any portion of it, shall be conditioned on the performance of all the Lessee's duties. Within sixty (60) days after termination of the tenancy

and vacation of the premises King County will return any sum due the Lessee from this deposit retained by King County. Furthermore, the Lessee understands and agrees that all rents, late charges, and utility bills owing, unless paid by the Lessee, may be deducted from the deposit. The deposits need not be held in any special account and no interest will be paid thereon.

With regard to the security and damage deposit, a surety bond may be used. In the event a bond is submitted, said bond shall be executed in a form satisfactory to King County by a surety company licensed to do business in the State of Washington, subject to the jurisdiction of the King County Superior Court and acceptable to King County. Any surety shall be bound by an attorney-in-fact, resident in the State of Washington. The seal of the bonding company is required on the bond. Said surety shall be delivered to and approved by King County no later than commencement of Lease or this Lease shall be null and void and Lessor shall have the right to re-enter and repossess the premises immediately and without further notice. The applicability of rental surety required pursuant to this paragraph shall be reviewed at each three-year anniversary.

6. USE. Lessee shall use said premises for the following purposes and no others without prior written consent of King County: testing and inspection of various materials and manufactured products; related offices and storage.

7. GENERAL TERMS AND CONDITIONS. Attached hereto and incorporated herein by reference are King County General Terms and Conditions.

8. SPECIAL TERMS AND CONDITIONS. Attached hereto and incorporated herein by reference are Special Terms and Conditions.

9. ENTIRE AGREEMENT - AMENDMENTS. This printed lease together with the attached Terms and Conditions and any and all exhibits expressly incorporated herein by reference and attached hereto shall constitute the whole agreement between the parties. There are no terms, obligations, covenants or conditions other than those contained herein. No modification or amendment of this lease shall be valid or effective unless evidenced by an agreement in writing signed by both parties.

10. NOTICES. Required notices except legal notices shall be given in writing to the following respective address:

TO King County: King County International Airport  
P. O. Box 80245  
Seattle, Washington 98108

TO Lessee: X-Ray, Inc.  
7500 Perimeter Road South  
Seattle, WA 98108

or to such other respective addresses as either party hereto may hereafter from time to time designate in writing. Notices sent by mail shall be deemed to have been given when properly mailed.

11. CORPORATE GUARANTEE. Peripheral Inc., majority owner of X-Ray, Inc., gives its corporate guarantee for performance and payment of all obligation of this agreement.



STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

PERIPHERAL SYSTEMS, INC

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
before me, the undersigned, a Notary Public in and for the State of  
Washington, duly commissioned and sworn personally appeared \_\_\_\_\_  
and \_\_\_\_\_  
to be known to be the \_\_\_\_\_ President and \_\_\_\_\_  
Secretary, respectively,  
of \_\_\_\_\_  
the corporation that executed the foregoing instrument, and  
acknowledged the said instrument to be the free and voluntary act and  
deed of said corporation, for the uses and purposes therein mentioned,  
and on oath stated that he \_\_\_\_\_  
authorized to execute the said instrument and that the seal affixed is  
the corporate seal of said corporation.

WITNESS my hand and official seal hereto affixed the day and year  
in this certificate above written.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_.

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

On this day personally appeared before me \_\_\_\_\_  
to me known to be the \_\_\_\_\_  
County Executive of King County, Washington, the person who signed the above  
and foregoing instrument for King County for the uses and purposes therein  
stated, and acknowledged to me that he signed the same as the free and volun-  
tary act and deed of King County and that he was so authorized to sign.

GIVEN under my hand and official seal this \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State  
of Washington, residing at \_\_\_\_\_.

X-RAY, INC.

A portion of King County International Airport described as follows:

"Beginning at a point on the center line of Airport Way, in the Southeast quarter (1/4) of Section 28, Township 24 North, Range 4 East, Willamette Meridian, in King County, Washington, and said point being marked by a City of Seattle monument in a case at the northerly end of a curve on said Airport Way; thence South 51° 08' 37" West along radius of said curve 30 feet of the East boundary line of King County Airport; thence North 38° 51' 23" West 416.20 feet to the TRUE POINT OF BEGINNING; thence South 51° 08' 37" West 90 feet to a point on the easterly margin of Perimeter Road, said point being 15.00 feet from the centerline; thence South 38° 51' 23" East along the easterly margin of Perimeter Road 200 feet; thence South 29° 43' 57" East 177 feet; thence South 33° 19' 54" East 63.41 feet; thence North 53° 57' 00" East along the northern lease line of a parking lot leased to The Boeing Company 122.50 feet, more or less, to the westerly margin of Airport Way South; thence North 37° 14' 00" West along said westerly margin 64.2 feet; thence North 38° 51' 23" West along said westerly margin 379.7 feet, more or less, to the TRUE POINT OF BEGINNING. Said tract of land contains an area of 44,145 square feet.

Jeffrey W. Winter, P.E.  
2-6-91

X-RAY, INC.  
ORIGINAL 7500 BUILDING

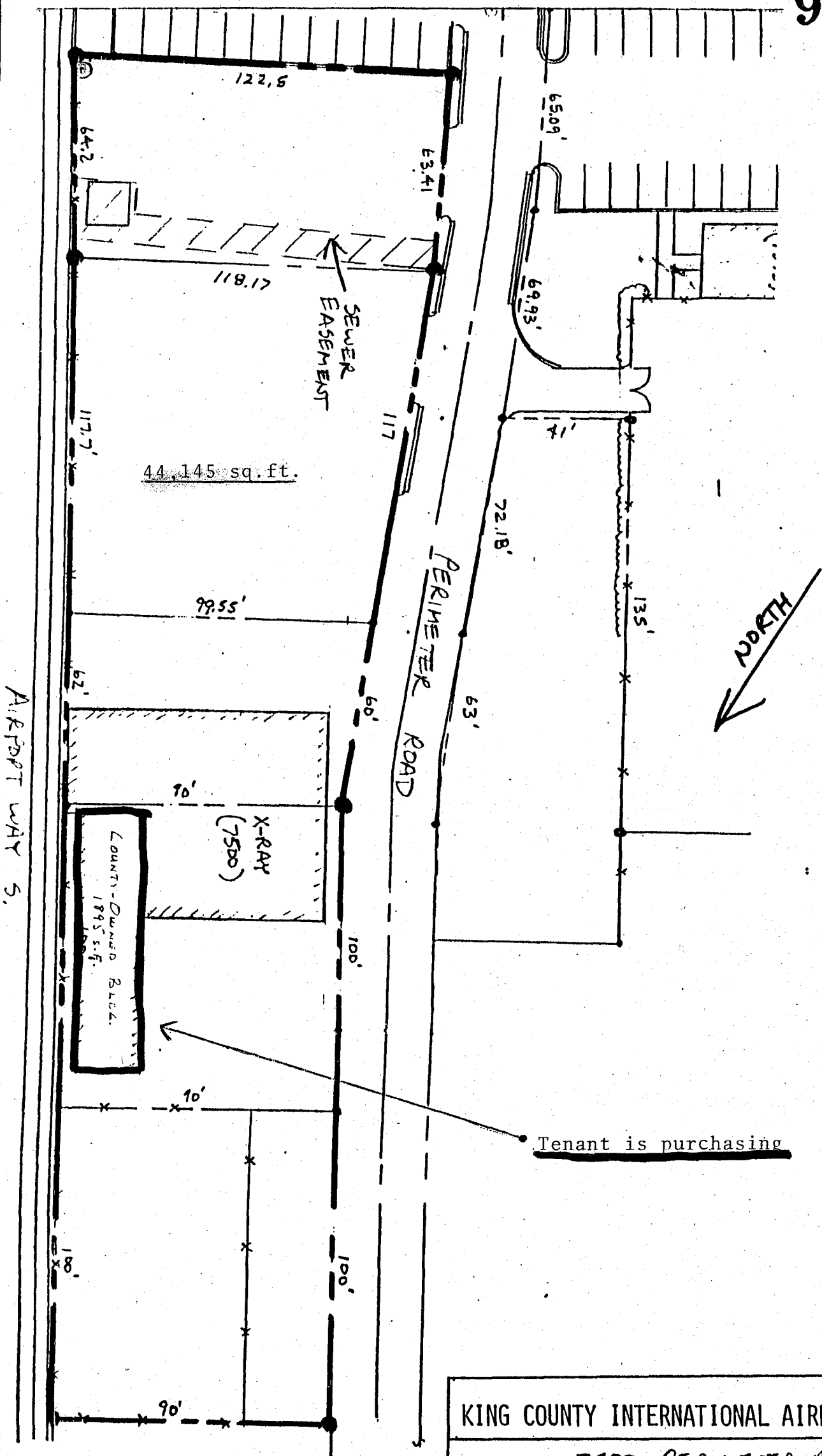
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A portion of King County International Airport described as follows:

"Beginning at a point on the center line of Airport Way, in the Southeast quarter (1/4) of Section 28, Township 24 North, Range 4 East, Willamette Meridian, in King county, Washington, and said point being marked by a City of Seattle monument in a case at the northerly end of a curve on said Airport Way; thence South 51° 08' 37" West along radius of said curve 30 feet of the East boundary line of King County Airport; thence North 38° 51' 23" West 217.20 feet; thence South 51° 08' 37" West 3 feet to a point on the Southeast corner of the original 7500 Building; said point being the TRUE POINT OF BEGINNING; thence South 51° 08' 37" West 22 feet; thence North 38° 51' 23" West 86 feet; thence North 51° 08' 37" East 22 feet; thence South 38° 51' 23" East 86 feet to the TRUE POINT OF BEGINNING. Said tract of land contains an area of 1,895 square feet, more or less.

Jeffrey W. Winter, P.E.  
4-12-91





AIRPORT WAY S.

SEWER EASEMENT

PERIMETER ROAD

NORTH

44,145 sq. ft.

X-RAY (7500)

COUNTY-OWNED BLDG. 1895 s.f.

Tenant is purchasing

KING COUNTY INTERNATIONAL AIRPORT		
PLACE	7500 PERIMETER ROAD	
TENANT	X-RAY INC.	
DATE 2.6.91	SCALE 1" = 40'	EXHIBIT "C"

KING COUNTY SPECIAL TERMS AND CONDITIONS

1. TERMINATION BY KING COUNTY. King County reserves the right to cancel this lease upon twelve (12) months notice in writing to the Lessee or the persons in possession of the premises if the premises are required by King County for the improvement or development of Boeing Field/King County International Airport for public airport uses and purposes, and under such cancellation the Lessee or persons in possessions of premises shall be reimbursed by King County for the fair market value, as defined in this provision, of any improvements placed on the premises by the Lessee in accordance with the terms of this lease. In the event that King County and Lessee cannot agree upon the value of said improvements, King County and Lessee shall submit to have the fair market value adjusted by arbitration in the manner following, to-wit:

Lessee and King County will select one arbitrator each, and the two selected arbitrators will select a third. If the two arbitrators have not selected a third arbitrator within thirty (30) days after the selection of the last selected of the two, either Lessee or King County will apply to the Presiding Judge of the Superior Court in King County for the appointment of a third arbitrator. Each arbitrator will be a member of the American Institute of Real Estate Appraisers, or of the Society of Real Estate Appraisers, or of some equivalent body; but in the alternative, if in the future a licensing requirement for real estate appraisers is imposed by legislative body, each arbitrator will be licensed. The three arbitrators will determine a fair value of the improvements based upon the fair market value of the improvements. The decision of the majority of the arbitrators will bind both Lessee and King County. At the conclusion of the arbitration, the arbitrators will submit written reports to Lessee and Lessor, which shall contain all pertinent evidence that led to their conclusion together with an explanation of their reasoning for such conclusion. The cost of the arbitration will be divided equally between Lessee and King County.

For the purposes of this section, Fair Market Value is defined as: The price property will bring when offered for sale by one who desires, but is not required to sell, and is sought by one who desires, but is not required to buy, after due consideration of all the elements reasonably affecting value, one of such elements being the fact that Lessee's interest in said improvements is leasehold interest for a term of years consistent with the number of years remaining on the Lease Agreement which was in effect at the time of the construction of said improvements.

2. PUBLIC USE AIRPORT. The premises and Boeing Field/King County International Airport are subject to the terms of certain sponsor's assurances made to guarantee the public use of the public airport area of Boeing Field/King County International Airport as incidental to grant agreements between King County and the United States of America; provided, that in the event at any time during the term of this lease the terms of such assurances should effectively prohibit Lessee's use of the premises in the general manner contemplated by the parties to this lease, then such effective prohibition shall be considered as a taking by the public and the Lessee or the person or persons in lawful possession of the premises may, upon thirty (30) days prior written notice given to lessor, terminate this lease. Upon such termination, the Lessee or person or persons in lawful possession of the premises shall be compensated in the manner set forth in Section 22 of the General Terms and Conditions of this lease and in accordance with the definition of Fair Market Value and arbitration procedure set forth in Section 3 of the Special Terms and Conditions of this lease, together with the Fair Market Value of its property rights, if any, in the remaining useful life, if any, of the leasehold improvements placed on the premises by the Lessee in accordance with the terms and conditons of the lease.

3. RIGHT OF FLIGHT. There is hereby reserved to the Lessor, its successors and assigns, for the use and benefit of the Lessor and the public a right of flight for the passage of aircraft in the air space above the surface of the premises herein leased, together with the right to cause in said air space such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said air space or landing at, taking off from and operating aircraft on or over Boeing Field/King County International Airport all in accordance with applicable safety and operating regulations of said airport and the Federal Aviation Administration.

4. EMPLOYEE CONDUCT. Lessee shall use its best efforts, including the application of appropriate discipline, to ensure that its employees and agents fully comply with the rules and regulations of Boeing Field/King County International Airport.

5. NON-DISCRIMINATION.

(a) The Lessee for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

(b) The Lessee for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

(d) King County Code 4.18 as now or hereafter amended is incorporated by reference into this lease to the extent applicable. Lessee's failure to comply with any of the requirements of K.C.C. 4.18 shall result in termination of this lease and shall be considered a breach of contract.

6. HAZARDOUS SUBSTANCES. Lessee shall not, without first obtaining Lessor's prior written approval, generate, release, spill, store, deposit, transport, or dispose of (collectively referred to as "Release") any hazardous substances, sewage, petroleum products, radioactive substances, medicinal, bacteriological, or disease-producing substances, hazardous materials, toxic substances or any pollutants or substances defined as hazardous or toxic as defined and in accordance with applicable federal, state, and local laws and regulations in any reportable quantities ("Hazardous Substances") in, on, or about the premises. In the event, and only in the event, Lessor approves such Release of Hazardous Substances on the Premises, Lessee agrees that such release shall occur safely and in compliance with all applicable federal, state, and local laws and regulations. Lessee shall indemnify and hold King County harmless from any and all claims, liabilities, lawsuits, damages, and expenses including reasonable attorney's fees (hereinafter "Claim") for bodily injury or death, property damage or loss, or clean-up costs arising out of this Lease to the extent such injury, death, damage, loss, or costs are caused by the Release by Lessee or any of its agents, representatives or employees in, on, or about the Premises occurring during the term of this Lease.

Tenant shall be fully and completely liable to Landlord for any and all clean-up costs, and any and all other charges, fees, penalties (civil and criminal) imposed by any governmental authority with respect to Tenant's use, disposal, transportation, generation and/or sell of Hazardous Substances in or about the Premises, common areas, or buildings. Tenant shall indemnify, defend and save Landlord harmless for any and all of the costs, fees, penalties, and charges assessed against or imposed upon Landlord (as well as Landlord's attorney's fees and costs) as a result of tenants use, disposal, transportation, generation and/or sell hazardous substances.

Upon Tenant's default under this Section, Landlord shall be entitled to the following rights and remedies:

- (a) At Landlord's option, to terminate this Lease immediately; and/or
- (b) To recover any and all damages associated with the default, including but not limited to clean-up costs and charges, civil and criminal penalties and fees, adverse impact on marketing a space in the building, loss of business and sales by Landlord and other tenants of the building, diminution of value of the premises and/or building, the loss of restriction of unuseful space in the premises and/or building, any and all damages and claims asserted by third parties and Landlord's attorney's fees and costs.

7. QUIET ENJOYMENT. Lessor covenants and agrees that Lessee, upon performance of all Lessee's obligations under this Lease, shall lawfully and quietly hold, occupy, and enjoy the premises during the term of this Lease without disturbance by Lessor, or by any person having title paramount to Lessor's title, or by any person claiming, under Lessor, subject to the other terms and provisions of this Lease, and subject to all mortgages, underlying leases, and other underlying leases, and other underlying matters of record to which the Lease is or may become subject to and subordinate.

KING COUNTY GENERAL TERMS AND CONDITIONS1. LATE PAYMENT, TAXES AND LICENSES.

A. LATE PAYMENTS. There will be a late collection charge of five percent (5%) or THIRTY AND NO/100 (\$30.00) DOLLARS, whichever is greater, plus one percent (1%) per month interest for any delinquent rental not delivered to King County by the tenth (10th) day of the month.

B. LEASEHOLD TAX. A leasehold excise tax is levied pursuant to the Revised Code of Washington (R.C.W.) Chapter 82.29A. The Lessee agrees to pay this tax to King County. If the State of Washington or King County changes the Leasehold Excise Tax, the tax payable shall be correspondingly changed.

C. LICENSE AND TAXES. Lessee shall pay throughout the term of this lease, all applicable taxes, and all license and excise fees covering the business conducted on the premises.

D. OTHER CONSIDERATION. No offset, reduction, or credit toward rent shall be allowed unless it is in writing and signed by the Manager of the Real Property Division of King County.

2. RENT ADJUSTMENT.

To ensure a fair rent based upon the fair market value of the premises, King County may adjust the rent to the then current fair market rental value every three (3) years, the first adjustment to occur three (3) years after the beginning of the term of this lease.

A. FAIR MARKET RENTAL VALUE DEFINED. For all purposes required under this lease, "Fair Market Rental Value" is defined as: An amount in the competitive market that a well-informed and willing Lessor, who desires but is not required to lease, would accept, and which a well-informed and willing Lessee, who desires but is not required to lease, would pay for the use of the premises, after due consideration of all the elements reasonably affecting value.

B. NOTICE OF RENTAL ADJUSTMENT. When it elects to adjust the rent, King County will give Lessee written notice of the adjusted rent. Within thirty (30) days following receipt of notice from King County, Lessee will give King County written notice of its acceptance or rejection of the adjusted rent. If Lessee does not notify King County within the thirty (30) day period, the rent as adjusted by King County will become the rent.

C. ARBITRATION. If Lessee and King County cannot agree upon the rent adjustment, the rent for the period will be adjusted by arbitration. Lessee and King County will select one arbitrator each, and the two selected arbitrators will select a third. If the two arbitrators have not selected a third arbitrator within thirty (30) days after the selection of the last selection of the two, either Lessee or King County will apply to the presiding Judge of the Superior Court in King County for the appointment of a third arbitrator. Each arbitrator will be a member of the American Institute of Real Estate Appraisers, or of the Society of Real Estate Appraisers, or of some equivalent body. If in the future, a licensing requirement for real estate appraisers is imposed by any legislative body, each arbitrator shall be licensed. The three arbitrators will determine the Fair Market Rental Value for the premises; but the arbitrators may not reduce the rent below the sum fixed for the last preceding period. The decision of a majority of the arbitrators will bind both Lessee and King County. At the conclusion of the arbitration, the arbitrators will submit written reports to Lessee and King County, which shall contain all pertinent evidence that led to their conclusion together with an explanation of their reasoning for such conclusion.

D. COST OF ARBITRATION. The cost of the arbitration will be divided equally between Lessee and King County.

E. RENT PENDING ADJUSTMENT. In the event resolution of the rental adjustment is not completed prior to the commencement of the term being considered, Lessee shall, pending resolution of such rental adjustment, continue to pay King County the rental then in effect; and King County, at its option, may elect to require that interest in the amount of twelve percent (12%) per annum be payable on any sum due as a result of a retroactive rental increase determined under the terms of this lease.

3. COMPLIANCE WITH ALL LAWS AND REGULATIONS.

In using the premises, Lessee will comply with all applicable laws, ordinances and regulations, from any and all authorities having jurisdiction. The Lessee specifically agrees to comply and pay all costs associated with achieving such compliance without any notice of requirement or requirements from King County, and that King County does not waive this section by giving notice of demand for compliance in any instance.

4. UTILITIES.

Lessee shall pay for all costs, expenses, fees, services and charges of all kinds for heat, light, water, gas and telephone and for all other public utilities used on said premises so that the same shall not become a lien against the leased premises.

5. IMPROVEMENTS AND ALTERATIONS.

A. Lessee shall make no alterations or improvements to or upon the premises or install any fixtures (other than trade fixtures which can be removed without injury to the premises) without first obtaining written approval from King County.

B. Unless otherwise stipulated, all improvements or alterations erected or made on the premises shall, upon expiration or earlier termination of this lease, belong to King County without compensation to the Lessee, however, King County shall have the option to be exercised on expiration or earlier termination of the lease, to require the Lessee, at Lessee's expense, to remove any or all such improvements or alterations.

6. CONDITION OF PREMISES.

The Lessee has inspected and knows the condition of the premises, and it is understood and agreed that the premises are leased on an "as is" basis without any obligation on the part of the King County to make any changes, improvements, or to incur any expenses whatsoever for the maintenance or repair of the premises.

7. CONSTRUCTION DEFECTS.

King County shall not be liable to the Lessee for claims or damages arising from any defect in the construction of or the present condition of the premises, whether known or unknown, or for damage by storm, rain or leakage or any other occurrence.

8. MAINTENANCE.

A. Lessee shall throughout the term of this lease, without cost or expense to King County, keep and maintain the leased premises and all improvements, landscaping, fixtures and equipment which may now or hereafter exist thereon, in a neat, clean and sanitary condition, and shall except for reasonable wear and tear, at all times preserve the premises in good and safe repair. Upon the expiration or sooner termination of the lease, Lessee shall forthwith return the same in as good condition as that existing at the commencement of occupancy, ordinary wear and tear excepted.

B. If, after thirty (30) days' notice from King County, Lessee fails to maintain or repair any part of the leased premises or any improvement, landscaping, fixtures or equipment thereon, King County may, but shall not be obligated to, enter upon leased premises and perform such maintenance or repair and Lessee agrees to pay the costs thereof to King County upon receipt of a written demand. Any unpaid sums under this paragraph shall be payable as additional rent on the next rent payment date due following the written demand, and will bear interest at the maximum rate allowed by Washington State Law.

9. INDEMNITY AND HOLD HARMLESS.

The Lessee agrees to indemnify and hold harmless King County as provided herein to the maximum extent possible under law. Accordingly, the Lessee agrees for itself, its successors, and assigns, to defend, indemnify, and hold harmless King County, its appointed and elected officials, and employees from and against liability for all claims, demands, suits, and judgments, including costs of defense thereof, for injury to persons, death, or property damage which is caused by, arises out of, or is incidental to Lessee's exercise of rights and privileges granted by this Lease Agreement. The Lessee's obligations under this section shall include:

(a) Indemnification for such claims whether or not they arise from the sole negligence of either the County or the Lessee, the concurrent negligence of both parties, or the negligence of one or more third parties.

(b) The duty to promptly accept tender of defense and provide defense to the County at the Lessee's own expense.

(c) Indemnification of claims made by the Lessee's own employees or agents.

(d) Waiver of the Lessee's immunity under the industrial insurance provisions of Title 51 RCW, which waiver has been mutually negotiated by the parties.

In the event it is necessary for the County to incur attorney's fees, legal expenses, or other costs to enforce the provisions of this section, all such fees, expenses, and costs shall be recoverable from the Lessee.

In the event it is determined that RCW 4.24.115 applies to this Lease Agreement, the Lessee agrees to defend, hold harmless, and indemnify King County to the maximum extent permitted thereunder, and specifically for its negligence concurrent with that of King County to the full extent of Lessee's negligence. Lessee agrees to defend, indemnify, and hold harmless the County for claims by Lessee's employees and agrees to waiver of its immunity under Title 51 RCW, which waiver has been mutually negotiated by the parties.

10. FIRE INSURANCE.

A. No use shall be made or permitted to be made of the premises, nor acts done, which will increase the existing rate of insurance upon the premises or cause the cancellation of any insurance policy covering the premises, or any part thereof, nor shall Lessee sell, or permit to be kept, used or sold, in or about the premises, any article which may be prohibited by the standard form of fire insurance policies. Lessee shall, at its sole cost and expense, comply with any and all requirements, pertaining to the premises. Lessee agrees to pay to King County as additional rent, any increase in premiums on policies which may be carried by King County on the premises covering damages and loss of rent caused by fire and the perils normally included in extended coverage above the rates for the least hazardous type of occupancy for industrial, warehousing, office and distribution operations.

B. Lessee shall maintain in full force and effect on all of its fixtures and equipment in the premises a policy or policies of fire and extended coverage insurance with standard coverage endorsement to the extent of at least eighty per cent (80%) of their insurable value. During the term of this lease the proceeds from any such policy or policies of insurance shall be used for the repair or replacement of the fixtures and equipment so insured. King County shall have no interest in the insurance upon Lessee's equipment and fixtures and will sign all documents necessary or proper in connection with the settlement of any claim or loss by Lessee. King County will not carry insurance on Lessee's property. Lessee shall furnish King County with a certificate of such policy and whenever required shall satisfy King County that such policy is in full force and effect within thirty (30) days of the commencement of this lease.

C. The Lessee will carry fire and extended coverage insurance, with rent interruption endorsement, in an amount equal to the full insurable value of all improvements, structures and buildings located on the premises. The policy shall include King County as an insured for its vested interest in the property. A certificate of insurance must be provided to King County.

D. In the event of the total or partial destruction by fire, regardless of origin, or otherwise of the building, structures or facilities currently on the premises or subsequently constructed by the Lessee, the Lessee shall have the obligation to reconstruct such facilities to their original condition within six (6) months after their destruction.

#### 11. LIABILITY INSURANCE.

Lessee shall procure and maintain for the duration of this agreement, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with the Lessee's operation and use of the rental premises.

##### A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office form number GL0002 (ED. 1/73) covering Comprehensive General Liability and Insurance Services Office form Number GL0404 covering Broad form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001).

##### B. Minimum Limits of Insurance

Lessee shall maintain limits no less than:

1. Comprehensive General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.

##### C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by King County. At the option of King County, the insurer shall reduce or eliminate such deductibles or self-insured retentions. In no event shall the deductible or self-insured retention exceed \$5,000.

##### D. Other Insurance Provisions

The policy is to contain, or be endorsed to contain, the following provisions:

1. King County, its officers, officials, employees, and volunteers are to be covered as insureds as respects: liability arising out of premises rented or used by the tenant.



2. The Lessee's insurance coverage shall be primary insurance as respects King County, its officers, employees, and volunteers. Any insurance or self-insurance maintained by King County, its officers, officials, employees, or volunteers shall be excess of the tenant's insurance and shall not contribute with it.

3. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to King County, its officers, officials, employees, or volunteers.

4. Coverage shall state that the tenant's insurance shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.

5. Insurance policy shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to King County.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a Bests' rating of no less than A:XI.

F. Verification of Coverage

Lessee shall furnish King County with certificate(s) of insurance and with original endorsement(s) effecting coverage required by this contract. The certificate and endorsement for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be provided by King County and are to be received and approved by King County before occupancy commences. King County reserves the right to require complete, certified copies of all required insurance policies at any time.

12. MUTUAL RELEASE AND WAIVER.

To the extent a loss is covered by insurance in force, King County and Lessee hereby mutually release each other from liability and waive all right of recovery against each other for any loss from perils insured against under their respective fire insurance policies, including any extended coverage endorsements hereto; provided, that this agreement shall be inapplicable if it would have the effect of invalidating any insurance coverage of King County or the Lessee.

13. SURRENDER OF PREMISES.

At the expiration or earlier termination of this lease, Lessee shall promptly surrender possession of the premises to King County, and shall deliver to King County all keys that it may have to any and all parts of the premises.

14. DEFAULT AND RE-ENTRY.

If any rents above reserved, or other obligations provided herein, or any part thereof, shall be and remain unpaid when the same shall become due, or if Lessee shall violate or default on any of the covenants and agreements herein contained, then King County may cancel this lease upon giving the notice required by law, and re-enter said premises, using such force as may be required. Notwithstanding such re-entry by King County, the liability of the Lessee for the rent provided for herein shall not be extinguished for the balance of the term of this lease, and Lessee covenants and agrees to make good to King County any deficiency arising from a re-entry and reletting of the premises at a lesser rental than agreed to herein. The Lessee shall pay such deficiency each month as the amount thereof is ascertained by King County. In the event it becomes reasonably necessary to make any changes, alterations or additions to the premises or any part thereof for the purpose of reletting said premises or any part thereof, Lessee shall also be responsible for such cost.

15. ASSURANCE OF PERFORMANCE.

In the event a default in the performance of any obligation under this lease which remains uncured for more than ten (10) days after demand, King County may request and the Lessee shall provide adequate assurance of the future performance of all obligations under this lease. The adequacy of any assurance shall be determined according to commercially reasonable standards for lessors of real property in the County of King, State of Washington. Adequate assurance shall include, but not be limited to, a deposit in escrow, a guarantee by a third party acceptable to King County, a surety bond, or a letter of credit. Lessee's failure to provide adequate assurance within twenty (20) days of receipt of a request shall constitute a material breach and King County may in its discretion terminate this lease.

16. ADVANCES BY KING COUNTY FOR LESSEE.

If Lessee fails to pay any fees or perform any of its obligations under this lease other than payment of rent, King County will mail notice to Lessee of its failure to pay or perform. Twenty (20) days after mailing notice, if Lessee's obligation remains unpaid or unperformed King County may pay or perform these obligations at Lessee's expense. Upon written notification to Lessee of any costs incurred by King County under this paragraph, Lessee will reimburse King County within twenty (20) days.

17. NON-WAIVER.

It is hereby agreed that no waiver of any condition or covenant in this lease or any breach thereof, shall be taken to constitute waiver of any subsequent breach.

18. SIGNS.

No sign, advertisement, notice or other lettering will be exhibited, inscribed, painted or affixed by Lessee on any part of the outside of the premises without the prior written consent of King County; provided, that such consent shall not be unreasonably withheld. If Lessee violates this provision, King County may remove the sign without any liability, and may charge the expense incurred by such removal to the Lessee; provided, however, King County shall give Lessee written notice of Lessee's violation of this provision and Lessee shall have forty-eight (48) hours after receiving said notice to comply with the terms of this provision. All signs erected or installed by Lessee shall be subject to any federal, state or local statutes, ordinances or regulations applicable to signs.

19. INSPECTION AND "FOR RENT" SIGNS.

King County reserves the right to inspect the premises at any and all reasonable times throughout the term of this lease; provided, that King County shall not interfere unduly with Lessee's operations. The right of inspection reserved to King County hereunder shall impose no obligation on King County to make inspections to ascertain the condition of the premises, and shall impose no liability upon King County for failure to make such inspections. King County shall have the right to place and maintain "For Rent" signs in conspicuous places on the premises for thirty (30) days prior to the expiration or sooner termination of this lease.

20. LIENS.

It is understood and agreed that this lease is executed and delivered upon the express condition that the Lessee will not and cannot contract any debt or debts for labor, materials services or otherwise which will or may become a lien against the interest of King County in the premises and King County hereby denies to Lessee any right, power or authority to do any act or contract any obligation or liability which would in any way subject the interest of King County in the premises to any lien, claim or demand whatsoever.

21. ASSIGNMENT OR SUBLEASE.

- A. Lessee shall not assign or transfer this lease or any interest therein nor sublet the whole or any part of the premises, nor shall this lease or any interest thereunder be assignable or transferable by operation of law or by any process or proceeding of any court, or otherwise, without the written consent of King County first had and obtained, which consent shall not be unreasonably withheld. If Lessee is a corporation, Lessee further agrees that if at any time during the term of this lease one-half (1/2) or more of the outstanding shares of any class of stock of Lessee's corporation shall belong to any stockholders other than those who own one-half or more of the outstanding shares of that class of stock at the time of the execution of this lease or to members of their immediate families, such change in the ownership of the stock of the Lessee shall be deemed an assignment of this lease within the meaning of this paragraph. If King County shall give its consent to any assignment or sublease, this paragraph shall nevertheless continue in full force and effect and no further assignment or sublease shall be made without the County's consent.
- B. If Lessee desires to assign, transfer, or sublease any portion of this lease or any interest therein, it shall notify King County in writing of said desire to assign or transfer and the details of the proposed agreement, at least thirty (30) days prior to the proposed date of assignment, transfer, or sublease to a third party. The notification shall include, but not be limited to a financial statement of the proposed assignee, including but not limited to a full disclosure of the monetary payment or any other considerations involved, and an affidavit from the proposed assignee stating he has examined this lease, understands this lease, agrees to assume and be bound by all of the Lessee's obligations and covenants under this lease, the same as if it were the original Lessee hereunder, and the proposed date of assignment, transfer or sub-lease.
- C. King County will review the request and respond with either an approval or disapproval of the request not later than ten (10) days prior to the proposed date. Disapproval of any such request shall be final and binding on the Lessee and not subject to any arbitration, provided that any approval will not be unreasonably withheld. King County shall charge to the Lessee a reasonable fee for administrative costs in reviewing and processing any assignment or sublease. Lessee may assign this lease to any wholly owned subsidiary without obtaining King County's consent or payment of fees.

22. CONDEMNATION.

- A. King County and Lessee will give to the other immediate written notice of the receipt of notice of any proceedings with respect to a condemnation and of any intention of any authority to exercise the power of eminent domain.
- B. If all of the premises are taken by any lawful authority under the power of eminent domain for a period which will end on or extend beyond the expiration of the term of this lease, this lease terminates as of the date condemnor takes possession, and Lessee will have no claim or interest in or to any award of just compensation except that the Lessee will be entitled to an amount equal to the fair market value of the Lessee's leasehold interest in any improvement taken by the condemnor made to the premises by the Lessee, but not to exceed the amount of that part, if any, of the award attributable to the value of the improvements.
- C. If part of the premises is taken by any lawful authority under the power of eminent domain for a period which will end on or extend beyond the expiration of the term of this lease, King County or Lessee may choose to terminate this lease as of the date the condemnor takes possession. If neither King County nor Lessee elects to terminate this lease, the rent will be reduced in the same

CONDEMNATION (continued)

proportion that the value of the portion of the premises to be taken bears to the value of the entire premises as of the date condemnor takes possession. Lessee will have no claim or interest in or to any award of just compensation or damages except that the Lessee will be entitled to an amount equal to the fair market value of the Lessee's leasehold interest in the part taken by the condemnor of any improvements made to the premises by the Lessee, but not to exceed the amount of that part, if any, of the award attributable to the value of the improvements.

- D. If temporary use of all or a portion of the premises is taken by any lawful authority for a period, which would reduce the leasehold and consequently, would cause the premises to be untenable for the use by Lessee for the purposes set forth in the section of this lease titled "Use," at Lessee's determination, then King County or Lessee may choose to terminate this lease. If King County or Lessee elect to terminate the lease, the lease will terminate the date the condemnor takes possession and Lessee will have no claim or interest in or to any award of just compensation except that the Lessee will be entitled to an amount equal to the fair market value of the Lessee's leasehold interest in any improvements made to the premises by the Lessee. If neither King County or Lessee elects to terminate this lease, the lease will continue in full force and Lessee will be entitled to receive any award from the condemnor for the use of all or part of the premises, EXCEPT that Lessee may elect to have the rents reduced by the amount proportionally attributable to any partial temporary taking, in which event the Lessee shall not be entitled to any portion of the award attributable to said use.
- E. It is understood and agreed that Lessee shall not be party to any negotiation or proceedings at law wherein King County claims compensation other than that which is defined statutorily as constituting "just compensation."

23. ANTI-DISCRIMINATION.

In all services or activities, and all hiring or employment made possible by or resulting from this lease there shall be no discrimination against any employee or applicant for employment because of sex, age (except minimum age and retirement provisions), race, color, creed, national origin, marital status, sexual orientation, or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification. This requirement shall apply to but not be limited to the following: employment, advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Lessee shall not violate any of the terms of R.C.W. 49.60, Title VII of the Civil Rights Act of 1964, or any other applicable federal, state, or local law or regulations regarding non-discrimination. Any violation of this provision shall be considered a violation of a material provision of this lease and shall be grounds for cancellation, termination, or suspension, in whole or in part, of the lease by the County and may result in ineligibility for further County agreements. The Lessee will also comply with other anti-discrimination laws or requirements of any and all jurisdictions having authority.

24. HEIRS, AGENTS AND ASSIGNS.

Without limiting any provisions of this lease pertaining to assignment and subletting, the provisions of this lease bind the heirs, legal representatives, successors, agents and assigns of any of the parties to this lease.

25. CAPTIONS.

The captions in this lease are for convenience only and do not in any way limit or amplify the provisions of this lease.

26. TIME IS OF THE ESSENCE.

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Time is of the essence of this lease, and in the event of the failure of Lessee to pay any charges at the time in the manner herein specified, or to keep any of the covenants or agreements herein set forth, the Lessee shall be in default.

27. CUMULATIVE REMEDIES.

No provision of this lease precludes King County from pursuing any other remedies for Lessee's failure to perform his obligations.

28. ATTORNEY'S FEES/COLLECTION CHARGES.

In the event legal action is brought by either party to enforce any of the terms, conditions or provisions of this lease, the prevailing party shall recover against the other party, in addition to the costs allowed by law, such sum as the court may adjudge to be a reasonable attorney's fee. In addition to all other charges, Lessee shall pay a charge of \$150.00 to King County for preparation of a demand for delinquent rent or a notice of default.

29. HOLDING OVER.

If the Lessee holds over after the expiration or earlier termination of the term hereof without the express written consent of King County, Lessee shall become a tenant at sufferance only, at a rental rate equal to one hundred fifty percent (150%) of the rent in effect upon the date of such expiration (prorated on a daily basis), and otherwise subject to the terms, covenants and conditions herein specified, so far as applicable. Acceptance by King County of rent after such expiration or earlier termination shall not result in a renewal of this Lease nor affect King County's right of re-entry or any rights of King County hereunder or as otherwise provided by law. If Lessee fails to surrender the premises upon the expiration of this Lease despite demand to do so by King County, Lessee shall indemnify and hold King County harmless from all loss or liability, including without limitation, any claim made by any succeeding Lessee founded on or resulting from such failure to surrender and together with interest, attorney's fees and costs.

30. HAZARDOUS SUBSTANCES.

~~Lessee shall not, without first obtaining King County's prior written approval, generate, release, spill, store, deposit, transport, or dispose of (collectively "Release") any hazardous substances, sewage, petroleum products, radioactive substances, medicinal, bacteriological, or disease-producing substances, hazardous materials, toxic substances or any pollutants, or substances defined as hazardous or toxic in accordance with applicable federal, state, and local laws and regulations in any reportable quantities ("Hazardous Substances") in or about the Premises. In the event, and only in the event, King County approves such Release of Hazardous Substances on the Premises, Lessee agrees that such Release shall occur safely and in compliance with all applicable federal, state, and local laws and regulations. Lessee shall indemnify, hold harmless, and defend King County from any and all claims, liabilities, losses, damages, cleanup costs, response costs, and expenses, including reasonable attorney's fees arising out of or in anyway related to the Release by Lessee, or any of its agents, representatives, or employees, or the presence of such Hazardous Substances in, on or about the Premises occurring at any time after the Commencement Date.~~

31. SEVERABILITY.

If any term or provision of this Lease or the application of any term or provision to any person or circumstance is invalid or unenforceable, the remainder of this Lease, or the application of the term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected and will continue in full force.

END OF GENERAL TERMS AND CONDITIONS