



**STATE OF SOUTH DAKOTA
LEASE AGREEMENT
LEASE#: 0200-449-DRAFT**



THIS LEASE is made and entered on this 1st day of January 2025, by and between the State of South Dakota, Office of Executive Management, Bureau of Human Resources and Administration on behalf of the **Department of Revenue – Commission on Gaming**, hereafter referred to as “Tenant”, and the **City of Deadwood**, hereafter referred to as “Landlord”.

IN CONSIDERATION of the mutual covenants contained in this Lease and the terms and conditions hereinafter set forth, the parties agree as follows:

**SECTION 1
LEASED PREMISES**

1.1) Description of Premises. Landlord leases to Tenant and Tenant leases from Landlord certain real property, hereinafter referred to as the "Premises", which includes the building and other related improvements located at:

Address: **3 1/2 Siever Street**
City: **Deadwood** State: **SD** Zip: **57732**
County: **Lawrence**

The leased Premises consist of an area of approximately **400** square feet within the building. Tenant shall also have unrestricted nonexclusive access to all common areas.

1.2) Quiet Enjoyment. Landlord covenants and agrees, so long as the Tenant is not in default under the terms of this Lease, to provide quiet and peaceful possession of the Premises and that the Tenant may enjoy all of the rights granted without interference.

**SECTION 2
TERM**

2.1) Term. The term of this Lease will be for a period of **one (1)** year commencing on **January 1, 2025**, and ending on **December 31, 2025**. The tenant has the ability to renew this lease for an additional year at the same rate with a written notice.

**SECTION 3
RENT**

3.1) Rent. Tenant agrees to pay to Landlord, at Landlord’s address as set forth in Section 11 herein, a yearly installment of **\$4,800.00** during the term of this Lease, which is computed at a rate of **\$12.00** per square foot per year. Rental payments will commence on **January 1, 2025**.

3.2) Grace Period. Landlord agrees that Tenant will have a fifteen-day grace period after each rent payment is due during which no penalty or interest will be accrued. Landlord agrees that Tenant will not be considered in default if payment of rent is made within the fifteen-day grace period.

SECTION 4
TAXES, ASSESSMENTS, AND UTILITIES

4.1) Taxes and Assessments. Landlord agrees to pay, when due, all taxes of any kind, general or special, foreseen or unforeseen, of any nature whatsoever, and installments of special assessments thereof which may be taxed or imposed on the Premises, including the improvements.

4.2) Utilities and Services. Utilities and other services are to be paid to vendor by either Landlord or Tenant as indicated below, if applicable. If a service does not exist, then an N/A will suffice:

| | | | |
|------------------|-----------------|-----------------|-----------------|
| Electricity | Landlord | Landscaping | Landlord |
| Gas | Landlord | Lawn Mowing | Landlord |
| Water | Landlord | Janitorial | Tenant |
| Sewer | Landlord | Snow Removal | Landlord |
| Telephone | Tenant | Garbage Service | Landlord |
| Cable | Tenant | Maintenance | Landlord |
| Internet Service | Tenant | | |

Other: Landlord agrees to provide one **non-designated** parking space.

4.3) Failure to Pay or Provide Services. In the event that Landlord fails to pay utility or service expenses when due, Tenant may elect to pay the vendor to avoid interruption in services. If Landlord fails to provide for services within a reasonable time, Tenant may elect to complete such services. Any amounts paid by Tenant pursuant to this section shall be set off against any rent owed to Landlord. The foregoing remedy shall be in addition to remedies afforded to Tenant under applicable law. As used herein, "reasonable time" shall mean within a reasonable time after Landlord is informed or has reason to know of the need for completion of the services but shall not exceed twenty-four (24) hours, absent exigent circumstances.

SECTION 5
MAINTENANCE, REPAIRS, AND ALTERATIONS

5.1) Premises. Landlord shall maintain the Premises and keep them in good repair at Landlord's expense. All repairs or replacements shall be made in a manner to minimize the inconvenience to Tenant, visitors and guests and in a manner which maintains the security of the Premises.

5.2) Exterior. Landlord further agrees to maintain and repair the exterior of the Premises, including, but not limited to, adjacent sidewalks, parking lots, access drives, parking lot striping, building exterior, windows and roof. Landlord shall maintain the exterior of the Premises so that the building shall be properly secure at all times. All maintenance and repair to

heating units, air conditioning units, plumbing, gas and electrical systems, sewer systems, and structural repairs, regardless of their location, shall be the obligation of Landlord.

5.3) Interior. Landlord further agrees to maintain and repair the interior of the Premises, including, but not limited to, the ceilings, ceiling tiles, carpets, floor tile, wall coverings, light fixtures and ballasts, electrical system and fixtures, plumbing, heating, ventilation, air conditioning, mechanical equipment, elevator, and fire extinguishers.

5.4) Failure to Maintain. If Landlord fails to maintain or repair the Premises within a reasonable time, Tenant may elect to complete the maintenance or repair. Any amounts paid by Tenant for maintenance or repair shall be set off against any rent owed to Landlord. The foregoing remedy shall be in addition to remedies afforded to Tenant under applicable law. As used herein, "reasonable time" shall mean within a reasonable time after Landlord is informed or has reason to know of the need for completion of the services but shall not exceed twenty-four (24) hours, absent exigent circumstances.

5.5) Alteration. Subject to the prior written consent of Landlord, Tenant shall have the right to make such additions, alterations, changes, or improvements to the Premises as Tenant shall deem necessary or desirable.

5.6) Signs and Security Measures. Landlord grants to Tenant the right to construct, place, and maintain reasonable signs designating the nature of the business being conducted in the Premises including, but not limited to, lettering placed on the glass. Landlord also grants Tenant the right to install, place, construct, and maintain any security measures to include security cameras, card readers, electronic door locking systems, wiring, and other measures Tenant deems necessary and any requisite conduit or wiring required for its operation. Upon conclusion of the term of this Lease, Tenant may in its discretion opt to leave or remove all such signs and security measures. Tenant will restore any damages resulting to the Premises if items are removed.

5.7) Surrender of Premises. Upon the expiration or earlier termination of this Lease or any extension thereof, Tenant shall return possession of the Premises to Landlord in good order, condition and repair, reasonable wear and tear excepted. Tenant shall leave the Premises and appurtenances thereto free and clear of rubbish and broom clean.

5.8) Destruction of Premises. In the event of a partial destruction of the Premises during the term of this Lease, Landlord shall promptly repair the Premises, provided that appropriate repairs can be completed within forty-five (45) days of the destruction, pursuant to the laws and regulations of applicable governmental entities and authorities that may apply. Any partial destruction of the Premises shall entitle Tenant to a proportionate reduction of rent until the repairs are completed, any proportionate reduction being based upon the extent to which the destruction of the Premises and/or the making of the repairs shall interfere with the business carried on by Tenant on the Premises. Upon receipt of documentation that the repairs cannot be completed in the specified time set forth above, Tenant may immediately terminate this Lease.

A total destruction of the building situated on the Premises shall terminate this Lease, and Tenant shall be obligated to pay rent only to the time of destruction of the building. As used herein, total destruction means that the Premises are destroyed or so damaged as to render the Premises untenable.

SECTION 6
LANDLORD'S ACCESS TO PREMISES

6.1) Landlord shall have the right, with prior approval of Tenant, to enter the Premises at all reasonable times to inspect them, to make repairs, to maintain the building, and to perform any other work therein which may be necessary.

SECTION 7
REGULATIONS

7.1) Landlord shall comply with all applicable federal, state, and local laws, regulations, and codes, including, but not limited to, fire and life safety regulations, equal accessibility for the handicapped and disabled specifically conforming to, but not limited to, the Americans with Disabilities Act (ADA), and local and planning ordinances for the City of Deadwood. Landlord or its agent(s) shall be responsible for satisfying the requirements associated with compliance. Any maintenance, repairs or improvements necessary for the Premises to meet any applicable regulation, law or code will be performed at Landlord's expense.

SECTION 8
INSURANCE

8.1) During the term of this Lease and any extension thereof, Landlord shall maintain in effect at all times all hazard, standard extended coverage, and fire insurance on the Premises in an amount acceptable to Tenant and shall provide proof of such coverage to Tenant. From and after the date of delivery of the Premises to Tenant, Landlord shall be solely responsible for and shall provide for comprehensive general liability insurance against claims for bodily injury or death and property damage liability insurance on the Premises in an amount not less than one million dollars (\$1,000,000) per occurrence.

SECTION 9
INDEMNIFICATION

9.1) Landlord agrees to indemnify and hold harmless the State, its officers, agents and employees, against and from any and all claims by or on behalf of any person arising from any condition of any street, curb, or sidewalk adjoining the Premises, or arising from any breach or default on the part of Landlord, or arising from any act or omission of Landlord, or of its or their agents, contractors, servants, employees or licensees, or arising from any accident, injury or damage whatsoever caused to any person or property occurring during the term of this Lease in or about the Premises, upon or under the sidewalks and the land adjacent thereto, or arising

from this Lease, and from and against all judgments, costs, expenses and liabilities incurred in or about any such claim or action.

This section does not require Landlord to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.

SECTION 10 **EVENTS OF DEFAULT; REMEDIES**

10.1) Events of Default. Landlord shall be in default if Landlord fails to perform any of the agreements, terms, covenants or conditions hereof on Landlord's part to be performed; and (i) that failure continues for a period of thirty (30) days after written notice by Tenant, or (ii) the default is of such a nature that it cannot be reasonably cured within thirty (30) days after written notice by Tenant. Notwithstanding the foregoing, Landlord shall not be in default if Landlord has commenced a cure within said thirty-day period and Tenant has agreed in writing to a period of time for curing the default that is beyond said thirty-day period. If Landlord has not cured the default within the agreed-upon time period, Landlord shall be in default absent further agreement from the Tenant.

10.2) Remedies on Default. Upon the expiration of the cure period with respect to any event of default as set forth in Section 10.1 above, Tenant shall have the right to terminate this Lease.

SECTION 11 **NOTICE**

11.1) All notices or demands under this Lease shall be deemed to have been given when mailed by United States mail, First Class, postage prepaid, to the addresses set out below, or, if personally delivered, when received by such party. Notice of default or termination shall be sent by registered or certified mail or personally delivered.

To Tenant:

Michael Houdyshell, Cabinet
Secretary
Department of Revenue
445 East Capitol Avenue
Pierre SD 57501

To Landlord:

David Ruth Jr., Mayor
City of Deadwood
102 Sherman Street
Deadwood, SD 57732

To Office of Space Management:

Office of Space Management
South Dakota Bureau of Human
Resources and Administration
c/o 500 E. Capitol Avenue
Pierre, SD 57501

SECTION 12
CERTIFICATIONS

12.1) Certification Regarding Debarment, Suspension, Ineligibility, And Voluntary Exclusion. Landlord agrees that neither Landlord, nor any of Landlord's principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions by any Federal department or agency. Landlord will provide immediate written notice to the Department of Health, Division of Administration (600 East Capitol Avenue, Pierre, SD 57501 (605) 773-3361), if Landlord, or any of Landlord's principals, becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions involving Federal funding. Landlord further agrees that if this contract involves federal funds or federally mandated compliance, then Landlord is in compliance with all applicable regulations pursuant to Executive Orders 12549 and 12689, 2 CFR part 180, including Debarment and Suspension and Participants' Responsibilities. 2 CFR §200.213. The non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award including the term and condition outlined in Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters are required to report certain civil, criminal, or administrative proceedings to SAM. Failure to make required disclosures can result in any of the remedies described in §200.338 Remedies for noncompliance, including suspension or debarment. (See also 2 CFR part 180, 31 U.S.C. 3321, and 41 U.S.C. 2313.). 2 CFR §200.113 Also see Guidance Located at Federal Register, Office of Management and Budget, 2 CFR Chapter 1, Chapter II, Part 200 et al. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule.

12.2) Certification Regarding Compliance with SDCL ch 5-18A. Landlord certifies and agrees that the following information is correct.

Landlord is not an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates, of those entities or business associations, regardless of their principal place of business, which is ultimately owned or controlled,

directly or indirectly, by a foreign parent entity from, or the government of, the People's Republic of China, the Republic of Cuba, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Russian Federation, or the Bolivarian Republic of Venezuela.

It is understood and agreed that, if this certification is false, such false certification will constitute grounds for Landlord to terminate this Lease, and further would be cause to suspend and debar a business under SDCL § 5-18D-12.

Landlord further agrees to provide immediate written notice to Tenant if during the term of this Lease it no longer complies with this certification and agrees such noncompliance may be grounds for contract termination and would be cause to suspend and debar a business under SDLC § 5-18D-12.

12.3) Certification of No State Legislator Interest. Landlord (i) understands neither a state legislator nor a business in which a state legislator has an ownership interest may be directly or indirectly interested in any contract with the State that was authorized by any law passed during the term for which that legislator was elected, or within one year thereafter, and (ii) has read South Dakota Constitution Article 3, Section 12 and has had the opportunity to seek independent legal advice on the applicability of that provision to this Lease. By signing this Lease, Landlord hereby certifies that this Lease is not made in violation of the South Dakota Constitution Article 3, Section 12.

SECTION 13 WAIVER

13.1) Failure of any party to insist upon the strict performance of any or all of the terms or conditions of this Lease shall not constitute, nor be construed as, a waiver of that party's right to enforce any such terms or conditions, but the same shall continue in full force and effect.

SECTION 14 FUNDING OUT

14.1) Landlord agrees that the continued rental of the Premises for the term specified by Tenant is dependent upon receipt of both funds and expenditure authority from the Legislature. In the event that the Legislature does not provide funds or expenditure authority, then and in such event, this Lease is null and void and said Lease shall expire at the end of the fiscal year in which the last funding shall be made available for Tenant. Landlord agrees that a termination because of lack of funds or expenditure authority will not result in a claim against Tenant, the State of South Dakota, or any officer or employee of the State, and waives any claim against the same.

SECTION 15
CANCELLATION

15.1) Tenant or Landlord may cancel this Lease upon one hundred (60) days notice in writing. The notice required shall not release either Landlord or Tenant from full performance of all terms and conditions of this Lease during the continuing occupancy of Tenant after the notice of termination but before Tenant vacates the Premises.

SECTION 16
GENERAL PROVISIONS

16.1) Successors and Assigns. This Lease shall bind and inure to the benefit of the parties hereto and their successors and assigns.

16.2) Construction. The language in all parts of this Lease shall be in all cases construed according to its plain meaning and not strictly for or against Landlord or Tenant.

16.3) Severability. If any term, covenant, condition or provision of this Lease is held by a court of competent jurisdiction to be invalid, void or unreasonable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

16.4) Law Governing. This Lease shall be governed by, construed, and enforced in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Lease shall be venued in Circuit Court, Fourth Judicial Circuit, Lawrence County, South Dakota.

16.5) Entire Agreement. This Lease, together with any written modifications, addenda, assignments, or amendments, hereinafter entered into, shall constitute the entire agreement between the parties and shall supersede any prior agreements or understandings, if any, whether written or oral, which the parties may have had relating to the subject matter.

16.6) Prior Lease. This Lease shall render null and void any previous lease or agreements between Tenant and Landlord for the Premises.

16.7) Counterparts. This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

16.8) Modifications. Any modification of this Lease, or additional obligation assumed by either party in connection with this Lease shall be binding only if evidenced in writing and signed by each of the parties.

16.9) Authority. Landlord is an individual or is: (i) a partnership duly formed; (ii) a corporation duly incorporated; (iii) a limited liability company duly formed; or (iv) a limited liability partnership duly formed. If not an individual, Landlord is validly existing and in good standing under the laws of its state of incorporation or formation; and has all requisite corporate or organizational (as the case may be) power and authority to execute, deliver and perform its obligations under this Lease. The execution, delivery and performance of this Lease has been duly authorized by Landlord; and the individual(s) signing this Lease on behalf of Landlord are authorized to sign this Lease. No approval, authorization or consent of any member, private party, governmental or regulatory agency is required in order for Landlord to enter into this Lease and perform its obligations under this Lease that has not been obtained.

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| <p>STATE OF SOUTH DAKOTA Department of Revenue</p> | <p>Landlord City of Deadwood</p> |
| <p>Signature _____ Michael S. Houdyshell, Cabinet Secretary</p> | <p>Signature _____ David Ruth Jr., Mayor</p> |
| <p>Date _____</p> | <p>Date _____</p> |
| | |
| <p>APPROVED</p> | |
| <p>Signature _____ Darin R. Seeley, Commissioner Bureau of Human Resources and Administration</p> | |
| <p>Date _____</p> | |