

LEASE AGREEMENT

This Lease Agreement (this "Agreement") is dated as of this 12 day of November, 2019, by and between Knochenmus Enterprises, LLP, a Minnesota limited liability partnership ("Landlord") and the City of Marshall, a Minnesota municipal corporation ("Tenant").

1. DEFINITIONS.

"Leased Premises" means 12,000 square foot portion of the south half of the building on the property and certain shared areas. The property is legally described on the attached Exhibit A. The north and south halves of the building and the shared areas are depicted on the attached Exhibit B.

2. TERM; EARLY TERMINATION.

A. Term. In consideration of Tenant's performance of Tenant's obligations under this Lease, Landlord hereby leases the Leased Premises to Tenant.

B. Termination. This Lease shall be for a 36 month term and shall terminate on December 31, 2022. Tenant may terminate this Lease early by providing Landlord with notice 30 days in advance of the effective date of termination.

3. **RENT.** No rent shall be due from Tenant during the term of this Lease.

4. **USE RESTRICTIONS.** Tenant shall comply with all applicable laws, ordinances, and governmental regulations with respect to its use of the Leased Premises. Tenant shall not do anything in or about the Leased Premises which will in any way impair or invalidate the obligation of the insurer under any policy of insurance required by this Lease.

5. **UTILITIES AND OPERATING COSTS.** Landlord shall pay all charges for garbage and refuse removal, electricity, natural gas, telephone, cable television, and any other utility services furnished to the Leased Premises, and all other costs associated with the use, operation, and management of the Leased Premises during the term of the Lease, including, but not limited to, snow removal. Landlord shall also be responsible for payment of all property taxes for the Leased Premises.

6. **MAINTENANCE AND REPAIR OF THE LEASED PREMISES.** Tenant agrees to defend, indemnify and hold harmless Landlord with respect to claims which may be made by governmental authority or employees or invitees of Tenant concerning the condition of the Leased Premises during the term of this Lease. Tenant shall, at all times throughout the term of this Lease, and at its sole expense, keep the Leased Premises and fixtures in at least as good condition as existed on the date of this Lease, reasonable wear and tear excepted. Tenant shall not allow any liens or encumbrances to be placed on the Leased Premises. Landlord shall be responsible for maintaining the Leased Premises.

7. ALTERATION OR IMPROVEMENT OF THE LEASED PREMISES. Tenant shall not make any additions or improvements in or to the Leased Premises without Landlord's prior written consent.

8. INDEMNIFICATION; COVENANTS TO DEFEND AND HOLD HARMLESS. Tenant shall hold Landlord harmless from and indemnify and defend Landlord against any claim or liability arising in any manner from Tenant's use, improvement, and occupancy of the Leased Premises, or relating to the death or bodily injury to any person or damage to any personal property present on or located in or upon the Leased Premises, including the person and personal property of Tenant's employees and all persons in or upon the Leased Premises at Tenant's invitation or sufferance unless due to the negligence of Landlord. All personal property kept, maintained or stored on the Leased Premises by Tenant shall be kept, maintained or stored at the sole risk of Tenant.

Nothing in this Lease shall be deemed to limit Landlord's right to have access to the Leased Premises, or to exercise its remedies under the Lease, or to make applications to a governmental entity with respect to the Leased Premises, or to protest taxes or assessments related to the Leased Premises, or to take other similar action with respect to the Leased Premises as a responsible landlord would elect.

9. CASUALTY INSURANCE AND WAIVERS OF CLAIMS.

A. Insurance: Tenant shall carry insurance for the full insurable value of Tenant's supplies, materials, furnishings, vehicles, equipment and all other items of personal property of Tenant located on or within the Leased Premises. Tenant shall furnish Landlord evidence of such insurance coverage prior to commencing occupancy.

B. Waiver of Claims: Tenant hereby waives and releases all claims, liabilities and causes of action against Landlord and its officials, agents, servants and employees for loss or damage to, or destruction of personal property of Tenant, located in, upon or about the Leased Premises resulting from fire, explosion or the other perils covered by standard "all risk" insurance, whether caused by the negligence of any said persons or otherwise.

10. LIABILITY INSURANCE. Tenant shall, at its expense during the term of this Lease, keep in full force and effect a policy or policies of "occurrence" based commercial general liability insurance, providing coverage for bodily injury, personal property damage, personal injury, and contractual liability. Such policy or policies shall have combined policy limits in amounts not less than \$1,500,000.

11. QUIET ENJOYMENT. Landlord warrants that it has full right to execute and to perform this Lease and to grant the estate demised, and that Tenant, upon Tenant's performance of all of the terms, conditions, covenants and agreements on Tenant's part to be observed and performed under this Lease, may peaceably and quietly enjoy the Leased Premises subject to the terms and conditions of this Lease.

12. HOLDING OVER. If Tenant remains in possession of the Leased Premises after the expiration or termination of this Lease, it shall be deemed to be occupying said Leased Premises as a Tenant at sufferance, subject to all the conditions, provisions and obligations of this Lease insofar as the same can be applicable to a tenancy at sufferance.

13. SURRENDER. Upon expiration or termination of this Lease, Tenant shall peaceably surrender the Leased Premises and remove all debris and personal property from the Leased Premises. Tenant shall not remove any of the immovable fixtures. Tenant shall be conclusively deemed to have abandoned any personal property not removed prior to the effective date of the termination of this Lease or Tenant's surrender of the Leased Premises. All debris and personal property may be disposed of by Landlord. Tenant shall be responsible for any disposal costs.

14. ACCESS TO LEASED PREMISES. Tenant agrees to permit Landlord and the authorized representatives of Landlord to enter the Leased Premises at all times during usual business hours (upon 24 hours' notice to Tenant) for the purpose of inspecting the same, performing maintenance, and conducting such investigations, tests, measurements, and assessments as may be desired by Landlord.

15. DEFAULT OF TENANT.

A. Events of Default: The occurrence of any one or more of the following events shall constitute an Event of Default:

(1) Tenant's failure to maintain the insurance required pursuant to Sections 9 and 10 above, which failure remains uncured for 15 days following Landlord's written notice to Tenant of Tenant's failure to perform such obligation;

(2) Tenant's attempt to sublet any portion of the Leased Premises, or assign its interest under this Lease without the written permission of Landlord;

(3) Tenant's failure to fully perform any of Tenant's obligations, other than the obligations referenced in subsections (1), (2) or (3) above, which failure remains uncured for 30 days following Landlord's written notice to Tenant of Tenant's failure to perform such obligation; or

(4) Tenant's filing, or having filed against it, any bankruptcy or debtor proceedings or proceedings for the appointment of a receiver or trustee of all or any portion of Tenant's Leased Premises, or if Tenant makes an assignment for the benefit of creditors.

B. Landlord's Remedies: If an Event of Default occurs, Landlord shall have the following remedies;

(1) Landlord may, but shall not be obligated to, and without notice to or demand upon Tenant and without waiving or releasing Tenant from any obligations of the Tenant under this Lease, pay or perform any obligations of Tenant; pay any cost or expense to be paid by Tenant; obtain any insurance coverage and pay premiums therefor; and make any

other payment or perform any other act on the part of Tenant to be made and performed as provided for in this Lease, in such manner and to such extent as Landlord may deem desirable, and in exercising any such right, may also pay all necessary and incidental costs and expenses, employ counsel and incur and pay attorneys' fees. Tenant shall pay costs to Landlord upon demand with interest at seven percent per annum.

Landlord may terminate this Lease by written notice to Tenant in which case Tenant shall vacate the Leased Premises in accordance with Section 13. Neither the passage of time after the occurrence of an Event of Default nor Landlord's exercise of any other remedy with regard to such Event of Default shall limit Landlord's right to terminate the Lease by written notice to Tenant.

Landlord may, whether or not Landlord has elected to terminate this Lease, immediately commence summary proceedings in Unlawful Detainer to recover possession of the Leased Premises. In the event of the issuance of a Writ of Restitution in such proceeding, upon Landlord's reentry upon and repossession of the Leased Premises, Landlord may remove Tenant and all other persons from the Leased Premises (subject to Tenant's right and responsibility to remove its personal property pursuant to Section 13). In the event Landlord reenters the Leased Premises pursuant to this paragraph and Tenant fails to remove its personal property within the time period provided in Section 13, all items of personal property not removed by Tenant within said period shall be deemed abandoned, and title thereto shall transfer to Landlord at the expiration of such period or, upon Tenant's vacation of the Leased Premises. These items may be disposed of by Landlord. Tenant shall be responsible for all disposal costs.

No remedy provided for herein or elsewhere in this Lease or otherwise available to Landlord by law, statute or equity, shall be exclusive of any other remedy, but all such remedies shall be cumulative and may be exercised from time to time and as often as the occasion may arise.

16. EMINENT DOMAIN. If an eminent domain or condemnation proceeding is commenced with respect to the Leased Premises during the term of this Lease, the following provisions shall apply:

A. If a public or private body with the power of eminent domain or condemnation ("Condemning Authority") acquires all of the Leased Premises through the exercise of its power of eminent domain or condemnation or as a result of a sale in lieu thereof, this Lease shall cease and terminate as of the date the Condemning Authority acquires possession.

B. If a Condemning Authority acquires only a part of the Leased Premises, and such acquisition materially affects the Leased Premises so as to render the Leased Premises unsuitable for the business of Tenant, in the absolute discretion of Tenant, then this Lease shall cease and terminate as of the date the Condemning Authority acquires possession.

C. If a Condemning Authority acquires only a part of the Leased Premises and such acquisition does not render the Leased Premises unsuitable for the business of the Tenant in the absolute discretion of Tenant, this Lease shall continue in full force and effect.

D. Landlord shall be entitled to the award paid in any condemnation acquisition under power of eminent domain or the proceeds of a sale in lieu thereof, and Tenant shall not receive any portion of such award.

E. Although all damages in the event of any condemnation shall belong to Landlord whether such damages are awarded as compensation for diminution in value of the leasehold or to the fee of the Leased Premises, Tenant shall have the right to claim and recover from the condemning authority, but not from Landlord, such compensation as may be separately awarded or recoverable by Tenant, in Tenant's own right on account of any and all damage to Tenant by reason of the condemnation and for or on account of any cost or loss to Tenant.

17. DAMAGE OR DESTRUCTION. If fire or other casualty damages or destroys the Leased Premises or the Leased Premises incurs substantial damage due to vandalism, failure of building systems or other unforeseen cause occurs during the term of this Lease, then this Lease shall terminate.

18. GENERAL.

A. Landlord's Disclaimer of Warranty: Landlord disclaims any warranty that the Leased Premises is suitable for Tenant's use.

B. Relationship of Landlord and Tenant: The Lease does not create the relationship of principal and agent or of partnership or of joint venture or of any association between Landlord and Tenant, the sole relationships between the parties hereto being that of Landlord and Tenant under this Lease.

C. Waiver: No waiver of Landlord's remedies upon the occurrence of an Event of Default shall be implied from any omission by Landlord to take any action on account of such Event of Default, and no express waiver shall affect any Event of Default other than the Event of Default specified in the express waiver and such an express waiver shall be effective only for the time and to the extent expressly stated. One or more waivers by Landlord shall not then be construed as a waiver of a subsequent Event of Default.

D. Choice of Law: The laws of the State of Minnesota shall govern the validity, performance and enforcement of this Lease.

E. Time: Time is of the essence in the performance of all obligations under this Lease.

F. Notices and Demands. Except as otherwise expressly provided in this Lease, any notice, demand, or other communication under the Lease any related document by either party to the other shall be sufficiently given or delivered if it is dispatched by United States Mail or delivered personally to:

(i) in the case of Landlord:

Knochenmus Enterprises, LLP

Attn: _____

1600 Hahn Road
P.O. Box 318
Marshall, MN 56258

(b) in the case of Tenant:

City of Marshall
Attn: City Administrator
344 West Main Street
Marshall, MN 56238

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this Section 18.

G. Entire Agreement and Amendment. This Lease constitutes the entire agreement between Landlord and Tenant affecting the Leased Premises and there are no other agreements, either oral or written, between them other than said documents and as are herein set forth. No subsequent alteration, amendment, change or addition to this Lease shall be binding upon Landlord or Tenant unless reduced to writing and executed in the same form and manner in which this Lease is executed.

H. Successors and Assigns: The terms, covenants and conditions of this Lease shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, Landlord and the Tenant have caused these presents to be executed in form and manner sufficient to bind them at law, as of the day and year first above written.

LANDLORD:
KNOCHENMUS ENTERPRISES, LLP

By: 

Its: Managing Partner

TENANT:
CITY OF MARSHALL

By: 

Its: Mayor

By: 

Its: City Clerk

EXHIBIT A TO LEASE

Legal Description of the Leased Premises

EXHIBIT "A"

TRACT ONE:

That part of the Southeast Quarter of the Northeast Quarter (SE1/4 NE1/4) and that part of the Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4) of Section Five (5), Township One Hundred Eleven (111), Range Forty-one (41), Lyon County, Minnesota, described as follows: Commencing at the East Quarter corner of said Section 5, thence on an assumed bearing of South 88 degrees 41 minutes 13 seconds West along the East-West Quarter line of said Section 5 a distance of 88.62 feet to the centerline of the main track of The Burlington Northern Railway Company; thence northeasterly along said centerline to the intersection with the centerline of the main track of the Chicago and Northwestern Railway Company; thence North 45 degrees 37 minutes 40 seconds West along last said centerline 295.21 feet; thence South 44 degrees 22 minutes 20 seconds West 50.00 feet to the southwesterly right of way line of said Chicago and Northwestern Railway Company, thence southwesterly 58.26 feet along a tangential curve concave to the southeast, having a radius of 128.52 feet and a central angle of 38 degrees 54 minutes 51 seconds to the centerline of the railroad Spur Track I.C.C. No. 17, thence South 45 degrees 37 minutes 40 seconds East along the centerline of said Spur Track 20.08 feet; thence Southeasterly along last said centerline, 344.95 feet along a tangential curve concave to the west, having a radius of 407.48 feet and a central angle of 48 degrees 30 minutes to the northwesterly right of way line of said Burlington Northern Railway Company; thence Northeasterly 216.02 feet along last said right of way line to the intersection with the southwesterly right of way line of said Chicago and Northwestern Railway Company thence North 45 degrees 37 minutes 40 seconds West along last said right of way line 203.32 feet to the point of beginning.

AND

That part of the Southeast Quarter of the Northeast Quarter (SE1/4 NE1/4) of Section Five (5), Township One Hundred Eleven (111) North Range Forty-one (41) West of the Fifth Principal Meridian, bounded and described as follows: Commencing at a point distant 60 feet Northwesterly, measured at right angles or radially from the center line of the main track of the Burlington Northern, Inc. as now located, and distant 50 feet Southwesterly measured at right angles from the center line of the main track of the Chicago and North Western Transportation Company, as said main track is now located; thence Northwesterly parallel with said (Chicago and North Western Transportation Company) main track center line a distance of 220 feet to the point of beginning of the parcel of land herein described; thence Southeasterly along the last described course, parallel with said (Chicago and North Western Transportation Company) main track center line, a distance of 220 feet to the point of commencement; thence Northeasterly parallel with and distant 50 feet Northwesterly, measured at right angles or radially, from said (Burlington Northern Inc.) main track center line a distance of 28 feet, more or less, to a point distant 25 feet Southwesterly measured at right angles, from said Chicago and North Western Transportation Company main track center line; thence Northwesterly parallel with said last described main track center line a distance of 220 feet, thence Southwesterly along a straight line a distance of 28 feet, more or less, to the point of beginning.

AND

Lots One (1) and Two (2) in Block Nine (9) in Marshall Right of Way Addition to The City of Marshall, according to the plat thereof on file and of record in the Office of the County Recorder in and for Lyon County, Minnesota.

AND

All that part of the Southeast Quarter of the Northeast Quarter (SE1/4 NE1/4) of Section Five (5), Township One Hundred Eleven (111), Range Forty-one (41), Lyon County, Minnesota, described as follows: Commencing at the point of intersection of the centerline of the main track of the Chicago and Northwestern Railway Company with the centerline of the main track of the Burlington Northern Railway Company, thence northwesterly along said centerline of the main track of the Chicago and Northwestern Railway Company 300.21 feet; thence northeasterly deflecting to the right 60 degrees a distance of 50.00 feet to the northeasterly right of way line of said Chicago and Northwestern Railway Company and the point of beginning of the land to be described; thence continuing northeasterly along last described course 50.00 feet; thence Southeasterly parallel with said northeasterly right of way line 199.51 feet to the Northwesterly right of way line of said Burlington Northern Railway Company, thence southwesterly along last said right of way line 54.55 feet to the intersection with said northeasterly right of way line of the Chicago and Northwestern Railway Company, thence northwesterly along the last said right of way line 222.43 feet to the point of beginning.

TRACT TWO:

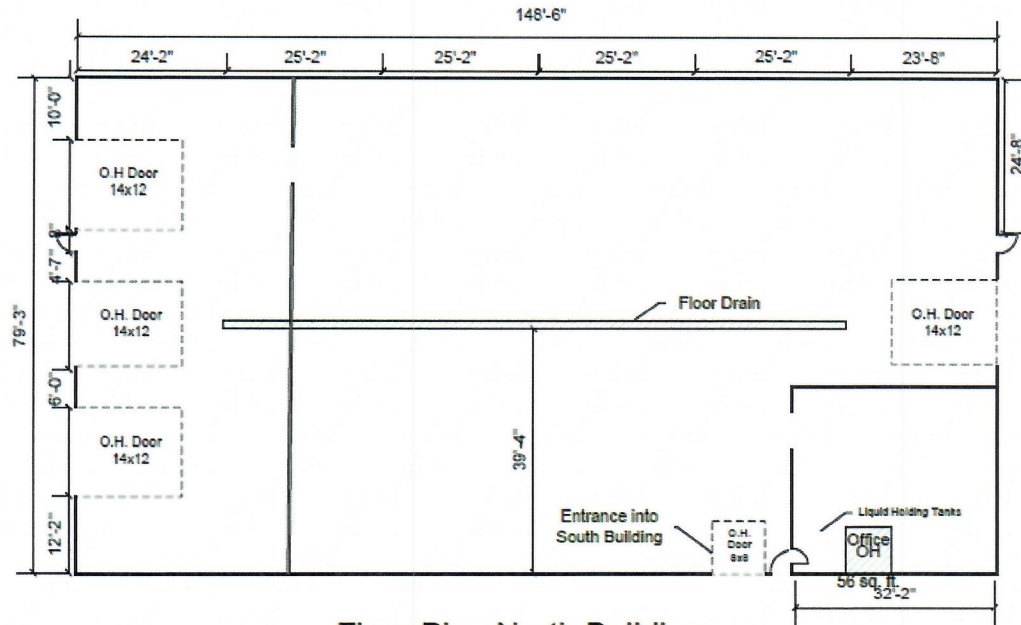
Outlot A, Moose Addition to the City of Marshall, Minnesota, according to the recorded plat thereof.

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EXHIBIT B

Depiction of the Portion of the Building on the Leased Premises to be Leased

Depiction of Landlord's Portion of the Building (North Half)



Floor Plan North Building

Not to Scale

**Depiction of the Tenant's Portion of the Building (South Half) and Areas to be Shared by
Landlord and Tenant (in yellow)**

