

GROUND LEASE AGREEMENT

This Ground Lease Agreement (the "Lease"), is made and entered into as of this ____ day of _____, 20____ (the "Effective Date"), by and between the **State of Tennessee on behalf of the University of Tennessee** ("Landlord"), and _____ ("Tenant").

WITNESSETH:

WHEREAS, Landlord owns a certain parcel of land and improvements located at 694-704 Madison Avenue, Memphis, TN comprised of approximately 0.5 +/- acres more particularly described on Exhibit A attached hereto and incorporated herein by reference ("Leased Premises");

WHEREAS, Landlord through the University of Tennessee (the "University") operates the University of Tennessee Health Science Center ("UTHSC") on land owned by Landlord in the City of Memphis, Shelby County, Tennessee, which land includes the Leased Premises;

WHEREAS, Tenant desires to lease the Leased Premises for the design, construction, operation, and management of a development that provides retail services for University students, faculty and staff (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 hereby leases to Tenant and Tenant hereby leases from Landlord the Leased Premises.

The Request for Proposal dated _____ ("RFP") and the responses to RFP submitted by Tenant, attached as Exhibit B and C, respectively, are incorporated by reference into the Lease. Where there is a conflict between the terms of this Lease and the RFP, the terms of this Lease will govern. Where there is a conflict between the terms of this Lease and/or RFP and the terms of the response to the RFP, the terms of this Lease and the RFP shall govern.

The Leased Premises may only be used for the construction and operation of the Development and associated parking to support the Development.

- (2) **RENTAL:**

- a. *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, rental discounts or other similar market revenue streams to the University as such may pertain to the Development.*

Meeting the demand for services by University student, faculty, and staff is a priority. The Lease should include terms and conditions to meet those needs.

- b. If Tenant fails to pay any rent, when due, the same shall bear interest from the date due until paid at the lesser of eighteen percent (18%) per annum or the maximum rate permitted under Applicable Laws.

- c. Tenant's obligation to pay rent or other remuneration is an independent covenant, and Landlord's failure to perform any of its obligations or responsibilities under this Lease shall not result in an abatement of rent, entitle Tenant to withhold rent or otherwise affect Tenant's liability for the payment of rent. All rent shall be paid by Tenant to Landlord without deduction, demand, notice or offset. Except as otherwise expressly provided herein, Tenant shall not be entitled to any abatement or reduction of the rent. Tenant shall deliver all rent to Landlord at the address specified in Section 7 or such other place as Landlord may designate to Tenant by written notice.
- d. 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 fifteen (15) days after its receipt of a written demand from Landlord.
- e. 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, or any other utilities, labor, materials, or services of any kind whatsoever.

(3) **TERM:** The term of this Lease shall commence on _____ (the "Commencement Date") and shall continue for thirty (30) years (the "Term"), expiring on _____ (the "Expiration Date"), subject to terms set forth below and unless terminated earlier in accordance with the provisions of this Lease.

Tenant shall have the right to extend the Term for an additional period of fifteen (15) years (the "First Extension Option") by providing Landlord written notice of its desire to extend, as provided herein, not less than one (1) year prior to the Expiration Date. The rent due Landlord under the First Extension Option shall be the market rate for a lease of this type as determined by a MAI certified appraiser selected by Landlord. Market rate shall be defined as what an arm's-length, non-expansion, non-renewal, non-equity tenant would pay for space of comparable size, quality, utility, and location. Unless waived by Landlord, in writing, Tenant's right to exercise the First Extension Option is conditioned on: (i) there being no Event of Default at the time Tenant exercises such First Extension Option or at the start of the extension of the term of this Lease resulting from the exercise of a First Extension Option; and (ii) Tenant not having previously failed to comply with the provisions of this Lease more than eight (8) 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 First Extension Option, in which event no extension of the term of this Lease shall result therefrom. In order to exercise any First Extension Option, Tenant must provide Landlord written notice that it is exercising the same at least one (1) year prior to the date the Term is then set to expire.

The Term may be extended for a final additional period of fifteen (15) years (the "Final Extension Option") with mutual consent of Tenant and Landlord. The Tenant shall give the Landlord written notice of its desire to extend, as provided herein, not less than one (1) year prior to the Expiration Date. The rent due Landlord under the Final Extension Option shall be the market rate for a lease of this type as determined by a MAI certified appraiser selected by Landlord. Market rate shall be defined as what an arm's-length, non-expansion, non-renewal, non-equity tenant

would pay for space of comparable size, quality, utility, and location. Unless waived by Landlord, in writing, Tenant's right to exercise the Final Extension Option is conditioned on: (i) there being no Event of Default at the time Tenant exercises such First Extension Option or at the start of the extension of the term of this Lease resulting from the exercise of a Final Extension Option; and (ii) Tenant not having previously failed to comply with the provisions of this Lease more than eight (8) 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 Final Extension Option, in which event no extension of the term of this Lease shall result therefrom. In order to exercise any Final Extension Option, Tenant must provide Landlord written notice that it is exercising the same at least one (1) year prior to the date the Term is then set to expire.

(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.
- 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 of the Leased Premises and Development in good repair and condition in a manner consistent with similar 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. Tenant acknowledges Landlord's concern that, because the Development is located on the Landlord's campus, it must be operated, repaired, maintained and managed in a first class condition and in a manner comparable to other first class retail projects in midtown and downtown Memphis, Tennessee. Tenant further acknowledges that Landlord, in agreeing to the terms of this Lease Agreement, is relying on the expertise, experience and reputation of Tenant, and its constituent partners, officers, and directors, to cause the Development to be operated, maintained and managed in said first class 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. At least annually upon request by Landlord, a senior member of the facilities management personnel of both parties will meet to discuss plans for the long-term maintenance of the Development and consider the suggestions of the other party with respect to the ongoing maintenance of the Development.

b. Tenant agrees to comply with any capital replacement or capital expense reserve requirements imposed by any Mortgagee, defined below. During any period when Tenant is not subject to any such Mortgagee capital replacement or expense reserve requirements, Tenant shall establish and maintain a capital replacement reserve of \$_____ per square foot per year, which Tenant may use for the purpose of paying any capital purchase, repair or replacement expense in connection with the Development. Upon request from Landlord, Tenant shall provide reasonable supporting documentation of its compliance with this Section 5.b.

c. Compliance with Laws. Tenant shall comply, and cause the Leased Premises and Development to comply, with all Applicable Laws and the rules and regulations of the Board of Fire Insurance Underwriters or other similar body as amended, and Tenant shall not use the Leased Premises and Development, or permit anything to be done on or about the Leased Premises and Development, that will in any way conflict with or violate the same. 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, (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.

d. 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. Landlord agrees, upon Tenant's request, and at no cost to Landlord, 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 Landlord or the owner is required by applicable law.

- e. Tenant is responsible for providing all parking to support the construction, operation and use of the Development.
- f. If necessary, the existing building within the Leased Premises shall be demolished by the Tenant at the sole cost and expense of the Tenant.

(6) **TERMINATION:**

- a. Upon the expiration or earlier termination of this Lease, Tenant shall surrender the Leased Premises and Development to Landlord in 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.

- (7) **NOTICES:** All notices herein provided to be given, or which may be given, by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified and postage pre-paid, and addressed as follows:

To Tenant:

To Landlord and the University:

The University of Tennessee

PHONE: _____

301 Andy Holt Tower
Knoxville, Tennessee 37996
PHONE: (865) 974-2441

(8) **ASSIGNMENT/SUBLETTING:**

- a. Except in accordance with Subsection 10.f and 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 shall not unreasonably withhold its consent to an Assignment by Tenant, provided that 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 reserves 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 Landlord’s approval of this Lease is based on the premise of the Development providing retail, restaurant and support services for Landlord’s students, faculty and staff. The Development shall be consistent with and compliment the surrounding environment, particularly the UTHSC Campus, in terms of scale, size and architecture. The Leased Premises shall be continuously used by Tenant throughout the Term only for the Development and retail services desired by UTHSC students, faculty and staff such as restaurants, coffee shops and convenience services as are consistent with this Section 10 (the “Permitted Use”). 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. Without limiting the foregoing, (x) the Prohibited Uses, defined below, are prohibited at the Development unless consented to in writing by Landlord in its sole and arbitrary discretion, and (y) the Consent Uses, defined below, are allowed at the Development only with Landlord's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed. If Landlord fails to respond to a written request for a consent to a Consent Use within fifteen (15) business days of actual receipt of the same, it shall be deemed to have consented to the Consent Use. For purposes hereof, the Prohibited Uses shall mean and include the following:

- (i) Any so-called "adult" or "XXX" business including, without limitation, any store featuring or specializing in pornography, sexual books or sexual literature, sex toys, or sexual paraphernalia, excluding sales of mass market magazines, books and other products commonly sold in general interest book stores, grocery stores, convenience stores and drug stores, and which are included in other permitted retail sales.
- (ii) Any so-called "head shop" or similar business including without limitation any store featuring or specializing in recreational or illegal drugs, books or literature oriented towards illegal drugs or the use of such drugs, paraphernalia or clothing associated with recreational or illegal drugs, excluding sales of mass market magazines, books and other products commonly sold in general interest book stores, grocery stores, convenience stores and drug stores, and which are included in other permitted retail sales.
- (iii) Any business or use oriented toward, specializing in, promoting or selling (1) firearms or other weapons (excluding pocket knives or other common household knives or self-defense products such as pepper spray or similar items), or (2) any military cause or militia or paramilitary or similar organization or activity; provided, that this shall not prohibit (x) leasing to any branch of the United States military or armed forces or to any other federal, state or local governmental office or agency
- (iv) Any bar, nightclub, liquor store, or other business selling exclusively or primarily packaged (or by-the-drink) liquor, wine or beer for on-site consumption or take-out; provided that this shall exclude restaurants or other businesses with liquor, wine or beer sales that are incidental to their sales of food or other permitted retail sales.
- (v) Any business selling exclusively or primarily cigar or cigarette or other tobacco products or so-called "vaping" products; provided that this shall exclude businesses (such as groceries, convenience stores and drug stores) with tobacco or "vaping" product sales that are incidental to other permitted retail sales.
- (vi) Any business that operates primarily as a fire or bankruptcy sale or auction house operation; provided that this shall exclude a bona fide going out of business or bankruptcy sale by an otherwise permitted retail sales business.

- (vii) Any pet store or any store that involves in a material way the presence on the premises of any animals, insects or fish (the presence of seeing eye dogs for visually impaired employees, licensees, customers or patients shall not be deemed to violate this restriction); provided that this excludes pet supply stores.
- (viii) Any sexually oriented massage parlor or “strip” club, excluding however the following: (i) first class and reputable massage establishments such as “Massage Envy”; and (ii) massage operations that are incidental to “day spa”, hair salon or similar businesses.
- (ix) Any business or use which (a) creates strong, unusual or offensive odors, fumes, dust or vapors, (b) is a public or private nuisance, (c) emits noise or sounds which are objectionable due to intermittence, beat, frequency, shrillness or loudness (other than from medical equipment), (d) creates unusual fire, explosive or other hazards, or (e) has flashing lights or signs, strobe lights, search lights or loudspeakers.
- (vii) An off-track betting parlor

For purposes hereof, the “Consent Uses” shall mean and include the following:

- (i) Convenience stores (excluding grocery stores and drug stores).
 - (ii) Any “second hand” store or resale or used goods shop.
 - (iii) Tanning salons, excluding however tanning salon operations that are incidental to “day spa”, hair salon or similar businesses.
 - (iv) Any business that operates exclusively or primarily as a bowling alley, billiard parlor, pool hall, amusement gallery, video game arcade, so-called “virtual reality” game or game room; provided that shall exclude any such activities that are incidental to any otherwise permitted retail sales or service business.
 - (v) Bars and restaurants making more than 25% of sales from alcohol,
 - (vi) Any use not classified as retail.
- b. Parking at the Development shall be limited to customers 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 Landlord to students, faculty and visitors of UTHSC.
 - 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 on the attached Schedule 1, subject to force majeure and renovations of a reasonable duration.
- f. *Permitted Subleases- Tenant subleases (“Subleases”) must comply with the Permitted Uses as defined in this Section 10 and are subject to Landlord consent as also defined in this Section 10. Furthermore, any sublease must contain the following provisions:*
- a. *The term of any the Sublease shall not exceed the term of the Lease between the Landlord and Tenant and shall terminate immediately upon termination of the Lease unless Landlord assumes the sublease in writing. The provisions of the sublease shall be subject to the terms and restrictions of the Lease with Landlord (the “Master Lease”).*
 - b. *The “Subtenant”, at the expense of the Subtenant, will carry insurance similar to that required of the Sublandlord under the Master Lease. The Subtenant will include the Sublandlord and Landlord as additional insured parties on all policies of insurance.*
 - c. *Subtenant shall indemnify and save the State of Tennessee and University of Tennessee Health Science Center harmless (including their officers, agents and employees) from any and all claims, demands, damages, and costs (including reasonable attorneys fees):*
 - i. *For personal injury or property damage arising out of or occurring as a result of the Sublease and the use and occupancy of the Subleased Premises by the Subtenant, its officers, agents, employees, invitees and guests (and any other person or entity using the Subleased Premises with the authorization and consent of the Subtenant;*
 - ii. *Arising from or as a result of or in any way related to any mortgage, financing, or encumbrance of Subtenant’s leasehold interest pursuant to this Sublease; or*
 - iii. *Attributable to a breach of the Sublease by Subtenant.**This obligation shall survive the expiration or earlier termination of the Sublease.*
 - d. *Subtenant shall acknowledge and agree that neither the State of Tennessee nor the Landlord shall be liable for any damage or injury either to the persons or property of Subtenant or any assignees, subtenants, guests, licensees or invitees of Subtenant due to act of neglect of Subtenant or its assignees, subtenants, guests, licensees or invitees, or damage or injury resulting from any cause whatsoever, unless attributable to the gross negligence of Landlord, or its officers, agents or employees for which Landlord, is liable pursuant to Tennessee law. As an agency of the State of Tennessee, Landlord’s liability for any claims, losses or damages attributable to activities related to the subleased premises shall be governed by the Tennessee Claims Commission Act, T.C.A. 9-8-301, et seq.*

(11) **TAXES AND ASSESSMENTS:**

- a. Payment of Taxes. 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 fifteen (15) 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, 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 Rental or Additional Rental*, including, without limitation, any gross income tax, sales tax, occupancy tax or excise tax levied by any governmental body on or with respect to such *Base Rental or Additional Rental*. 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 ten (10) days after payment thereof.
- c. Tenant’s Right to Contest. 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. If requested by Tenant, Landlord will cooperate with Tenant as to any such contest; provided, that Landlord 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 shall indemnify and hold the Landlord and the University harmless from any and all claims, costs, damages and judgments of whatsoever nature, including but not limited to costs and expenses incurred by the Landlord and the University in the defense of any action, arising wholly or in part by any act, omission, or negligence of Tenant, its agents, contractors, employees, servants, invitees, or licensees on the Leased Premises and Development pursuant to this lease, shall assume all responsibility and liability therefore and shall discharge any judgment that may be rendered therein.
- 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 five million dollars (\$5,000,000.00) per claim and per occurrence. The Landlord and the University shall be named as additional insured 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 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 insured under this policy. Notwithstanding anything to the contrary set forth herein, Tenant shall not be required to obtain and maintain the insurance described in this section until immediately prior to the termination of the builder's risk insurance on the Development described below.
- d. 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. Landlord and the University shall be named as an additional insured under this policy.
- e. 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.
- f. 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 thirty (30) 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.

- g. Each insurance policy required by the insurance provisions of this contract shall provide the required coverage and shall not be suspended, voided, or canceled except after thirty (30) days' prior written notice has been given to The University of Tennessee, except when cancellation for non-payment of premium; then ten (10) days' prior notice may be given. Such notice shall be is sent directly to:

The University of Tennessee Office of Risk Management
5723 Middlebrook Pike, Ste. 218
Knoxville, TN 37996

If any insurance company refuses to provide the required notice, the Tenant or its insurance broker shall notify The University of Tennessee of any cancellation, suspension, or non-renewal of any insurance within seven (7) days of receipt of insurers' notification to that effect.

- h. Landlord and the University are to be covered as an insured as respects: liability arising out of the Leased Premises and Development occupied or used. 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.
- j. During the Term, Tenant shall cause the Leased Premises and Development, including all additions, structures and improvements located thereon and all contents and personalty located therein, to be insured (to the extent insurable) against all loss or damage for the full insurable value thereof with the Landlord named as an additional insured. With regard to the obligations of Tenant, Tenant agrees to provide assurance of insurance coverage in types and amounts required by state law, regulation and/or policy.
- k. Tenant is further required to maintain the following insurance coverages: (i) until completion of construction of the Development, Tenant shall cause all designers and contractors conducting work at or on the Leased Premises to maintain such insurance coverages, and at such limits, as are required by Landlord for projects similar to the Development located on Landlord-owned property; (ii) workers' compensation and employer's liability insurance with limits of one hundred thousand dollars (\$100,000) per occurrence, a five hundred thousand dollars (\$500,000.00) disease-policy limit, and one hundred thousand (\$100,000.00) per employee; and (iii) automobile liability insurance with a one million dollars (\$1,000,000.00) combined single limit that covers owned, hired, and non-owned auto liability.

(13)

CASUALTY:

- a. **Damage or Destruction.** If during the Term, the Leased Premises or Development are so damaged by fire, tornado, or other catastrophe or casualty as to render the same unusable for the Permitted Use, subject to the terms of Section 22, this Lease shall terminate. If the Leased Premises or Development are not rendered unusable for the Permitted Use, then Tenant shall promptly commence repairs and restoration of the Leased Premises and Development to put the Leased Premises and Development in a usable condition or do 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. If Tenant elects to repair and restore the Leased Premises and Development, 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. Tenant shall commence such work of repair, restoration or replacement to the Development within sixty (60) days after the damage or loss occurs and shall complete such work no later than three hundred sixty five (365) days after commencement. Completion of the repairs, alterations, restorations, additions and replacements to the Development shall result in Development at least equal in value, aesthetic impact, quality, and function to the Development prior to the fire or other casualty, except as expressly provided to the contrary in this Lease. 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. The Tenant shall submit plans for repairs and restoration to the Landlord for approval, which will not be unreasonably withheld.
- 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; provided, however, that Landlord's notice shall be without effect if, during such thirty (30) days, Tenant commences (and thereafter diligently pursues) the repair, restoration or replacement of, or work to remove debris from, the Development. If Tenant does not complete the repair, restoration or replacement, or removal of debris from, of the Development within three hundred sixty five (365) 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; provided, however, that Landlord's notice shall be without effect if, during such thirty (30) days, Tenant diligently pursues the repair, restoration or replacement and the Development are restored within one (1) year and thirty (30) days following the casualty.
- c. If this Lease is terminated pursuant to either Sections 13.a. or b., then Tenant must clear all debris and demolish and remove all unrepaired damaged improvements from the Leased Premises, and otherwise place the Leased Premises in a safe and lawful condition, within one hundred twenty (120) days after the Lease termination.

(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 D (the “Site Plan”) by the University, the City of Memphis (the “City”) and any other required regulatory body. For purposes of this Lease, approval by the University shall mean written approval by the Chief Financial Officer of the University. Tenant represents and warrants to Landlord that the Site Plan attached hereto as Exhibit D 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 the preparation of complete and final plans and complete detailed specifications covering each building trade concerned in the demolition of the existing structure and construction of the Development (collectively, the “**Plans**”) by _____ (“**Tenant’s Architect**”), and shall submit the same to the University for the University’s 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/construction and determination of the specific scope of the Development and shall be stamped by Tenant’s Architect. 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 and location for all outdoor signs, storage areas, landscaping, and parking areas, all sufficient to enable potential contractors and subcontractors to make a reasonably accurate bid and estimates and to enable Landlord and Tenant to make an informed judgment about the design and quality of construction of the Development. The Plans shall be accompanied by supporting information which shall contain information and materials reasonably sufficient to allow the Landlord to validate that Tenant has sufficient financing to construct the Development in accordance with the Plans, taking into account the completion guaranty required by Section 21 below. After Tenant submits the Plans to the University, the University will have sixty (60) 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 sixty (60) day period will constitute an approval 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 sixty (60) days after receipt of such objections and comments, and resubmit the same to the University, who will then have sixty (60) 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 one hundred twenty (120) days after the Effective Date, then either Party may, by written notice to the other, terminate this Lease. The Plans will be approved by the University and Tenant by affixing thereon the signature of an authorized officer of each of such respective parties and after approval shall be incorporated by reference herein as Exhibit E. 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.

c. Construction of Improvements.

1. Tenant covenants and agrees, at its sole cost and expense, to construct with all due diligence the Development in a good and workmanlike manner and substantially in accordance with the Plans. The Development shall be constructed by [_____] (the “**General Contractor**”), or such other general contractor licensed in the State of Tennessee. In addition to the other insurance requirements set forth in this Lease, from the commencement of construction until completion of the Development, Tenant shall maintain or cause its contractors to maintain, general liability and other types of insurance reasonably satisfactory in form and content to Landlord and insuring Landlord, University and Tenant against all hazards normally insured against in the construction of projects in Memphis, Tennessee similar to the Development.
2. Prior to commencing construction of the Development, subject to the assignment of such contracts to a Mortgagee (as hereinafter defined), Tenant shall cause the Architect and the General Contractor to agree in writing, in form and substance reasonably satisfactory to Landlord, that in the event of any uncured default by Tenant under this Lease or the loan documents securing such construction, Landlord may elect to succeed to Tenant’s rights under any and all agreements with the Architect and the General Contractor at no additional charge, including, but not limited to, Tenant’s rights to any and all plans, drawings, specification sheets, models, computer programs or other physical or electronic data or representations pertaining to the Development, so as to enable Landlord, if it so elects, but only if it so elects, to complete the construction of the Development.
3. In the event Tenant fails to commence construction of the Development within *eighteen (18) months of the Effective Date*, then Landlord may, by written notice to Tenant, at Landlord’s option, subject to the terms of Section 22, terminate this Lease. Construction of the Development shall be deemed commenced when physical demolition of the existing buildings begin and/or the footings and foundations for the Development have been poured. The date on which construction is to be commenced shall be extended on a day-for-day basis by any delay due to unforeseeable causes beyond Tenant’s control and without Tenant’s fault or negligence, including, but not limited to, acts of God, fires, floods, strikes, war, terrorist activity, changes in the Plans ordered by Landlord or any governmental authority, unreasonable delays caused by Landlord or any governmental authority, and unusually severe weather conditions not reasonably anticipatable, but excluding delays caused by the acts or omissions of Tenant’s contractors, subcontractors, material or equipment suppliers, architects or engineers, or the failure or inability of Tenant to provide sufficient capital or borrow sufficient loan proceeds to fund costs of construction.

4. Tenant covenants and warrants to Landlord that (i) the Development will be constructed substantially in accordance with the Plans, with such change orders as shall be approved by the University, which approval shall not be unreasonably withheld, (ii) all materials and equipment furnished will be new, unless otherwise specified, (iii) the Development will be of good quality, free from faults and defects, and (iv) the Development will be in full compliance with all Applicable Laws. Without limiting the generality of the foregoing, if, after the date of completion of the, any of the Development or any part or element thereof is found to be defective or not in accordance with the Plans, Tenant shall correct the same promptly after receipt of written notice from Landlord to do so.
5. In the event the Development is not completed substantially in accordance with the Plans *within twenty-four (24) months* from the date construction commences (the "Required Completion Date"), then Landlord may, upon thirty (30) days written notice to Tenant, at Landlord's option, subject to the terms of Section 22, terminate this Lease; provided, however, this right and option shall terminate if Tenant completes construction of the Development substantially in accordance with the Plans within thirty (30) days after delivery of such written notice to Tenant. The Development shall be complete when such improvements are completed substantially in accordance with the Plans, as evidenced by the delivery of an AIA Form G-704 Certificate of Substantial Completion executed by Tenant's Architect, the General Contractor and Tenant, and a final certificate of occupancy (or its local equivalent) for the Development by the appropriate governmental authority has been issued and a copy thereof has been delivered to Landlord, together with an as built survey of the Development. The Required Completion Date shall be extended on a day-for-day basis by any delay due to unforeseeable causes beyond Tenant's control and without Tenant's fault or negligence, including, but not limited to, acts of God, fires, floods, strikes, war, terrorist activity, changes in the Plans ordered by Landlord or any governmental authority, unreasonable delays caused by Landlord or any governmental authority, and unusually severe weather conditions not reasonably anticipatable, but excluding delays caused by the acts or omissions of Tenant's contractors, subcontractors, material or equipment suppliers, architects or engineers, or the failure or inability of Tenant to provide sufficient capital or borrow sufficient loan proceeds to fund costs of construction. Landlord may exercise the foregoing option by delivering written notice thereof after the Required Completion Date.
- d. 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. 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 Rental* or any *Additional Rental* 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 Rental* or any *Additional Rental*. 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

(15) **ALTERATIONS:** 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, 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, and (ii) the additions and alterations shall be constructed expeditiously with good materials in a good and workmanlike manner and in accordance with all Applicable Laws. Tenant acknowledges that Landlord has an interest in assuring that the Development is architecturally and aesthetically harmonious with the UTHSC 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.

(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 ten (10) days after it receives written notice from Landlord; or
 2. Tenant's failure to comply with any of the terms of this Lease related to assignment or subletting; 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 two (2) times in any calendar 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 with sixty (60) 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 Development.
- 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. Terminate this Lease, in which event Tenant shall immediately surrender possession of the Leased Premises and Development, and Landlord shall have the right to recover its damages from Tenant. If Tenant fails to surrender the Leased Premises and Development to Landlord after the termination of this Lease, Landlord shall have the right, without notice, to retake possession of the Leased Premises and Development and to expel Tenant and its effects therefrom, without being liable for prosecution or any claim for damage.
 2. Enter upon the Leased Premises and Development and do whatever Tenant is obligated to do under the terms of this Lease, without being liable for prosecution or any claim for damages, and Tenant agrees to reimburse Landlord for all costs and expenses that Landlord incurs in connection therewith.
 3. Obtain specific performance of the terms of this Lease or injunctive relief.

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.

(17) **MISCELLANEOUS:**

- a. 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. FOR PURPOSES OF THIS LEASE, TIME SHALL BE CONSIDERED OF THE ESSENCE.
- b. 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.
- c. Unless Landlord expressly agrees otherwise, in writing, if Tenant remains in possession of the Leased Premises and 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 rent shall equal 200% of the fair rental value of the Leased Premises and Development, as determined by an MAI certified appraiser selected by Landlord. The foregoing sentence shall in no event be construed to permit Tenant to remain in possession of the Leased Premises and 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, 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 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 Development to Landlord.
- d. 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.
- e. 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.

- f. 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. 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.
- g. 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 all hazardous or toxic substances, materials, wastes, pollutants and contaminants that are listed, defined or regulated under Applicable Laws pertaining to health, safety or the environment, including, but not limited to, (A) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq., (B) the Hazardous Materials Transportation Authorization Act of 1994, as amended, 49 U.S.C. § 5101 et seq., (C) the Resource, Conservation and Recovery Act of 1976, as amended, 42 U.S.C. § 6901 et seq., (D) the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq., (E) the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. § 2601 et seq., (F) the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq., (G) any so-called "superfund" or "superlien" law, and (H) the laws of the State of Tennessee. Without limiting the generality of the foregoing, Hazardous Substances shall specifically include medical waste, polychlorinated biphenyl (commonly known as PCBs), asbestos (friable and non-friable), radon, urea formaldehyde, gasoline, diesel fuel, oil and other petroleum products or derivatives.
- b. 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. 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:** The Tenant will be required to furnish payment and performance bonds, in a form acceptable to Landlord, within ten (10) 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 Tenant shall be in default 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 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 default from Landlord within which to cure or remove the default, and if the 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 default within the thirty (30) day period, and is actively, diligently and in good faith proceeding with continuity to cure such default, and provided further that any delay in curing such 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 Tenant's default unless Landlord shall have first given a copy of the written notice of default to Mortgagee and unless Mortgagee shall have failed to cure or remove, or cause to be cured or removed, the 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 Rental* 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 Rental*, *Additional Rental* 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 Rental*, *Additional Rental* 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 Rental*, *Additional Rental* 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;
 - (ii) 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, or secure more than one debt or contain a cross-default provision or cross-collateralization provision;
 - (iii)(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 thirty (30) 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 five (5) years before the expiration of the Term; and
 - (iv) 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 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 default within such thirty (30) day period if it shall so choose, unless such 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 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 Rental* 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) **OTHER:**

- a. 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 with the furnishing of equipment and/or furnishing for the project, 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. All representations, warranties, and indemnities of Tenant under this Lease shall survive the expiration or sooner termination of this Lease.
- c. Landlord 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, Landlord 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 UTHSC, 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 Landlord 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 six (6) 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 six (6) 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.

(24) **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 W. Branscom
Title: Commissioner, General Services

University of Tennessee

By: _____
Name:
Title:

Tenant:

By: _____
Name: _____
Title: _____

APPROVED

Herbert H. Slatery III, Attorney General & Reporter

Bill Lee, Governor

TENANT NOTARY

STATE OF TENNESSEE
COUNTY OF _____

Personally appeared before me, the undersigned, Notary Public for the Shelby County, DO
HEREBY CERTIFY that _____, of _____, 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 _____, 20__.

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 W. 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 _____, 20__.

Notary Public
My Commission
Expires: _____

UNIVERSITY OF TENNESSEE

COUNTY OF KNOX

Personally appeared before me, the undersigned Notary Public for Knox County, _____,
_____ of the University of Tennessee, 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 the University of Tennessee, 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 the University of Tennessee by himself/herself as _____.

Witness my hand and seal, at office in, this ____ day of _____, 20__.

Notary Public.

My Commission Expires:

Exhibit A
Description of Leased Premises

Exhibit B
Request for Proposal

To be included in lease document when proposals have been evaluated and lease sent for review and signature.

Exhibit C

Responses to Request for Proposal

To be included in lease document when proposals have been evaluated and lease sent for review and signature.

Exhibit D
Site Plan

Exhibit E
Plans and Specifications

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 _____, 201__ (the "Effective Date"), by and between the State of Tennessee on behalf of the University of Tennessee, as landlord ("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 Shelby 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. Office of the Treasurer, 711 Andy Holt Tower, Knoxville, TN 37996-0174.

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 W. Branscom
Title: Commissioner, Department of General Services

University of Tennessee

By: _____
Name: _____
Title: _____

TENANT: _____

By: _____
Name: _____
Title: _____

TENANT NOTARY

STATE OF TENNESSEE

COUNTY OF SHELBY

Personally appeared before me, the undersigned, Notary Public for the Shelby County, DO
HEREBY CERTIFY that _____, of Memphis, 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 _____, 20__.

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 W. 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 _____, 201__.

Notary Public
My Commission
Expires: _____

UNIVERSITY OF TENNESSEE
COUNTY OF KNOX

Personally appeared before me, the undersigned Notary Public for Knox County, _____,
_____ of the University of Tennessee, 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 the University of Tennessee, 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 the University of Tennessee by himself/herself as _____.

Witness my hand and seal, at office in, this ____ day of _____, 20__.

Notary Public.

My Commission Expires:

EXHIBIT A

(OF MEMORANDUM OF LEASE)

Description of Premises

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

Schedule 1
Amenities and Service Levels

To be added based on RFP responses and negotiations