

CITY OF NEWCASTLE

LEASE AGREEMENT
Landlord

and

CITY OF MERCER ISLAND
Tenant

Suite 301

1. LEASE DATA; DEFINITIONS

1.1 Lease Commencement Date: The Lease Commencement Date as defined herein shall be November 8, 2023.

1.2 Landlord: City of Newcastle, a Washington municipal corporation, or its successors and/or assigns.

1.3 Tenant: City of Mercer Island, a Washington municipal corporation, or its successors and/or assigns.

1.4 Building; Building Manager: Newcastle Professional Center located at 12835 Newcastle Way, Newcastle, Washington (the "Building"); Landlord's Building Manager: Highpointe, Inc., 18506 NW Montreux Dr., Issaquah, WA 98027.

1.5 Land/Legal Description: See **Exhibit B**, which is attached hereto and incorporated by reference herein.

1.6 Premises: Suite Number 301 on the third (3rd) floor of the Building (the Premises"). It is hereby agreed between the parties hereto that the Premises contains One Thousand Two-hundred and Ninety-eight (1,298) **rentable square feet** of floor area. A floor plan of the Premises is outlined on **Exhibit A**, which is attached hereto and incorporated by reference herein.

1.7 Tenant's Proportionate Share: Tenant's Proportionate Share is a fraction, the numerator of which is One Thousand Two-hundred and Ninety-eight (1,298) rentable square feet, the square footage of the Premises and the denominator of which is Sixteen Thousand One Hundred Sixty-Four (16,164) rentable square feet, the agreed square footage of the Building. It is hereby agreed between the parties hereto that the *Tenant's Proportionate Share* shall be **Eight and three hundredths (8.03%) percent**.

1.8 Initial Lease Term: The "Initial Lease Term" shall commence upon November 8, 2023 (the "Commencement Date"). The Initial Lease Term shall expire on December 31, 2026, (the "Expiration Date").

1.9 Rent Commencement Date: Except as may otherwise be provided herein, the Rent Commencement Date shall be November 8, 2023.

1.10 Base Rent: Tenant agrees to pay Landlord, or to such other parties Landlord may hereinafter designate, as minimum rent ("Base Rent"), without offset or deduction, the following sums:

Lease Year	Sq Ft	Per Sq Ft Base Rent	Annual Base Rent	Monthly Base Rent
1	1,298	\$27.01	\$35,058.98	\$2,921.58
2	1,298	\$27.28	\$35,409.44	\$2,950.79
3	1,298	\$27.55	\$35,759.90	\$2,979.99

Tenants expressly acknowledges and agrees that this is a triple net (NNN) lease. At all times hereto, Tenant shall pay its *pro rata* share of Operating Expense as required by Section 6 of this Lease.

1.11 Permitted Use: General Office Space, municipal and governmental agency purposes.

1.12 Notice and Payment Addresses: Unless otherwise specified in writing, Landlord's notice/payment address shall be its Building Manager, and Tenant's notice address shall be the Premises.

1.13 Parking: Parking is provided on an unreserved, "first-come, first-serve" basis.

1.14 Project: The term "Project" shall mean the building(s) and other improvements located on the land from time to time and commonly known as the Newcastle Professional Center.

2 GRANT.

Subject to the terms of this Lease, Landlord leases to Tenant, and Tenant leases from Landlord, the Premises specified in Subsection 1.6 herein together with rights of ingress and egress over and across the Projects common areas.

3 RENT.

3.1 Payment. Tenant shall pay the Base Rent specified in Subsection 1.10, the Additional Rent specified in Section 6 below, and all other charges due under this Lease, without demand, deduction, or offset, in advance, on or before the first day of each month. Rent shall be paid to Landlord's Building Manager, or to such other person or place as may be designated by Landlord from time to time. For purposes of this Lease, Base Rent, Additional Rent, and all other amounts payable by Tenant to Landlord are collectively referred to in this Lease as "Rent," and are deemed to constitute rent for the purpose of all applicable laws. Rent for any partial month shall be prorated.

3.2 Late Charge/Interest. If any payment is not received by Landlord within ten (10) days after the due date, Tenant shall pay Landlord, in addition to the Rent due, a Late Charge equal to five percent (5%) of the delinquent amount. In addition, if payment is not received by Landlord within ten (10) days after the due date, then the delinquent amount will bear interest at a rate equal to one and one-half percent (1.5%) per month, or the highest rate permitted by law, whichever is less, calculated from the due date to the date full payment is received by Landlord.

3.3 Acceptance of Partial Payment. Landlord's acceptance (through negotiation of Tenant's check or otherwise) of less than the full amount of Rent or other sums due will not be deemed an accord and satisfaction unless Landlord specifically agrees in writing to the contrary.

4 USES.

4.1 Permitted Use. The Premises may be used only for the Permitted Use specified in Subsection 1.11, and for no other purpose without Landlord's prior written consent.

4.2 Compliance with Laws. No act shall be done in or about the Premises that is unlawful or that will increase insurance rates on the Building. Tenant shall not commit or permit any waste, or any public or private nuisance, or other act which disturbs other tenants in the Building. Tenant shall comply with all laws, regulations, ordinances, codes or conditions relating to its use of the Premises and shall observe Landlord's rules and regulations for the Building.

4.3 Signage. So long as Tenant occupies the Premises, Tenant, at **Landlord's** expense, shall have the right to have its business name displayed on the Building directory located in the first floor Building lobby and the entry door, where the Premises are located, all in the Building's standard size, typeface, materials, and locations, which shall be determined by Landlord. Tenant shall not place or display any other sign, notice, picture, placard or poster, or any advertising material whatsoever, visible either directly or indirectly (as an outline or shadow on a glass pane) from anywhere outside the Premises without first obtaining Landlord's prior written consent. Any consent by Landlord shall be upon the condition that Tenant will remove the signage/advertising promptly on Landlord's request, and in any event at the expiration or sooner termination of this Lease; that Tenant shall repair any damage to the Premises or the Building caused thereby and that any such signage/advertising comply with Landlord's requirements as to size, materials and design. Tenant shall pay the costs associated with any other signage approved by Landlord. Tenant shall also pay the costs for any changes requested by Tenant to the Building directory.

Provided however, notwithstanding anything to the contrary herein, Landlord in its discretion and at its' expense, shall install a monument sign as well as lobby and suite entry signage.

5 SERVICES AND UTILITIES.

5.1 Standard Services. Landlord will maintain the Premises and the common areas of the Building, such as lobbies, elevators, stairs, corridors and restrooms, in reasonably good condition. Between 7:00 a.m. and 6:00 p.m., Monday through Friday, and between 8:00 a.m. and 1:00 p.m. Saturday (excluding holidays), Landlord will furnish the Premises with HVAC service. Landlord will also provide light replacement service for landlord-furnished lighting fixtures (excluding those within the Premises), toilet room supplies, and window washing (excluding re-lites) at reasonable intervals. **Tenant shall provide and pay for janitorial services and supplies** within the Premises. Tenant shall have 24 hours per day, 7 days per week access to the Premises.

5.2 Additional Services. Before installing any equipment or lights in the Premises that generate, in combination with all other lights and equipment in the Premises, more than 2.5 watts per square foot of floor area, or which consume more electricity than the typical complement of office machinery, or use of medical/**dental equipment** Tenant shall obtain Landlord's prior written permission. Landlord may refuse to grant such permission if, in its judgment, the amount of heat so generated would place an above average burden on the HVAC or electrical systems for the Building. Landlord may require Tenant to agree to pay as Additional Rent amounts reasonably determined by Landlord to cover the additional installation and maintenance costs, as well as increased HVAC **and/or utilities** costs generated by Tenant's equipment and lights. Landlord shall be entitled to install and operate, at Tenant's cost, a monitoring/metering system in the Premises to measure the added demands on electricity and HVAC systems.

5.3 Interruption of Services. In the event of an interruption or failure of Building services, Landlord will use reasonable diligence to restore such service; however, Landlord will in no event be liable for any damages to business, persons or property directly or indirectly resulting from any variation, interruption, or failure of such services. No temporary interruption or failure of services incident to the making of repairs, alterations, or improvements, or due to accident or strike, or events beyond Landlord's control shall be deemed a default by Landlord or a constructive eviction of Tenant, nor shall such interruption or failure of services relieve Tenant from any of its obligations/responsibilities under this Lease.

6 ADDITIONAL RENT.

Tenant shall pay to Landlord, as Additional Rent, Tenant's Proportionate Share, as defined in Subsection 1.7 of this Lease, of Landlord's Operating Costs, as more specifically set forth in this Section 6.

6.1 Definitions.

6.1.1 Lease Year means the calendar year commencing January 1 and ending December 31.

6.1.2 Operating Costs Definition. The Operating Costs are hereby defined as all costs related to the ownership, administration, management, maintenance, and operation of the Building, the Common Areas, the Project, as well as the Land, including but not limited to:

6.1.2.1 Real estate taxes, assessments, and appeals of taxes and assessments on the Project, the Building or any parts thereof (including the Land, Common Areas, and buildings), and personal property taxes associated with personal property used in the operation of the Project or any part thereof.

6.1.2.2 The total annual net costs and expenses of insuring lands, buildings, improvements and equipment, and other property in or forming part of the Project including, but not limited to, earthquake and flood insurance, in such manner and form and with such companies and with

such coverage and deductibles and in such amounts as the Landlord may from time to time determine;

6.1.2.3 Special taxes, licenses (other than taxes on income or profits), and permits and inspection fees from time to time payable by the Landlord with respect to the Project;

6.1.2.4 Salaries and wages (including employee benefits, worker's compensation, pension plan contributions, fringe benefits, severance pay, termination payments and similar payments and contributions) paid or payable to all personnel, including supervisory personnel and managers, and all costs of obtaining such personnel, to the extent that they are employed in connection with the operation or maintenance of the Project or any part thereof and further including the cost of building and cleaning supplies, tools and equipment, employee uniforms, dry cleaning expenses and communication devices related to such personnel or employees, together with the costs of independent service contracts incurred in cleaning, maintenance and operation of the Project including without limitation policing, security, supervision, traffic control, **common area janitorial**, exterior and lobby window cleaning, waste collection, recycling, snow removal and gardening services, maintenance of mechanical and electrical systems, elevators (if applicable), fire and life safety systems, fire extinguishers;

6.1.2.5 Lighting, electricity, public utilities, loudspeakers, public address and musical broadcasting systems, telephone answering service facilities and systems and information facilities and systems used in or serving the Project, including the cost of any electricity, fuel, water, telephone, steam, gas, sewage disposal, heating, ventilating, air conditioning or other utilities and services and the cost of replacing the standard electric light fixtures, ballasts, tubes, starters, lamps, light bulbs and controls of the Project;

6.1.2.6 The cost and charges of the rental and any contract for the rental of any equipment and signs used by the Landlord in the operation or maintenance of the Project;

6.1.2.7 All repairs and replacements to and maintenance and operation of the Project or any part thereof including, without limitation, building exteriors (including painting) signs and directories, repairing and replacing roofs, walls, and the systems, facilities and equipment serving the Project, save for the cost of repairing or replacing any inherent structural defects or weaknesses;

6.1.2.8 Depreciation or amortization as determined by the Landlord in accordance with generally accepted accounting principles ("GAAP");

6.1.2.9 The costs and expenses, including repair and replacement, incurred in or attributable to the repairing or replacing of all fixtures, equipment, and facilities serving or comprising the Project or any part thereof or which are reasonably responsive to requirements imposed with respect to any applicable health, safety, fire, nondiscrimination or similar law or regulation unless they are, in accordance with generally accepted accounting principles, charged fully in the year in which they are incurred; and

6.1.2.10 In any given period a portion of the capital cost of and installation cost of any machinery, equipment or devices installed in, or utilized in connection with, any part of the Project for the purpose of saving energy or effecting other savings in the Operating Costs thereafter, whether installed in the Project in the first instance as part of its original design, or thereafter, which portion shall be determined by the Landlord amortizing the cost over the reasonable expected life of same determined by the Landlord;

6.1.2.11 Interest calculated at five (5) percentage points above the average prime commercial lending rate of the Landlord's bank (which shall be a major bank in the State of Washington) existing at the end of each calendar month and calculated on an annual basis upon the undepreciated or unamortized portion of the costs referred to in (6.1.2.7) above;

6.1.2.12 Attorney fees, accounting and systems costs, and audit fees related to the operation and maintenance of the Project;

6.1.2.13 The fair market rental value (having regard to rent being charged for similar space including Additional Rent as defined herein) of premises used by the Landlord or its property manager, acting reasonably, in respect of the operation, maintenance, administration or management of the Project; and,

6.1.2.14 An administration fee or actual management fees and/or management agent fees, together with the administrative charges of a management company, if any, for the Project or any part of it, provided that if the Landlord chooses to manage the Project itself, the Landlord shall be entitled to charge a management fee in an amount which would be charged by a first-class real estate management company for management of an office park similar to the Project;

Provided, however, that Operating Costs **shall not include**:

6.1.2.15 Depreciation or amortization save as expressly set out above;

6.1.2.16 Amounts charged to interest on debt or capital retirement of debt;

6.1.2.17 Initial capital costs of constructing the Project;

6.1.2.18 Debt service costs;

6.1.2.19 Any taxes on the income or profits (other than on rents) of the Landlord to the extent that the same are not imposed in lieu of real estate taxes; or

6.1.2.20 Costs incurred by the Landlord in leasing the Project, including commissions, legal costs, advertising costs and tenant inducement concessions/payments;

6.1.2.21 Except as otherwise provided herein, any cost which would be treated as a capital cost in accordance with generally accepted accounting principals;

6.1.2.22 Any special services provided to other tenants should also apply without charge and in a similar fashion;

and further provided that there shall be credited against Operating Costs all net proceeds from policies of insurance, warranties, or guarantees to the extent (but only to the extent) that such proceeds reimburse the Landlord for costs of repair and replacement which have previously been included in the calculation of Operating Costs.

In addition, if any facilities, services, systems, or utilities:

(i) For the operation, maintenance, administration, management, repair or replacement of the Project are provided from another building or buildings owned or operated by the Landlord or its agent; or

(ii) For the operation, maintenance, administration, management, repair or replacement of another building or buildings owned or operated by the Landlord or its agent are provided from the Project,

then the costs, charges, and expenses, therefore, shall for the purpose of calculation of Operating Costs, be allocated by the Landlord between the Project and the other building or buildings on a reasonable basis.

6.1.4 Operating Costs Allocable to the Premises means the Tenant's Proportionate Share of Operating Costs in a Lease Year as specified in Subsection 1.7 herein.

6.1.5 Estimated Operating Costs Allocable to the Premises means Landlord's estimate of Operating Costs Allocable to the Premises for the following Lease Year.

6.1.6 Base Amount means the Operating Costs Allocable to the Premises for the Base Year.

6.1.7 Property Taxes means all real property taxes and personal property taxes, charges and assessments levied with respect to the Land, the Building, and any improvements, fixtures and equipment and all other property of Landlord, real or personal, located in or on the Building and used in connection with the operation of the Building and the Land.

6.1.8 Payment of Additional Rent Based on Estimated Operating Costs. In each month of each Lease Year subsequent to the Base Year, Tenant shall pay, as Additional Rent, one-twelfth (1/12) of the amount, if any, by which the Estimated Operating Costs Allocable to the Premises for such Lease Year exceeds the Base Amount. If during such Lease Year, it appears to Landlord that the actual Operating Costs Allocable to the Premises will vary from Landlord's estimate by more than five percent (5%), Landlord may, by written notice to Tenant, revise its estimate for such Lease Year and Additional Rent payments by Tenant for that Lease Year will be based upon Landlord's revised estimate. Landlord shall use reasonable efforts to provide Tenant with a statement of Estimated Operating Costs Allocable to the Premises within ninety (90) days after commencement of each Lease Year, and if no such statement is provided, Tenant shall continue to pay the amount of Estimated Operating Costs Allocable to the Premises set forth in the previous statement until a new statement is provided.

6.1.9 Reconciliation Based on Actual Operating Costs. Landlord will use reasonable efforts to deliver to Tenant, within 90 days after the close of each Lease Year, a statement of the actual Operating Costs Allocable to the Premises for the preceding Lease Year, although Landlord's failure to deliver such statement within ninety (90) days shall not be construed as a waiver of Tenant's obligation to pay for actual Operating Costs in excess of Estimated Operating Costs. If such costs for any Lease Year exceed the estimated payments made by Tenant to Landlord for such Lease Year, Tenant shall pay such excess to Landlord within thirty (30) days after receipt of Landlord's invoice. If such statement shows that actual Operating Costs allocable to the Premises are less than the amount paid by Tenant to Landlord pursuant to Section 6.1.8, then the amount of such overpayment will be credited by Landlord against the next Rent due.

6.1.10 Pro-Rating Additional Rent. If this Lease commences on a day other than January 1, then the Operating Costs Allocable to the Premises with respect to the initial Lease Year will be prorated on the basis by which the number of months from the beginning of the month in which the commencement of this Lease occurs to the end of the Lease Year bears to 12.

6.1.11 Payment of Additional Rent Based on Property Taxes. If the amount of Property Taxes on the Land and the Building payable in a calendar year during the Lease term exceeds the amount of such taxes payable in the calendar year the Lease term commenced, then Landlord shall notify Tenant in writing and Tenant shall within 30 days of receipt of such notice reimburse Landlord for Tenant's

Proportionate Share of such excess. Commencing on and retroactive to January 1 of each calendar year, one-twelfth (1/12th) of the amount so determined shall be paid by Tenant to Landlord as Additional Rent on the first day of each month during the ensuing one-year period (or for the balance of the Lease term if it is then less than one year).

7. TAX ON RENTALS; TENANT'S PERSONAL PROPERTY TAXES.

7.1 Tax on Rentals. If any tax is placed on Rent payable under this Lease or accruing from use of property, or such a tax in any form against Landlord measured by income derived from the rental of the Building, such tax shall be paid by Tenant either directly or through Landlord; provided, however, that Tenant will not be liable to pay any net income tax imposed on Landlord.

7.2 Personal Property Taxes. Tenant shall pay prior to delinquency all personal property taxes payable with respect to all property of Tenant located on or in the Premises, or in the Building, and shall provide promptly upon request of Landlord written proof of payment.

7.3 Tenant Exempt from Leasehold Excise Taxes. As a municipal corporation that is exempt from property taxes pursuant to RCW 84.36.010, the Tenant is exempt from all leasehold excise taxes. Under this Lease, the Landlord will not charge or collect any leasehold excise tax or Property Taxes as Additional Rent from the Tenant, unless required by law.

8. ALTERATIONS AND CARE OF PREMISES.

8.1 Tenant's Duty. Tenant shall take good care of the Premises and shall promptly make all necessary repairs and maintenance. All damage to the Premises or Building (including windows and doors) caused directly or indirectly by Tenant, or Tenant's employees, agents, independent contractors, licensees or invitees, shall be promptly paid for by Tenant. If Tenant fails to maintain the Premises as required by this Lease, Landlord may at any time and at its option, cause the same to be put in the condition Landlord deems appropriate, and in such case, upon receipt of Landlord's invoice, Tenant shall, within ten (10) days, pay to Landlord the entire cost of those repairs as Additional Rent. Pursuant to Section 10, Landlord shall have the right to enter the Premises for the purpose of undertaking such work upon the failure of Tenant to do so.

8.2 Alterations. Except as provided in Subsection 9.3 Tenant may not, without first obtaining Landlord's written consent and, when required by Landlord provide Landlord with drawings, plans and specifications prepared at Tenant's expense and approved by Landlord, (a) make alterations to the Premises, (b) install, modify, replace or in any way change any floor or wall covering, ceiling, lighting, fixtures, plumbing, wiring, or signage, (c) install, modify, replace or in any way change curtains, draperies or other hangings on or beside the windows. Tenant may not change locks to any doors between the Premises and Building Common Areas under any circumstances without the prior written permission of Landlord or its representative. Tenant shall assure any approved lock changes are keyed to the building master key. Tenant shall be solely responsible for making sure that its alterations to the Premises comply with all laws, including applicable provisions of the Americans with Disabilities Act, 42 U.S.C. Ch. 126 (the "ADA"). Landlord's approval of Tenant's drawings, plans and specifications shall create no responsibility or liability on the part of Landlord for compliance with applicable laws, regulations or ordinances, including the ADA. Tenant shall reimburse Landlord for any reasonable sums expended for examination and approval of the architectural and mechanical plans and specifications for alterations. Tenant shall reimburse Landlord for its direct reasonable costs incurred during any inspection or supervision of the alterations. All approved work shall be at Tenant's expense and shall be performed by workmen and contractors approved by Landlord. Landlord's consent may be withdrawn by written notice to Tenant if, in Landlord's reasonable judgment, Tenant's contractors, workmen or suppliers are interfering with workmen or contractors of Landlord or of another tenant.

8.3 Normal Wear and Tear. Except as otherwise provided herein, all repairs necessitated by normal wear and tear in order to maintain the Premises and the Building in a tenantable condition shall be performed by or under the direction of Landlord and included in Operating Cost. Landlord shall be the sole judge of necessary repairs.

8.4 Notice of Damage. Tenant shall promptly inform Landlord and Landlord's Building Manager of any damage to the Premises or Building, whether or not caused by Tenant.

9 ALTERATIONS—ADDITIONAL CONSTRUCTION—OWNERSHIP OF IMPROVEMENTS

9.1 Tenant Improvements. Tenant shall complete all Tenant Improvements utilizing contractors of its choosing.

9.2 Exterior Appearance. Except as otherwise provided herein Landlord shall have the right, in Landlord's sole discretion, to control any alterations to or installations on the exterior of the Premises, including but not limited to exterior shades, awnings, window coverings, lights and canopies.

9.3 Additional Construction. During the Term of this Lease, Tenant shall have the right to make non-evasive alterations, additions and improvements to the interior of the Premises; provided, however, any such alterations, additions or improvements to the Premises, or to the structural portions of the Building in which the Premises are located, shall **not** be made by Tenant **without the prior written consent of Landlord (See Subsection 8.2 above)**.

9.4 Ownership of Improvements. Improvements attached to the Premises become the property of the Building/Landlord and may not be removed without the prior written approval of Landlord which approval may be subject to the Tenant's paying for the cost of repairs resulting from the removal of such improvements. All trade fixtures and equipment placed on the Premises by Tenant which are not attached to the Premises, and any alterations or replacements thereof, shall remain the property of, and may be removed by, Tenant. Upon the expiration or earlier termination of this Lease, any such property belonging to Tenant which Tenant has failed to remove from the Premises within thirty (30) days of said expiration or termination shall become the property of Landlord. Landlord may thereafter elect to remove and dispose of such property at tenant's cost and expense. Should Tenant remove any fixture, or any alteration or replacement thereof, which was affixed to the Premises and placed there by Tenant, then Tenant, at its sole cost and expense, shall repair any damage to the Premises caused by such removal.

10 ACCESS TO PREMISES.

Tenant shall permit Landlord, Landlord's Building Manager, and any other persons designated by Landlord, to enter the Premises at all reasonable times for inspection purposes, or for the purpose of cleaning, repairing, altering or improving the Premises or the Building, or for the purpose of showing the Premises to prospective tenants. When necessary, Landlord may temporarily close entrances, doors, corridors, elevators or other facilities without liability to Tenant by reason of such closure and without such action by Landlord being construed as a constructive eviction of Tenant, or relieving or releasing Tenant from the duty of observing each provision of this Lease. Landlord shall not be liable for the consequences of admitting by passkey or refusing to admit to the Premises Tenant or any of Tenant's agents or employees.

11 DAMAGE OR DESTRUCTION.

11.1 Damage and Repair. If the Premises or Building are rendered untenable by fire or other casualty, either wholly or in part, Landlord may, at its option, either (a) terminate this Lease, or (b) repair the damages. If the Premises are damaged, the Rent shall be abated in the same proportion as the untenable portion of the Premises bears to the whole thereof during the period of the damage unless the damage directly or indirectly results from, any act or omission of Tenant, or its officers, contractors, licensees, agents, servants, employees, guests, invitees or visitors. If, within ninety (90) days after Landlord's receipt of Tenant's written notice that Tenant deems the Premises wholly or partially untenable, Landlord fails to notify Tenant of its election to restore the Premises, then Tenant may, at its option, terminate the Lease subject to the provisions set forth below. Tenant, in order to so

terminate, must provide written notice to Landlord by certified mail of its intention to terminate within thirty (30) days after the expiration of said ninety (90) day period. If Tenant gives notice of its intention to terminate the Lease as provided above, the Lease shall terminate thirty (30) days after Landlord's receipt of the notice unless within said thirty (30) day period Tenant receives notice of Landlord's election to restore. If Landlord elects to restore the Premises, Landlord shall proceed with reasonable diligence to restore the Premises.

11.2 Business Interruption. No damages, compensation or claim including, but not limited to consequential damages, shall be payable by Landlord for inconvenience, loss of business or annoyance arising from any repair or restoration of any portion of the Premises or of the Building.

11.3 Tenant Improvements and Tenant's Personal Property—Damage-Insurance. Landlord will not carry insurance of any kind for the protection of Tenant or for any improvements paid for by Tenant or on Tenant's furniture or on any fixtures, equipment, improvements or appurtenances of Tenant, and Landlord shall not be obligated to repair any damage thereto or replace the same.

12 INDEMNIFICATION

12.1 Tenant shall indemnify, defend and hold Landlord harmless from all claims arising from Tenant's use of the Premises or the conduct of its business or from any activity, work, or thing done, permitted or suffered by Tenant in or about the Premises or the Project. Tenant shall further indemnify, defend and hold Landlord harmless from all claims arising from any breach or default in the performance of any obligation to be performed by Tenant under the terms of this Lease, or arising from any act, neglect, fault or omission of Tenant or of its agents or employees, and from and against all costs, attorneys' fees, expenses, and liabilities incurred in or about such claim or any action or proceeding brought thereon. In case any action or proceeding shall be brought against Landlord by reason of any such claim, Tenant, upon notice from Landlord, shall defend the same at Tenant's expense by counsel approved in writing by Landlord; provided that the foregoing provision shall not be construed to make Tenant responsible for loss, damage, liability or expense resulting from injuries to third parties caused by the negligence of Landlord, or its officers, contractors, agents or employees. In the event of concurrent negligence of Tenant, its sub lessee(s), assignee(s), invitee(s), agent(s), employee(s), contractor(s), or licensee(s) on the one hand, and that of Landlord, its agent(s), employee(s), or contractor(s) on the other hand, which concurrent negligence results in injury or damage to persons or property of any nature and howsoever caused, and relates to the construction, alteration, repair, addition to, subtraction from, improvement to or maintenance of the Premises, Common Areas, or Building, Tenant's obligation to indemnify Landlord as set forth in this Subsection shall be limited to the extent of Tenant's negligence, and that of Tenant's sub lessee(s), assignee(s), invitee(s), agent(s), employee(s), contractor(s) or licensee(s), including Tenant's proportional share of costs, attorneys' fees and expenses incurred in connection with any claim, action or proceeding brought with respect to such injury or damage. Tenant agrees that it will not assert its industrial insurance immunity if such assertion would be inconsistent with Landlord's right to indemnification from Tenant pursuant to this Subsection. The parties agree that this provision was mutually negotiated.

12.2 The indemnification obligations contained in this Lease shall not be limited by any worker's compensation, benefits or disability laws and Tenant hereby waives any immunity that Tenant may have under the Industrial Insurance Act, Title 51 RCW and similar worker's compensation benefit or disability laws.

12.3 Landlord shall indemnify, defend and hold Tenant harmless from all claims arising from Landlord's work in or about the Common Area. Landlord shall further indemnify, defend and hold Tenant harmless from all claims arising from any breach or default in the performance of any obligation to be performed by Landlord under the terms of this Lease, or arising from any act, neglect, fault or omission of Landlord or of its agents or employees, and from and against all costs, attorneys' fees, expenses, and liabilities incurred in or about such claim or any action or proceeding brought thereon. In case any action or proceeding shall be brought against Tenant by reason of any such claim, Landlord, upon notice from Tenant, shall defend the same at Landlord's expense by counsel retained by Landlord, provided that the foregoing provision shall not be construed to make Landlord responsible

for loss, damage, liability or expense resulting from injuries to third parties caused by the negligence of Tenant, or its officers, contractors, agents or employees.

12.4 LANDLORD AND TENANT ACKNOWLEDGE BY THEIR EXECUTION OF THIS LEASE THAT EACH OF THE INDEMNIFICATION, RELEASE AND WAIVER PROVISIONS OF THIS SECTION 12 (SPECIFICALLY INCLUDING BUT NOT LIMITED TO THOSE RELATING TO WORKERS' COMPENSATION BENEFITS AND LAWS) WAS SPECIFICALLY NEGOTIATED AND AGREED TO BY LANDLORD AND TENANT.

13 TENANT'S INSURANCE

13.1 Tenant shall, during the term hereof and any other period of occupancy, at its sole cost and expense, keep in full force and affect the following insurance:

13.1.1 Commercial General Liability Insurance insuring Tenant against any liability arising out of lease, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be in the amount of not less than **One Million and No/100 Dollars (\$1,000,000.00)** Combined Single Limit for injury to, or death of one or more persons in an occurrence, and for damage to tangible property (including loss of use) in an occurrence. The policy shall insure the hazards of Premises and operations, independent contractors, contractual liability (covering the indemnity contained in Section 12 hereof and shall (1) name Landlord as an additional insured, and (2) contain a provision that "the insurance provided Landlord hereunder shall be primary and non-contributing with any other insurance available to Landlord,"

13.1.2 Proper coverage for full replacement cost covering all personal property (including but not limited to, contents, **furniture, fixtures, tenant improvements**, alterations, additions, and betterments to the Premises) for specified perils cause of loss; and,

13.1.3 Any other forms of insurance and in such amounts as Landlord, or any mortgagees of Landlord may require from time to time.

13.2 All policies shall be written in a form satisfactory to Landlord and shall be taken out with insurance companies holding a General Policyholders Rating of "A" and a Financial Rating of "A5" or better, as set forth in the most current issue of Bests Insurance Guide. Within five (5) days after occupancy of the Premises, Tenant shall deliver to Landlord copies of policies or certificates evidencing the existence of the amounts and forms of coverage satisfactory to Landlord. No such policy shall be cancelable or reducible in coverage except after thirty (30) days prior written notice to Landlord. Tenant shall within ten (10) days prior to the expiration of such policies, furnish Landlord with renewals or "binders" thereof, or Landlord may order such insurance and charge the cost thereof to Tenant as Additional Rent. If Landlord obtains any insurance that is the responsibility of Tenant under this Section 13, Landlord shall deliver to Tenant a written statement setting forth the cost of any such insurance and showing in reasonable detail the manner in which it has been computed. The insurance and coverage requirements in this Lease Agreement shall be deemed satisfied upon Tenant's presentation of an Evidence of Coverage letter evidencing Tenant's membership in a municipal self- insurance pool.

14 WAIVER OF SUBROGATION.

14.1 Release and Waiver. Whether any loss or damage is due to the negligence of either Landlord or Tenant, their agents or employees, or any other cause, Landlord and Tenant hereby release the other and any other tenant, their agents or employees, from responsibility for, and waive their entire claim of recovery for (a) any loss or damage to the Building or the property of either located anywhere in the Building arising out of or incident to the occurrence of any of the perils which may or should be covered by their respective insurance policies required under the terms and conditions of this Lease, or (b) any loss resulting from business interruption at the Premises or loss of rental income from the Building, arising out of or incident to the occurrence of any of the perils which may be covered by

business interruption or rental income insurance policies held by either party. Each party shall cause its insurance carriers to consent to such waiver and to waive all rights of subrogation against the other party.

15 HAZARDOUS SUBSTANCES.

15.1 Environmental Indemnity. Tenant shall not, without Landlord's prior written consent, cause or permit any Hazardous Substances to be brought upon, kept or used in or about the Premises, Building or Land that would not normally be associated with the practice of dentistry. If Tenant breaches its obligations set forth herein, or if the presence of Hazardous Substances on or about the Premises, Building, or Land caused or permitted by Tenant results in contamination for which Tenant or Landlord may be legally liable, then Tenant shall indemnify, defend and hold Landlord harmless from and against all claims, judgments' damages, penalties, fines, costs, liabilities, or losses arising out of or in connection therewith. Tenant's obligations under this Section shall survive the expiration or termination of this Lease.

15.2 Hazardous Substances Defined. Hazardous Substances shall mean: (i) those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances," or "solid waste" in CERCLA, as amended by Superfund Amendments and Reauthorization Act of 1986 (Publ. L. 99-499 100 Stat. 1613) ("SARA"), the **Resource** Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 et seq.) ("RCRA"), and the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq., and in the regulations promulgated pursuant to said laws, all as amended; (ii) those substances listed in the United States Department of Transportation Table (49 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto); (iii) any material, waste or substance which is (A) petroleum, (B) asbestos, (C) polychlorinated biphenyl, (D) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. 1251 et seq. (33 U.S.C. § 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. § 1317); (E) flammable explosives; or (F) radioactive materials; (iv) those substances defined as "dangerous wastes," "hazardous wastes" or as "hazardous substances" under the Water Pollution Control Act, RCW 90.48.010 et seq., the Hazardous Waste Management Statute, RCW 70.105.010 et seq., and the Toxic Substance Control Act (Senate Bill No. 6085) RCW 70.105B.010 et seq., the Model Toxics Control Act, RCW 70.105D.010 et seq., and the Toxic Substance Control Act, 15 U.S.C. § 2601 et seq., and in the regulations promulgated pursuant to said laws all as amended; and (v) such other substances which are or become regulated or classified as hazardous or toxic under applicable local, state or federal laws or regulations.

16 ASSIGNMENT AND SUBLETTING.

16.1 General. Except as otherwise provided herein, Tenant shall not, either voluntarily or by operation of law, assign, hypothecate or transfer this Lease, or sublet the Premises or any part thereof, ("Transfer") without the prior written consent of Landlord in each instance, which consent shall not be unreasonably withheld. No Transfer shall relieve **Tenant** of any liability under this Lease. Consent to any Transfer shall not operate as a waiver of the necessity for consent to any subsequent Transfer. Any sale, assignment, hypothecation or Transfer of this Lease or subletting of the Premises that is not in compliance with the provisions of this Section 16 shall be void and shall, at the option of Landlord, terminate this Lease. Each *request* for an assignment or subletting must be accompanied by a review and processing fee, in the *minimum* amount of Five Hundred Dollars (\$500.00), in order to reimburse Landlord for expenses, including attorneys' fees, incurred in connection with such request.

16.2 Entity Ownership. If Tenant is not a natural person, transfer of the right of the owner of Tenant, or the owner of any affiliated entity which directly or indirectly controls Tenant, shall constitute a transfer of this Lease, regardless of how such control is transferred. By way of example, any transfer, redemption, or new issuance of voting stock of a corporation which results in a change in the identity of the majority shareholder constitutes a transfer of control, and in the case of a Limited Partnership, change in the identity of the general partner would constitute a transfer of control. Whether material control has been transferred shall be judged in light of the governing documents of the entity in question. This Subsection 16.2 shall not apply to any Tenant corporation, the outstanding voting stock of which is listed on a national securities exchange or actively traded over-the-counter.

16.3 Assignee/Sub-Tenant Obligations. As a condition to Landlord's approval, any potential assignee or sub-tenant shall assume all obligations of Tenant under this Lease, and any amendments thereto, and shall be jointly and severally liable with Tenant and any guarantors hereof for the payment of Rent and performance of all terms, covenants and conditions of this Lease. In connection with any sublease or assignment, Tenant shall provide Landlord with copies of all assignments, subleases and assumption instruments.

17 LIENS AND INSOLVENCY.

17.1 Liens. Tenant shall keep the Premises and the Building free from any liens arising out of any work performed and materials ordered, or obligations incurred by or on behalf of Tenant. In the event any lien is filed against the Building, the Land or the Premises by any person claiming by, through or under Tenant, Tenant shall be in Default hereunder; provided however, Tenant shall not be in Default if Tenant furnishes immediately to Landlord (at Tenant's expense), a bond in form and amount and issued by a surety reasonably satisfactory to Landlord, indemnifying Landlord, the Land and the Building against all liability and expenses, including attorneys' fees, which Landlord could possibly incur as a result of said lien. Landlord shall, at all times, have the right to post notices of non responsibility on or around the Premises and/or record such notices in the county where the Building is located.

17.2 Insolvency. If Tenant becomes insolvent (not being able to pay existing obligations in due course and a timely manner), voluntarily or involuntarily bankrupt, or if a receiver, or assignee or other liquidating officer is appointed for the business of Tenant, then Landlord may terminate Tenant's right of possession under this Lease at Landlord's option and in no event shall this Lease or any rights or privileges hereunder be an asset of Tenant under any bankruptcy, insolvency or **reorganization** proceedings. The appointment of a trustee in bankruptcy or of a receiver for the business or property of Tenant shall be deemed a material Default of this Lease by Tenant, unless the trustee or receiver, within five (5) days after appointment in the case of any delinquency in any payment required as and when due, or within fifteen (15) days after appointment in the case of any Default other than the making of any payment, (i) cures any outstanding Default, (ii) fully compensates Landlord for any loss resulting from such Default, and (iii) provides adequate assurances of future performance under this Lease, which assurances may include at Landlord's option, depositing with Landlord additional security in an amount not to exceed the equivalent of two (2) months rent as determined at the time of appointment.

18 DEFAULT.

18.1 Default is Immediate. Time is of the essence, and except as specifically provided below Tenant shall be in default if Tenant fails to timely perform any material obligation of Tenant under this lease (a "Default").

18.2 TENANT'S RIGHT TO CURE.

18.2.1 Non Payment of Rent or Other Amounts Due: For the nonpayment of Rent, or any other amounts due under this Lease, Tenant shall have a period of ten (10) days from the date payment is due within which to cure by paying all amounts past due, together with *interest, in the event payment is not received by Landlord within ten (10) days of the due date* at the rate equal to one and one-half percent (1.5%) per month, or the highest rate permitted by law, whichever is less, calculated from the due date as per subsection 3.1 of this Lease to the date of full payment. In addition, in the case of Base Rent, Tenant shall pay a *Late Charge* equal to five percent (5%) of the delinquent amount.

18.2.2 Failure to Perform Other Lease Covenants or Provisions: For any other Default under this Lease, Tenant shall have a period of ten (10) days after the receipt of Landlord's written notice of Default within which to cure. If, notwithstanding Tenant's good faith efforts to cure, any Default under this subsection cannot be cured within the ten (10) day period, Tenant's Default shall not be deemed to be

uncured if Tenant continues exercising good faith and due diligence to cure such Default, which completion shall occur not later than sixty (60) days from the date of such notice from Landlord.

18.2.3 Multiple Defaults Within Twelve Month Period: In the event Tenant should Default on any provision of this Lease two (2) or more times within a twelve (12) month period during Tenant's occupancy of the Premises, regardless of whether such Defaults were subsequently cured, Tenant shall thereafter forfeit any further rights to cure any future Defaults.

18.2.4 Vacation and Abandonment. Notwithstanding anything to the contrary in Subsection 18.2 any vacation or abandonment by Tenant shall be considered a Default with no right to cure, allowing Landlord to exercise all rights contained in Subsections 18.2.5 and 18.2.6 of this Lease. Vacation shall be defined as an absence from the Premises for more than forty five (45) days. Abandonment shall be defined as an absence from the Premises for more than twenty (20) days while Tenant is otherwise in Default after any cure periods expire.

18.2.5 Landlord's Re-Entry; Acceleration of Rent. Following the expiration of any applicable cure period for a Default by Tenant, Landlord, in addition to other rights it may have, may at its option enter the Premises, either with or without process of law, and remove Tenant or any other persons who may be therein, together with all personal property found therein. In addition, Landlord may terminate this Lease, or it may from time to time, without terminating this Lease and as agent of Tenant, re-let the Premises or any part thereof upon such terms as Landlord may deem advisable, with the right to repair and remodel the Premises. Tenant shall remain liable for any deficiencies under this Lease, computed as set forth below. In the case of any uncured Default, re-entry and/or dispossession by summary proceedings or otherwise, all Rent and other sums due pursuant to this Lease for the balance of the term shall become immediately due, together with such expenses as Landlord may incur including, but not limited to, attorneys' fees, advertising expenses, brokerage fees, **lease incentives and/or inducements** and/or putting the Premises in good order or preparing the same for re-rental, together with interest and handling charges as provided in Section 3 above, accruing from the date of any such expenditure by Landlord (hereinafter "Landlord's Expenses").

18.2.6 Re-Letting the Premises. At the option of Landlord, rents received by Landlord from re-letting the Premises shall be applied first to the payment of any indebtedness from Tenant to Landlord other than Rent and other sums due; second to the payment of any costs resulting from such re-letting, including, but not limited to, attorneys' fees, advertising fees and brokerage fees and to the payment of any repairs or remodeling to the Premises; third, to the payment of Rent due and to become due hereunder, and, if after applying these amounts, there is any deficiency in the Rent to be paid by Tenant under this Lease, Tenant shall pay any deficiency to Landlord monthly on the dates specified herein and any payment made or suits brought to collect the amount of the deficiency for any month shall not prejudice in any way the right of Landlord to collect the deficiency for any subsequent month. **Provided, however, in the event Landlord re-lets the Premises for the balance of the lease term at a rent equal to or greater than the Rent due hereunder, then Tenant shall be relieved from paying any additional Rent from the date Landlord commences receiving rent from the new tenant. However, in no event shall Tenant be relieved from paying Landlord's Expenses as defined in Subsection 18.2.5 above in the event of Landlord's Re-Letting of the Premises.** The failure or refusal of Landlord to re-let the Premises or any part or parts thereof shall not release or affect Tenant's liability hereunder, nor shall Landlord be liable for failure to re-let, or in the event of re-letting, for failure to collect the Rent thereof, and in no event shall Tenant be entitled to receive any excess of net rents collected over sums payable by Tenant to Landlord hereunder, provided that landlord satisfies its legal obligation to take reasonable steps to mitigate its losses. No such re-entry or taking possession of the Premises shall be construed as an election on Landlord's part to terminate this Lease unless a written notice of such intention is given to Tenant. Notwithstanding any such re-letting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous Defaults, should Landlord at any time

terminate this Lease by reason of any Default, in addition to any for the balance of the term, as it may have been extended, over the then fair market value of the Premises for the same period reduced to present value, plus all court costs and attorneys' fees incurred by Landlord in the collection of the same.

18.2.7 Waiver of Redemption Rights. Tenant, for itself, and on behalf of any and all persons claiming through or under it, including creditors of all kinds, hereby waives all rights which they or any of them might have under or by reason of any present or future law, to redeem the Premises or to have a continuance of this Lease for the term hereof, after applicable cure periods under this Lease have expired, and before being dispossessed or ejected there from by process of law.

18.2.8 Cumulative Remedies. All rights and remedies of Landlord provided in this Lease shall be cumulative, and none shall exclude any other right or remedy allowed by law. In addition to the other remedies provided in this Lease, Landlord shall be entitled to restrain by injunction the violation or attempted violation of any of the provisions of this Lease.

19 MORTGAGE SUBORDINATION AND ATTORNMEN.T.

This Lease shall be subordinate to any mortgage or deed of trust now existing or hereafter placed upon the Land, the Building or the Premises created by or at the instance of Landlord, and to any and all advances to be made there under, and to interest thereon and all modifications, renewals and replacements or extensions thereof ("Landlord's Mortgage"); provided, however, that if the holder of any Landlord's Mortgage or any person or persons purchasing or otherwise acquiring the Land, Building or Premises at any sale or other proceeding under any Landlord's Mortgage shall elect to continue this Lease in full force and effect; and, in such event, Tenant shall attorney to and become the Tenant to such person or persons. Tenant shall, upon demand by Landlord, execute such instruments as may be required at any time, and from time to time, to subordinate the rights and interests of the Tenant under this Lease to the lien of any mortgage or deed of trust at any time placed on the Land or Building of which the Premises are a part. A failure by Tenant to execute such instruments shall be deemed an Event of Default under the terms of this Lease.

20 ACTIONS AT EXPIRATION OR TERMINATION OF LEASE.

20.1 Surrender of Possession. Subject to the terms of Section 11 relating to damage and destruction, upon expiration of the term of this Lease, whether by lapse of time or otherwise, Tenant shall promptly and peacefully surrender the Premises, together with all keys thereto, to Landlord in as good condition as when received by Tenant from Landlord or as thereafter improved, reasonable wear and tear excepted.

20.2 Holdover. If Tenant shall, without the written consent of Landlord, hold over after the expiration or termination of this Lease, such tenancy shall continue only on a month-to-month basis and may be terminated by Landlord in accordance with Washington law. During the holdover tenancy, Tenant shall pay Landlord **100%** of the Base Rent (including Additional Rent). All other Lease terms shall remain in full force and effect.

20.3 Movable Property. Tenant shall remove all its movable property and trade fixtures which can be removed without damage to the Premises prior to the Expiration Date or sooner termination of this Lease and shall pay Landlord for the cost of repairing any damages to the Premises or Building resulting from such removal.

20.4 Immovable Property. All other property in the Premises, and any alterations or additions thereto (including, without limitation, wall-to-wall carpeting, paneling, **cabinets and counters**, wall covering, window dressings, coverings or shades, or lighting fixtures and apparatus), whether provided by Landlord or Tenant, and any other article affixed to the floor, wall or ceiling of the Premises is the Landlord's property and shall remain with the Premises without any compensation to Tenant. If, however, Landlord requests in writing, Tenant will, prior to the Expiration Date or sooner termination of this Lease, remove such alterations, additions, fixtures, equipment and property placed or installed by it in the Premises and will immediately repair any damages caused by or

resulting from such removal to the condition of the Premises prevailing at the Commencement Date, reasonable wear and tear excepted.

20.5 Failure to Remove Property. If Tenant fails to remove any of its property from the Premises or the Building at the termination of this Lease or when Landlord has the right of re-entry, Landlord may, at its option, remove and store the property without liability for loss thereof or damage thereto, and at Tenant's expense. If Tenant fails to pay the cost of storing Tenant's property after it has been stored for a period of 30 days or more, Landlord may, at its option, sell any or all of such property at public or private sale (and Landlord may become a purchaser at such sale), in such manner and at such times and places as Landlord may reasonably deem proper, without notice to Tenant, and shall apply the proceeds of such sale in the following order: (a) to sale costs, including attorneys' fees actually incurred; (b) to the payment of storage costs; (c) to the payment of any other costs or amounts which may then be or thereafter become due; and (d) the balance, if any, to Tenant.

21 CONDEMNATION.

21.1 Entire Taking. If all of the Building or such portions of the Building as may be required for the reasonable use thereof are taken by eminent domain, or conveyed under a threat of condemnation, this Lease shall automatically terminate as of the date title vests in the condemning authority and all Rent shall be paid to that date.

21.2 Constructive Taking of Entire Premises. In the event of a taking of a material part but less than all of the Building, where Landlord shall reasonably determine that the remaining portions of the Building cannot be economically and effectively used by it (whether on account of physical, economic, aesthetic or other reasons), Landlord shall forward a written notice to Tenant of such determination not more than 60 days after the date of taking. The Lease term shall expire upon such date as Landlord shall specify in such notice but not earlier than 60 days after the date of such notice.

21.3 Partial Taking. In case of a partial taking of the Premises, or a portion of the Building not required for the reasonable use of the Premises, then this Lease shall continue in full force and effect and the Rent shall be equitably reduced in proportion to the reduction of the Floor Area of the Premises. The Rent reduction shall be effective as of the date title to such portion vests in the condemning authority.

21.4 Termination by Landlord. In the event that title to a part of the Building other than the Premises shall be condemned or taken under threat of condemnation, and if, in the opinion of Landlord, the Building should be restored in such a way as to alter the Premises materially, Landlord may terminate this Lease. Landlord shall notify Tenant of such termination within 60 days following the date of vesting of title of the property taken in the condemning authority. This Lease shall expire on the date specified in the notice of termination, but not less than 60 days after the giving of such notice, and the Rent shall be apportioned as of such date.

21.5 Awards and Damages. Landlord reserves all rights to damages to the Premises for any partial, constructive, or entire taking by eminent domain, and Tenant hereby assigns to Landlord any right Tenant may have to such damages or award, and neither Tenant nor anyone acting on behalf of or through Tenant shall make a claim against Landlord or the condemning authority for damages for termination of the leasehold interest or interference with Tenant's business.

22 MISCELLANEOUS.

22.1 Notices. All notices under this Lease shall be in writing and delivered in person or sent by registered or certified mail to Landlord Building Manager at the address specified in Subsection 1.4 and to Tenant at the Premises, or such other addresses as may from time to time be designated by such party in writing. Notices mailed as aforesaid shall be deemed received on the date which is three days following the date of mailing.

22.2 Costs and Attorneys' Fees—Scope of Fees. If either party shall bring an action or proceeding (including, without limitation, any cross-complaint, counterclaim or third party claim) against any other party by

reason of the breach or alleged violation of any covenant, term or obligation hereof, or for the enforcement to any provision hereof, or to interpret the Lease, or for any other claim otherwise arising out of this Lease, the Prevailing Party, as determined by the court, in such action or proceeding shall be entitled to its costs and expenses of suit, including but not limited to reasonable attorneys' fees, which shall be payable whether or not such action is prosecuted to judgment.

If either party is required to initiate or defend any action or proceeding with a third party (including, without limitation, any cross-complaint, counterclaim or third party claim) because of the other party's breach of this Lease, or otherwise arising out of this Lease, and such party is the Prevailing Party, as determined by the court, in such action or proceeding, then the party so initiating or defending shall be entitled to reasonable attorneys' fees from the other party.

Attorneys' fees under this Subsection 22.2 shall include attorneys' fees on any appeal, attorney fees on any confirmation of an arbitration award or in enforcing any judgment on an arbitration award, and, in addition, a party entitled to attorneys' fees shall be entitled to all other reasonable costs and expenses occurred in connection with such action.

22.3 Limitation on Landlord's Liability. Notwithstanding any other provision in this Lease, the obligations and agreements made on the part of Landlord are not made and/or intended to be personal obligations or agreements, or for the purpose of binding Landlord personally or the assets of Landlord except for Landlord's interest in the Premises and Building, but are made and intended for the purpose of binding only the Landlord's interest in the Premises and the Building as the same may from time to time be encumbered. No personal liability or personal responsibility is assumed by, nor shall at any time be asserted or enforceable against, Landlord, its partners, or member or manager of Landlord, or their respective heirs, legal representatives, successors, and assigns on account of this Lease or on account of any covenant, undertaking or agreement of Landlord in this Lease contained.

22.4 Estoppel Certificates. Tenant shall, from time to time, upon written request of Landlord, execute, acknowledge and deliver to Landlord, or its designee, a written statement certifying: (i) this Lease is unmodified and in full force and effect (or if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the Rent and other charges are paid in advance, if any, and (ii) acknowledging that there are no uncured Defaults on the part of Landlord hereunder, or specifying such Defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Premises. If Tenant shall fail to respond within 10 days of receipt by Tenant of a written request by Landlord as herein provided, Tenant shall be deemed to have given such certificate as above provided without modification and shall be deemed to have admitted the accuracy of any information supplied by Landlord pertaining to Tenant's occupancy of the Premises. A failure by Tenant to execute said certificate shall constitute an Event of Default under the terms of this Lease.

22.5 Transfer of Landlord's Interest. This Lease shall be assignable by Landlord without the consent of Tenant. In the event of any transfer or transfers of Landlord's interest in the Premises or in the Building, other than a transfer for security purposes only, the transferor shall be automatically relieved of all obligations and liabilities on the part of Landlord accruing from and after the date of such transfer and Tenant agrees to attorn to the transferee.

22.6 Heirs and Assigns. This Lease shall be binding upon Landlord and Tenant and their respective heirs, executors, administrators, successors and assigns.

22.7 No Brokers. Except as otherwise provided herein, Tenant represents and warrants to Landlord that it has not engaged any broker who would be entitled to any commission or fees in respect of the negotiation, execution, or delivery of this Lease and shall indemnify and hold harmless Landlord against any loss, cost, liability or expense incurred by Landlord as a result of any claim asserted by any such broker, finder or other person on

the basis of any arrangements or agreements made or alleged to have been made *by or on behalf of Tenant*. The provisions of this subparagraph shall not apply to brokers with whom Landlord has an express written brokerage agreement.

22.8 Entire Agreement. This Lease contains all of the agreements between Landlord and Tenant relating in any manner to the rental, use and occupancy of the Premises and Tenant's use of the Building and other matters set forth in this Lease. No prior agreements or understanding pertaining to the same shall be valid, and this Lease shall not be modified except in writing signed by Landlord and Tenant.

22.9 Severability. Any provision of this Lease which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof and the remaining provisions hereof shall nevertheless remain in full force and effect.

22.10 Force Majeure. Time periods for Landlord's performance under any provision of this Lease shall be extended for periods of time during which the Landlord's performance is prevented due to circumstances beyond the Landlord's reasonable control, including without limitation, fires, floods, earthquakes, lockouts, strikes, embargoes, governmental regulations, acts of God, public enemy, war or other strife.

22.11 Building Parking. Parking spaces are provided on an unreserved "first-come, first-served" basis. Except for intentional acts or gross negligence, Landlord has no liability whatsoever for damage to property or any other items located in the Building parking area, or for any personal injuries or death arising out of any matter relating to the Building parking area. In all events, Tenant agrees to look first to its insurance carriers for payment of any losses sustained in connection with any use of the Building parking area. Landlord reserves the right to assign specific spaces, and to reserve spaces for visitors, small cars, handicapped persons and for other tenants, guests of tenants, or other parties. Tenant may not park in any such reserved or assigned spaces. Landlord also reserves the right to close all or any portion of the Building Parking area (1) in order to make repairs or perform maintenance services, or to alter, modify, re-stripe or renovate the Building parking area, or (2) if required by casualty, strike, condemnation, act of God, governmental law or requirement, or other reason beyond Landlord's reasonable control.

22.12 Right to Change Public Spaces. Landlord shall have the right, without thereby creating an actual or constructive eviction or incurring any liability to Tenant therefore, to change the arrangement or location of such of the following as are not contained within the Premises or any part thereof: entrances, lobbies, passageways, doors and doorways, corridors, stairs, toilets and other like public service portions of the Building. Nevertheless, in no event shall Landlord make any change which shall diminish the area of the Premises.

22.13 Right to Establish Building Rules and Regulations. During the term of this Lease, or any extension thereof, Landlord shall have the right to establish and enforce such reasonable, generally applicable rules and regulations for the Building as Landlord may deem necessary, provided such rules and regulations are consistent with the terms of this Lease. See **Exhibit C** entitled Building Rules and Regulations which are attached hereto and incorporated by reference herein.

22.14 Authority. Each person executing this Lease on behalf of Tenant warrants that he or she is duly authorized to execute and deliver this Lease on behalf of Tenant. Upon request from Landlord, Tenant shall provide a certified copy of an applicable resolution evidencing authorization or ratification of this Lease.

22.15 Nonwaiver. Landlord's failure to insist on strict performance of any of the terms of this Lease shall not be deemed a waiver of any rights or remedies which Landlord may have against Tenant at law or equity, and shall not be deemed a waiver of any subsequent Default in any of such terms.

22.16 Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of Washington. Any action to enforce the provisions hereof shall be in King County, Washington.

22.17 Quiet Enjoyment. Tenant shall, and may peacefully have, hold and enjoy the Premises, subject to the terms and conditions of this Lease, provided Tenant pays the Rent and fully performs all of its covenants and agreements. This covenant and all other covenants of Landlord shall be binding upon Landlord and its successors only during its or their respective periods of ownership of the Building, and shall not be a personal covenant of Landlord, or Landlord related parties.

22.18 Counterparts. This Lease may be executed in several counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

22.19 Exhibits. The following exhibits or riders are made a part of this Lease:

Exhibit A – Floor Plan of Premises.

Exhibit B – Legal Description of Land.

Exhibit C – Building Rules and Regulations.

IN WITNESS WHEREOF this Lease has been executed on the ____ day of November 2023.

LANDLORD:

City of Newcastle

By: _____

Its: _____

TENANT:

City of Mercer Island

By: _____

Its: _____

LANDLORD'S ACKNOWLEDGMENT

[illegible]

I certify that I know or have satisfactory evidence that **Scott Pingel** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that she was authorized to execute the instrument on behalf of the City of Newcastle, a Washington municipal corporation, and acknowledged it as the free and voluntary act of said corporation for the uses and purposes mentioned in this instrument.

Dated November _____, 2023.

(Signature of Notary Public)

(Printed Name of Notary Public)

Notary Public in and for the state of Washington residing at

My Appointment expires: _____

TENANT'S ACKNOWLEDGMENT

[illegible]

I certify that I know or have satisfactory evidence that **Jessi Bon** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that she was authorized to execute the instrument on behalf of the City of Mercer Island a Washington municipal corporation, and acknowledged it as the free and voluntary act of said corporation for the uses and purposes mentioned in this instrument.

Dated November_____, 2023.

(Signature of Notary Public)

(Printed Name of Notary Public)

Notary Public in and for the state of Washington residing at

My Appointment expires: _____

EXHIBIT A
FLOOR PLANS OF PREMISES

(Attached hereto and incorporated herein by reference)

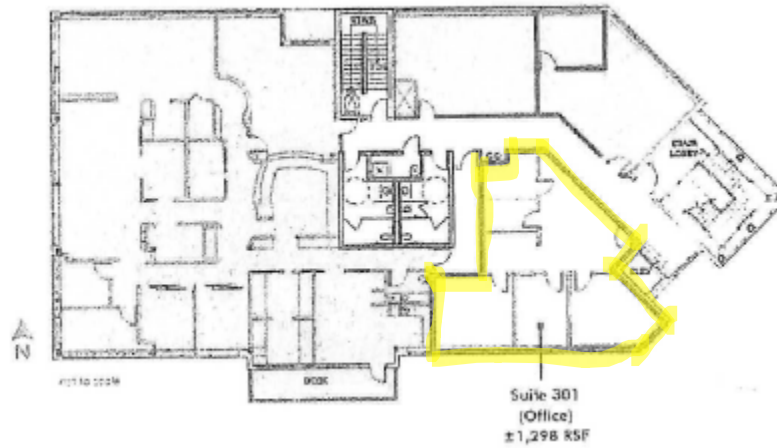


EXHIBIT B
LEGAL DESCRIPTION OF LAND

(Newcastle Professional Center)

THOSE PORTIONS OF THE SOUTH 150 FEET OF THE SOUTHEAST $\frac{1}{4}$ OF THE NORTHEAST $\frac{1}{4}$ AND THE NORTHEAST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 28, TOWNSHIP 24 NORTH, RANGE 5 EAST W.M., LYING SOUTHWESTERLY OF GEORGE H.T. SPARLING COUNTY ROAD NO. 869, AS CONVEYED TO KING COUNTY BY DEED RECORDED UNDER RECORDING NO. 6453534 AND NORTHEASTERLY OF A 60 FOOT PIPELINE RIGHT-OF-WAY AS CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NO. 486190, AND LYING NORTHWESTERLY OF THE FOLLOWING DESCRIBED LINE

BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTHEAST $\frac{1}{4}$ OF THE NORTHEAST $\frac{1}{4}$, THENCE EAST ALONG SAID SOUTH LINE TO THE EASTERLY MARGIN OF SAID 60 FEET PIPELINE RIGHT-OF-WAY;

THENCE SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY 101.10 FEET TO THE NORTHWEST CORNER OF THAT PARCEL OF LAND CONVEYED TO BEN W. MCNAIR AND JOAN M. MCNAIR BY DEED RECORDING UNDER RECORDING NO. 5929269 AND THE TRUE COMMENCEMENT POINT OF BEGINNING OF SAID LINE,

THENCE NORTH $45^{\circ}11'06''$ EAST, 230 70 TO THE SOUTHWEST MARGIN OF SAID GEORGE H.T. SPARLING COUNTY ROAD NO. 869 AND THE TERMINUS OF SAID LINE;

SITUATE IN THE CITY OF NEWCASTLE, COUNTY OF KING, STATE OF WASHINGTON

EXHIBIT C BUILDING RULES AND REGULATIONS

This exhibit is a continuation of that certain Lease dated/executed the _____ day of October, 2023 by and between City of Newcastle and City of Mercer Island on real property in King County, Washington, and by this reference shall become part of that agreement, which Landlord shall have the right to amend from time to time.

1. The sidewalks, entries, passages, court corridors, stairways, and elevators shall not be obstructed by Tenant, its employees or agents, or used by them for purposes other than ingress and egress to and from Premises.

2. Notwithstanding any of the terms and provisions of this Lease, Tenant will refer all contractors, contractors' representatives, and installation technicians rendering any service on or to the Premises for Tenant to Landlord for Landlord's approval and supervision before performance of any contractual service. This provision shall apply to all work performed in the Building and/or the Project, including installation of telephones, telegraph equipment, electrical devices and attachments and installations of any nature affecting floors, walls, woodwork, trim, windows, ceilings, or any other physical portion of the Building or Project. Such approval, if given, shall in no way make Landlord a party to any contract between Tenant and any such contractor, and Landlord shall have no liability therefore. In the event a contractor is hired by Tenant, the Tenant and the contractor shall execute Landlord's standard form Hold Harmless Agreement, which indemnifies Landlord, its agents and invitees from any and all liability in connection with contractor's work. All work performed in the Building shall be performed in compliance with the Tenant Improvement Specifications and the Millennium Building Shell Specifications.

3. Tenant's communication equipment, cabling, telegraphic, telephonic, security systems or other electrical connections shall not be installed without Landlord's prior written approval. Tenant shall install its phone and computer systems in Tenant's suite, and Landlord will require Tenant to label all such installations at the point of beginning, in each mechanical room, every twenty (20) feet to the end point. Within thirty (30) days of final completion of any such work Tenant shall provide Landlord a final as-built detailing the routes and locations of such installation.

4. Except as otherwise indicated herein, no signs, advertisement, or notice shall be inscribed, painted, or affixed on any part of the inside or outside of the Building unless of such color, size, style, and medium and in such place upon or in the Building as shall first be designated in writing by Landlord; there shall be no obligation or duty on Landlord to allow any sign, advertisement notice to be inscribed, painted or affixed on any part of the inside or outside of the Building. Signs on doors must be pre-approved by Landlord. No furniture shall be placed in front of the Building or in any lobby or corridor without the prior written consent of Landlord. Landlord shall have the right to remove all other signs and furniture without notice to Tenant at the expense of Tenant.

5. Landlord's acceptance of any name for listing on the Building Directory will not be deemed, nor will it substitute for, Landlord's consent, as required by this Lease, to any sublease, assignment, or other occupancy of the Premises.

6. Tenant shall have the non-exclusive use in common with Landlord, other tenants, their guests, and invitees, of the automobile parking areas, driveways, and footways, subject to reasonable rules and regulations for the use thereof as prescribed from time to time by Landlord. Landlord shall have the right to designate parking areas for the use of the Project tenants and their employees, and the tenants and their employees shall not park in parking areas not so designated, specifically including driveways, fire lanes, load/unloading areas, handicapped zones, walkways, and building entrances. Tenant agrees that upon written notice from Landlord, it will furnish to Landlord, within five (5) days from receipt of such notice, the state automobile license numbers assigned to the automobiles of the Tenant and its employees. Landlord shall not be liable for any vehicle of the Tenant or its employees that Landlord shall have towed from the Premises. Landlord will not be liable for damage to vehicles in the parking areas or for theft of vehicles, personal property from vehicles, or equipment of vehicles. Cars parked overnight may be towed, at Tenant's expense, unless Tenant has prior written permission from Landlord.

7. No Tenant shall do or permit anything to be done in the Premises, or bring or keep anything therein, which will in any way increase the rate of casualty insurance on the Project, or on property kept therein, or obstruct or interfere with the rights of other tenants, or in any way injure or annoy them, or conflict with the laws relating to fire, or with any regulations of the fire department, or with any insurance policy upon said buildings or any part thereof, or conflict with any rules and ordinances of any governmental agency or department.

8. No windows or other openings that reflect or permit light into the corridors or passageways, or to any other place in said Building shall be covered or obstructed by Tenant.

9. No person shall disturb the occupants of the Project by the making of loud or objectionable noises, or any other unreasonable or offensive conduct or activity including, but not limited to, smoking, which is in violation of any applicable law or as designated by Landlord. In the absence of a designated smoking area, no person shall smoke within thirty (30) feet from any posted "No Smoking" signs or any entrance to any building in the Project. No dogs or other animals or pets of any kind will be allowed in the Building or the Project.

10. The water closets and other water fixtures shall not be used for any purpose other than those for which they were constructed, and any damage resulting to them from misuse, or by the defacing or injury of any part of the Project, shall be borne by the Tenant who, or whose employees or agents shall have caused it.

11. No bicycles or similar vehicles will be allowed in the Building.

12. Nothing shall be thrown out the windows of the Building or down the stairways or other passages.

13. Tenant shall not be permitted to use or to keep in the Building any kerosene, gasoline or any inflammable or combustible fluids or materials, without the prior written consent of Landlord.

14. If Tenant desires, at its cost, it may add shades, draperies, or awnings, they must be of such shape, color, materials and make as shall be designated by Landlord. Any outside awning may be prohibited by Landlord. Landlord or its agents shall have the right to enter the Premises to examine the same or to make such repairs, alterations, or additions as Landlord shall deem necessary for the safety, preservation or improvement of the Building. Landlord or its agents may show said Premises and may place on the windows or doors thereof, a notice "For Rent" for six (6) months prior to the expiration of the Lease.

15. No portion of the Building shall be used for the purpose of lodging rooms or for any unlawful purposes.

16. All glass, locks, and trimmings in or about the doors and windows and all electric fixtures belonging to the Building shall be kept whole, and whenever broken by anyone shall be immediately replaced or repaired and put in order by Tenant under the direction and to the satisfaction of Landlord, and on removal shall be left whole and in good repair.

17. Landlord reserves the right at any time to take one elevator out of service for the exclusive use by the Building management in servicing the Building.

18. All safes, furniture, or other heavy articles shall be carried up or into the Premises only at such times and in such manner as shall be prescribed by Landlord at Tenant's sole cost and expense. Landlord requires Common Area walls and corners to be protected and masonite board to be installed and used in all Common Areas for all furniture moves. Landlord shall in all cases have the right to specify the proper weight and position of any such safe or other heavy article. Any damage done to the Building by taking in or removing any such equipment or from overloading any floor in any way shall be the responsibility of the Tenant. Defacing or injuring in any way any part of the Building by the Tenant, its agents, or employees, shall be paid for by the Tenant.

19. Landlord may waive any one or more of these Rules and Regulations for the benefit of Tenant or any other tenant, but no such waiver by Landlord shall be construed as a waiver of such Rules and Regulations in favor of Tenant

or any other tenant, nor prevent Landlord from thereafter enforcing any such Rules and Regulations against any or all of the tenants of the Building.

20. These Rules and Regulations are in addition to, and shall not be construed to in any way modify or amend, in whole or in part, the terms, covenants, agreements, and conditions of Tenant's Lease of its Premises in the Building.

21. Tenant shall fully cooperate in allowing, from time to time, such examinations, tests, inspections, and reviews of the Premises as Landlord, in its sole and absolute discretion, shall determine to be advisable in order to evaluate any potential environmental problems. Landlord expressly reserves the right to conduct examinations, test (including but not limited to a geohydrologic survey of soil and subsurface conditions), inspections, and review of the premises as Landlord in its sole and absolute discretion may determine to be necessary.

22. Landlord reserves the right to make such other and reasonable Rules and Regulations as, in its judgment, may from time to time be needed for safety and security, for care and cleanliness of the Project, and for the preservation of good order therein. Tenant agrees to abide by all such Rules and Regulations herein above stated and any additional rules and regulations which are adopted.

23. Tenant shall be responsible for the observance of all of the foregoing rules by Tenant's employees, agents, contractors, clients, customers, invitees and guests.

24. If Tenant's use of heating, cooling, or convenience power exceeds the design load parameters of the Building and a service call is requested, then Tenant is responsible for such service as a direct Tenant cost.

25. Tenant shall pay for all additional security costs and Landlord maintenance personnel required in connection with Tenant's move-in or move-out. Landlord shall have the right to establish and modify from time-to-time rules governing the move-in and move-out of Tenant's furniture, fixtures, and equipment, and Tenant shall fully comply with such rules as established and modified.

26. No delay in the enforcement of any of these rules and regulations by Landlord shall be construed as a waiver by Landlord of its rights to enforce them. Any waiver by Landlord of any of these rules and regulations must be in writing.