

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council Of Howard County, Maryland

2018 Legislative Session

Legislative Day No. **10**

Bill No. 53 -2018

Introduced by: The Chairperson at the request of the County Executive

AN ACT pursuant to Section 612 of the Howard County Charter, approving a Lease Agreement between Howard County, Maryland and 9200 Berger Business Trust for the lease of space located at 9200 Berger Road, Columbia, Maryland; and authorizing the County Executive to take certain actions in connection with the Lease Agreement.

Introduced and read first time _____, 2018. Ordered posted and hearing scheduled.

By order _____
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2018.

By order _____
Jessica Feldmark, Administrator

This Bill was read the third time on _____, 2018 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2018 at ___ a.m./p.m.

By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2018

Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

1 **WHEREAS**, as part of the construction of the new Circuit Court pursuant to Capital
2 Project C0290, the County needs to raze the existing Dorsey Building located at Bendix Road and
3 relocate the offices for the Department of Public Works, Bureau of Facilities; and
4

5 **WHEREAS**, 9200 Berger Business Trust, by the deed dated November 15, 2000 and
6 recorded among the Land Records of Howard County, Maryland (the "Land Records") at Liber
7 5260, folio 0337 is the owner of approximately 6.584 acres of real property shown as Parcel A, as
8 shown on Plat entitled "Columbia, Village of Owen Brown, Section 2, Area 3, Sheet 9 of 9," which
9 Plat is recorded among the Land Records in Plat Book 25 at folio 26, and improved with two (2)
10 buildings, commonly known as 9200 Berger Road and 9204 Berger Road, Columbia, Maryland
11 21046; and
12

13 **WHEREAS**, the County proposes to lease the building located at 9200 Berger Road,
14 comprising 45,700 square feet of leasable space, associated parking areas and other related
15 amenities (collectively the "Leased Premises") for use by the Department of Public Works' Bureau
16 of Facilities; and
17

18 **WHEREAS**, the County and the Landlord desire to enter into a Lease Agreement, for the
19 lease of the Leased Premises substantially in the form attached as Exhibit 1, for a term of ten years
20 with the options to extend the term for two additional periods of five-years each; and
21

22 **WHEREAS**, the Lease Agreement requires the payment by the County of funds from an
23 appropriation in later fiscal years and therefore requires County Council approval as a multi-year
24 agreement pursuant to Section 612 of the Howard County Charter.
25

26 **NOW, THEREFORE,**
27

28 *Section 1. Be It Enacted by the County Council of Howard County, Maryland that in accordance*
29 *with Section 612 of the Howard County Charter, it approves the Lease Agreement between*
30 *Howard County and 9200 Berger Business Trust for the Leased Premises for a term of ten years,*

1 *and the two renewal options of five years each, substantially in the form of Exhibit 1 attached to*
2 *this Act.*

3

4 ***Section 2. And Be It Further Enacted*** *by the County Council of Howard County, Maryland that*
5 *the County Executive is hereby authorized to execute the Lease Agreement for such term in the*
6 *name of and on behalf of the County.*

7

8 ***Section 3. And Be It Further Enacted*** *by the County Council of Howard County, Maryland that*
9 *the County Executive, prior to execution and delivery of the Lease Agreement, may make such*
10 *changes or modifications to the Lease Agreement as he deems appropriate in order to accomplish*
11 *the purpose of the transactions authorized by this Act, provided that such changes or modifications*
12 *shall be within the scope of the transactions authorized by this Act; and the execution of the Lease*
13 *Agreement by the County Executive shall be conclusive evidence of the approval by the County*
14 *Executive of all changes or modifications to the Lease Agreement, and the Lease Agreement shall*
15 *thereupon become binding upon the County in accordance with its terms.*

16

17 ***Section 4. And Be It Further Enacted*** *by the County Council of Howard County, Maryland that*
18 *this Act shall be effective immediately upon its enactment.*

LEASE AGREEMENT

9200 BERGER BUSINESS TRUST

Landlord

HOWARD COUNTY, MARYLAND

Tenant

9200 Berger Road, Columbia, Maryland 21046

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LEASE AGREEMENT

THIS **LEASE AGREEMENT** (the "Lease") is made this _____ day of _____, 2018 (the "Effective Date"), by and between **9200 BERGER BUSINESS TRUST** a Maryland Business Trust (the "Landlord"), registered with and in good standing with the Maryland State Department of Assessments and Taxation and **HOWARD COUNTY, MARYLAND** (the "County"), a body corporate and politic.

WITNESSETH, that County covenants and agrees with Landlord as follows:

1. **LEASED PREMISES.** Landlord by the deed dated November 15, 2000 and recorded among the Land Records of Howard County, Maryland (the "Land Records") at Liber 5260, folio 0337 is the owner of approximately 6.584 acres of real property shown as Parcel A, as shown on Plat entitled "Columbia, Village of Owen Brown, Section 2, Area 3, Sheet 9 of 9," which Plat is recorded among the Land Records of Howard County in Plat Book 25 at folio 26, and improved with two (2) buildings, commonly known as 9200 Berger Road and 9204 Berger Road, Columbia, Maryland 21046 (the "Buildings"). Together, the Buildings have 74,941 square feet of leasable space including related amenities and any additional facilities in subsequent years as may be determined by Landlord to be reasonably necessary or desirable for the management, maintenance or operation of the Buildings (collectively the "Property").

Landlord hereby leases unto County, and County hereby leases from Landlord, the Building known as 9200 Berger Road, Columbia, Maryland 21046 (the "Building") comprising a total of approximately 45,700 square feet of rentable space in the Building, associated parking areas, and other related amenities as set forth in this Lease (the "Leased Premises" or "Premises"), as identified on **Exhibit A** attached hereto and incorporated herein. (If County desires to re-measure the Leased Premises, the rentable square feet of the Building and Leased Premises may be measured by County, at its sole cost and expense, pursuant to 2017 Office Use Builders, Owners, and Managers Association (BOMA) standards, within thirty (30) days of the full execution of the Lease, and the number of rentable square feet contained in the Leased Premises shall be confirmed by field measurement or test-fit performed by an architect or engineer which is acceptable to the County, at the County's cost and expense; if Landlord disagrees with the County's re-measurement of the Leased Premises, the parties shall appoint a neutral architect or engineer to re-measure the Leased Premises within thirty (30) days of the County's written notice to Landlord of County's completion of its re-measurement, and the re-measurement of the Leased Premises by such selected neutral engineer or architect, whose fee shall be at Landlord's expense, shall be binding upon the parties hereto. County shall have the right of access to the Leased Premises twenty-four (24) hours per day, seven (7) days per week during the Term.

2. **TERM.** The initial term of this Lease (the "Initial Term") shall commence on the date on which the Landlord delivers the Leased Premises with the Tenant Improvements by Landlord Substantially Complete as defined in Section 6(a), (i.e., complete subject to punch list items identified by County, as more fully set forth in the

Work Letter below) in accordance with the terms herein which the Landlord and County agree shall be no later than March 31, 2019 (the "Commencement Date"), and end at 11:59 p.m. on the last day of the one hundred twentieth (120th) full calendar month following the Commencement Date (the "Initial Term Expiration Date"), unless the Lease is earlier terminated or extended pursuant to any other provision of this Lease or applicable law. County agrees to provide (i) the preliminary design plan to Landlord for an on-board review no later than August 1, 2018; and (ii) both (a) the signed lease agreement upon the approval of the County Council as set forth below, and (b) the Design Intent Plan, further defined in the Work Agreement, to Landlord no later than August 15, 2018 in order for the Landlord to deliver the Leased Premises, with the Tenant Improvements by Landlord Substantially Complete, by the Commencement Date. Notwithstanding the foregoing, if approval from the County Council is delayed, County shall provide Landlord with the signed lease agreement no later than October 15, 2018 and Landlord shall deliver the Leased Premises with the Tenant Improvements by Landlord Substantially Complete by the revised Commencement Date of no later than April 30, 2019. If approval of the County Council is delayed as set forth in the prior sentence, or if the Design Intent Plan is not delivered to Landlord by August 15, 2018, or both, the County and Landlord shall enter into an agreement for County to fund Landlord's design cost, up to Ninety Thousand Dollars (\$90,000.00), in order for the Landlord to deliver the Leased Premises, with the Tenant Improvements by Landlord Substantially Complete, by April 30, 2019. County's insurance provisions shall take effect prior to commencement of the fixturing period four (4) weeks prior to the Commencement Date. The parties acknowledge that this Lease has been approved by the County Council of Howard County as a multi-year obligation in accordance with_____. The Landlord and the County shall execute the Declaration of Commencement Date (the "Declaration") the form of which is attached hereto as **Exhibit B** to confirm, among other things, the Commencement Date, the Initial Term and the Initial Term Expiration Date. The Landlord shall complete and execute the Declaration after the Commencement Date and, if true and correct, Tenant shall execute and return the Declaration to Landlord within twenty (20) days following Tenant's receipt of same; otherwise Tenant shall notify Landlord of its objections to the information contained in the Declaration within such twenty (20)-day period. Failure to execute the Declaration shall not affect the commencement or expiration of the Initial Term.

a. **Extension Options.** If, as of the date that County delivers the Extension Notice described in Subsection (b) below, or at any subsequent date through the commencement date of the applicable Option Period (defined below) of this Lease, (a) County is not in default of any of the terms, conditions or covenants of this Lease, beyond any applicable notice and cure period, and (b) County has not assigned or sublet the Leased Premises, except as permitted herein, then County shall have the option to extend the Term (each an "Extension Option") for two (2) additional periods of five (5) years each (each an "Option Period") upon the same terms and conditions contained in this Lease, except as specifically set forth in this Lease. The Extension Options are personal to the County and may not be exercised or assigned, voluntarily or involuntarily, by or to any person or entity other than the County or another governmental or quasi-governmental

department, division or agency of Howard County, Maryland or the State of Maryland (a "Government Agency").

b. **Extension Notice.** If County desires to exercise an Extension Option to extend the Term (subject to County's compliance with the standards set forth herein), County shall notify Landlord in writing of County's intention to do so at least two hundred seventy (270) calendar days prior to the expiration date of the Initial Term or the First Option Period, as may be applicable. After proper and timely exercise of the Extension Option by County, all references in this Lease to "Term" shall be considered to mean the Initial Term or Option Period as extended, and all references in this Lease to the expiration date or to the end of the Term shall be considered to mean the termination or end of the applicable Option Period.

c. **Surrender of Leased Premises.** Without the necessity of any notice by or to any of the parties hereto, unless otherwise provided herein, County shall, at the expiration of the Term or at the sooner termination thereof by forfeiture or otherwise, surrender the Leased Premises in the same good order and condition as existed at the beginning of the Commencement Date, and in compliance with all applicable building code requirements insofar as such requirements relate to County's repair obligations pursuant to this Lease, to County's specific use and occupancy of the Premises, or to any installations, alterations, or improvements made by County thereto, reasonable wear and tear excepted. Unless Landlord specifies to the contrary when it approves the Tenant Improvements, all items of the Tenant Improvements, whether or not the cost is covered by the Improvement Allowance, shall become the property of Landlord upon expiration or earlier termination of the Lease and shall remain on the Leased Premises upon the termination of the Lease.

3. RENT.

a. **Annual Rent and Payment.** In consideration for the use of the Leased Premises under the Lease, the County shall pay to Landlord, in twelve equal monthly installments, by an annual rent ("Annual Rent") as shown in the rent schedule below which includes the base rent per square foot and the County's Proportionate Share of the Operating Expenses for the base year, as defined herein. The base rent per square foot portion of the Annual Rent shall be increased annually at the rate of three percent (3%) after the 1st full year of the Initial Lease Term. Increases in the County's Proportionate Share of Operating Expenses may be payable as set forth in Section 4 herein. As set forth in Section 6.d hereof, the County shall be granted early access to the Leased Premises four (4) weeks prior to the Commencement Date, free of charge, solely for the installation of the County's furniture, fixtures, and equipment.

Without the need for the receipt of an invoice from Landlord, the County agrees to pay each monthly installment of the Annual Rent, on or before the first day of each month during the Term, subject to the setoff rights of the County, if any, as expressly set forth in this Lease. Said rental shall be in the form of a check paid to Landlord and mailed to the following address: 9200 Berger Business Trust, c/o Bavar Properties Group, L.L.C., 1954

Greenspring Drive, Suite 400, Timonium, Maryland 21093 or in such manner and at such other place or to such appointee of Landlord, as Landlord may from time to time designate on the invoice.

Period	Base Rent per square foot	Monthly Installment of Annual Rent Based on 45,700 square feet	Annual Rent Based on 45,700 square feet
Effective Date to Commencement Date	N/A	N/A	N/A
Year 1	\$13.65	\$51,983.75	\$623,805.00
Year 2	\$14.06	\$53,545.17	\$642,542.00
Year 3	\$14.48	\$55,144.67	\$661,736.00
Year 4	\$14.92	\$56,820.33	\$681,844.00
Year 5	\$15.36	\$58,496.00	\$701,952.00
Year 6	\$15.82	\$60,247.83	\$722,974.00
Year 7	\$16.30	\$62,075.83	\$744,910.00
Year 8	\$16.79	\$63,941.92	\$767,303.00
Year 9	\$17.29	\$65,846.08	\$790,153.00
Year 10	\$17.81	\$67,826.41	\$813,917.00

With regard to each Option Period, the Base Rent to be paid during the first year of such Option Period shall be the then-market rent for comparable space in the Columbia flex submarket. If County does not agree and desires to dispute Landlord's determination of market rent, County shall, within twenty (20) days after receipt of Landlord's written determination of market rent, submit to Landlord a written valuation of the then-current market rent for the Premises by an industrial specialist real estate broker, having at least seven (7) years' experience in industrial specific real estate brokerage in Columbia, Maryland (herein "Qualified Broker"). If Landlord disagrees with the market rent determined by County's Qualified Broker, Landlord shall, within twenty (20) days of receipt of such written valuation, submit to County a written valuation of the then-current market rent for the Leased Premises by Qualified Broker selected by Landlord. If Landlord's and County's Qualified Broker do not agree upon the market rent or are apart by less than five (5%) then the market rents determined by both shall be averaged; otherwise, Landlord's and County's Qualified Broker, within a period of ten (10) days, shall mutually agree upon an independent Qualified Broker to determine such then-current market rent. Within twenty (20) days of the appointment of the Independent Qualified Broker, a written determination of the then-current market rent shall be made by said independent Qualified Broker, provided that such determination shall be not less than the lower of the two existing determinations, nor higher than the higher of the two valuations. Landlord and County shall each be responsible for the entire cost and expense of the Qualified Broker selected by it, and for one-half (1/2) of the cost and expense of the independent Qualified Broker.

For each of the second through fifth Lease Years of each Option Period, the Base Rent shall increase by three percent (3%) in excess of the amount of Base Rent which County was required to pay for the preceding year of the particular Option Period.

Notwithstanding the language to the contrary in this Section 3(a), contemporaneous with its execution and delivery of this Lease, Tenant shall pay Landlord, in advance, the first month's Base Rent.

b. **Late Payment Charge.** Except for the rent due on July 1 of each year, if County fails to pay, when due and properly invoiced by Landlord, the monthly installment of Annual Rent, Operating Expenses or any other sum of Additional Rent required by the terms of this Lease to be paid by County within ten (10) days from the date on which such payment was due, Landlord may assess a late payment fee of Five Hundred Dollars (\$500.00) of the rental payment or such other charge, which late charge shall be collectible as Additional Rent, and shall be payable by County to Landlord within ten (10) days after written notice from Landlord to County assessing the same. The Landlord and the County agree that the rent due on July 1 of each lease year may be paid on or before July 20th without penalty, in order to accommodate the start of the new fiscal year of the County. In no event shall the County be subject to interest on any portion of the Annual Rent herein.

4. **OPERATING EXPENSES.**

a. **General.** Beginning on the Commencement Date, the County shall pay, in monthly installments, as Additional Rent, the County's Proportionate Share of Operating Expenses for the calendar year in question as estimated by Landlord. If any portion of the Buildings is not fully occupied during the calendar year, Landlord shall gross up Operating Expenses which vary with occupancy for such period so that Operating Expenses are computed as though the Buildings had been fully occupied. By April 30th of each year (and as soon as practical after the expiration or termination of this Lease or, at Landlord's option, after a sale of the Property), Landlord shall provide the County with a statement of Operating Expenses for the preceding calendar year or part thereof. Within sixty (60) days after delivery of the statement of Operating Expenses (including invoices for the Operating Expenses incurred) to the County and after any questioned expenses have been satisfactorily explained or disputed as set forth below, County shall pay to the Landlord the remaining portion of the County's Proportionate Share of the actual Operating Expenses for the Leased Premises. In the event the County's Proportionate Share of the actual Operating Expenses incurred is less than the total payments of Operating Expenses made by the County for the preceding calendar year, the Landlord shall refund such overpayment within fifteen (15) business days. The Landlord specifically agrees that County obligation to pay its Controllable Operating Expenses shall not increase by more than four percent (4%) per year in the aggregate over the Initial Term of the Lease on a non-cumulative basis. Controllable Operating Expenses shall mean Operating Expenses other than taxes, insurance, utilities, snow and ice removal, security, and parking lot repairs. Landlord's and the County's obligation to reconcile the Operating Expenses due the other pursuant to this Section shall survive the expiration or termination of this Lease.

b. **Inclusions in Operating Expense.** "Operating Expenses" means all costs, fees, charges and expenses incurred or charged by Landlord in connection with the ownership, operation, maintenance and repair of, and services provided to, the Property, including, but not limited to:

(i) The actual charges to Landlord for the operation and maintenance of Buildings' mechanical (HVAC), plumbing, electrical, and fire suppression systems.

(ii) The cost of insurance premiums carried by Landlord for the Building.

(iii) Landlord's cost to maintain the common areas of the Property.

(iv) To the extent not otherwise payable by the County pursuant to this Lease, all real estate taxes and the annual Columbia Park and Recreation Association (CPRA) assessment with respect to the Property.

Landlord shall endeavor to take advantage of discounts offered for the early or prompt payment of any Operating Expense, such as real estate taxes during any discount period and Landlord shall apply the benefit of any such discounted payment to the Operating Expenses. Landlord shall have the right to directly perform (by itself or through an affiliate) any services provided under this Lease provided that the Landlord's charges included in Operating Expenses for any such services shall not exceed competitive market rates for comparable services in Howard County, Maryland.

c. **Exclusions from Operating Expenses.** Notwithstanding anything to the contrary in this Lease, Operating Expenses described above shall not include:

(i) Ground rent and interest on and amortization of mortgages or other loans of Landlord or the costs of refinancing the Buildings or portion thereof.

(ii) Salaries of Landlord's employees not engaged in the operation, management, maintenance or repair of the Buildings.

(iii) Leasing commissions, advertising expenses and other such expenses incurred in leasing or marketing space within the Buildings.

(iv) Expenses incurred by Landlord to prepare, renovate, repair, maintain, repaint or redecorate any space leased to any other tenant or other occupant of the Buildings.

(v) Expenses for the replacement of any item covered under warranty.

(vi) Costs correcting any penalty or fine incurred by Landlord due to Landlord's violation of any federal, state, or local law or regulation and any interest or penalties due for late payment by Landlord of any of the Operating Expenses.

(vii) Expenses for any item or service which County pays directly to a third party (i.e., electricity, janitorial, trash collection and security for the Leased Premises) or separately reimburses Landlord, and expenses incurred by Landlord to the extent the same are reimbursable (pursuant to the terms of leases or contracts at the

Property) or reimbursed from any other tenants, occupants of the Buildings, or third parties (other than through the payment of Operating Expense under other leases).

(viii) Landlord's general overhead and administrative expenses, to the extent not attributable to Landlord's management and operation of the Buildings.

(ix) Any cost or other sum incurred as a result of the gross negligence of Landlord or any agent, employee, contractor or invitee of Landlord.

(x) Depreciation expense of the Buildings and amortization expenses.

(xi) Income, excess profits or corporate capital stock tax imposed or assessed upon Landlord.

(xii) Cost of any service provided by Landlord for a tenant or former tenant or for other premises in the Buildings which service is not provided by Landlord to the Leased Premises pursuant to the terms of this Lease.

(xiii) Any cost to repair the common areas which are covered by insurance of Landlord or any other insured party (but only to the extent of net amounts (i.e., amounts received net of costs (other than legal fees) incurred by Landlord to obtain such amounts) recovered from the insurer).

(xiv) Interest or penalties resulting from delinquent payments by Landlord.

(xv) Any costs of work covered by a warranty or guaranty for which the Landlord is liable.

(xvi) Any costs not associated with the Property, such as travel costs, entertainment costs, expenses and fees to remain in good standing in the state of Maryland, and any costs incurred by an affiliate of Landlord.

(xvii) The cost of any improvements to the Building that are capital improvements.

d. **County's Proportionate Share** "The County's Proportionate Share" means the percentage obtained by dividing the rentable square feet of the Leased Premises by the rentable square feet of the Buildings or sixty and ninety-eight one hundredths percent (60.98%). If the rentable square feet of the Buildings and Leased Premises are re-measured and revised from the amount set forth in Section 1 above, then the County's Proportionate Share shall be decreased or increased, accordingly.

e. **Invoices, Right to Audit.** The invoices shall include, as backup material, a reasonable breakdown by categories for the services for which Operating Expenses are requested. The County may physically audit the Landlord's records (at Landlord's usual place of business, during normal business hours, with reasonable advance notice from County to Landlord) to determine the validity of reimbursement or credits due under this Lease. Landlord guarantees all financial records and tenant statements shall be prepared in accordance with generally accepted accounting principles (GAAP) consistently applied and made available to County as reasonably requested from time to time. No such audit shall be performed on a contingency basis. If County exercises the right to audit the books and records associated with this Lease, County shall pay the expense of auditing the books and records. However, Landlord shall

pay all audit expenses if County is found to have been overcharged by 5% or more in any calendar year related to Operating Expenses. The Landlord shall credit the amount of the overpayment of such expenses to the County and, if applicable, reimburse the County for the cost of the audit. If it is determined after the audit that the County owes Landlord due to Landlord's undercharge, County shall pay such amount due, as Additional Rent, within thirty (30) days of the completion of the audit.

5. **DELIVERY OF POSSESSION.** Landlord agrees to deliver to County, and County agrees to accept from Landlord, possession of the Leased Premises when Landlord advises County in writing that the Tenant Improvements are substantially complete as set forth herein. The parties intend for the Leased Premises to be delivered to the County as a "turn-key" build out (subject to the cost limitations set forth herein) ready for the intended use as office and warehouse space.

6. **TENANT IMPROVEMENTS.** The Landlord and the County have entered into a Work Agreement hereby incorporated herein and attached hereto as **Exhibit C** for the completion of the improvements to the Leased Premises for the County's use of the Leased Premises throughout the Term. The improvements to the Leased Premises as specified in the Work Agreement and any plans or drawings referenced in the Work Agreement are the "Tenant Improvements."

a. **Timely Completion of Tenant Improvements.** The Landlord agrees that the timely completion of the Tenant Improvements by March 31, 2019 is a material term of this Lease, subject to the timely delivery of the Design Intent Plan and signed Lease Agreement, as set forth in Section 2. Accordingly, the Landlord agrees that the Tenant Improvements shall be Substantially Complete, subject to punch list items identified by County, as more fully set forth in the Work Letter below, on or before the Completion Date as set forth in the Work Agreement. For purposes of this Lease, the Tenant Improvements shall be considered "Substantially Complete" on the date the certificate of use and occupancy is issued by the Department of Inspections, Licensing and Permits of Howard County, Maryland. If Landlord encounters delays in delivering possession of the Leased Premises to County due to Events of Force Majeure, this Lease will not be void or voidable, nor will Landlord be liable to County for any loss or damage resulting from such delay. As used herein, the term "Events of Force Majeure" shall mean any delay encountered by Landlord in carrying out its obligations under this Section 6 resulting from strikes, lockouts, earthquakes, floods, unavailability of labor, inclement weather, unavailability of standard materials, customary facilities, equipment or supplies, governmental building moratoriums, governmental or administrative action or inaction including delays caused by the County's requested Change Orders, as further defined in the Work Agreement, riot, insurrection, mob violence or civil commotion, war, acts of God, delays or inaction by utility providers, or other acts beyond the reasonable control of Landlord and not due to Landlord's acts or omissions or financial condition (individually or collectively "Events of Force Majeure").

b. **Landlord's Work.** As used herein, the term "Landlord's Work" shall mean (i) the Tenant Improvements to be completed by Landlord under the terms of the

Work Agreement and subject to the Tenant Improvement Allowance herein and (ii) other amenities or improvements, if any, to the Building or Property at the Landlord's expense (not included in the Tenant Improvement Allowance), as defined herein, including such improvements required in order for the Building or Property to comply with the Legal Requirements, as shown in **Exhibit D**, attached hereto and hereby incorporated herein. All of Landlord's Work shall be performed by Landlord and shall comply with all Legal Requirements, as defined herein. Landlord shall obtain, at Landlord's expense (but subject to Subsection (c) below), and comply with all permits required by the Legal Requirements in connection with the performance of the Landlord's Work (collectively, the "Building Permits"). "Punch list" items, as referred to in this Section 6 are items that will require correction but that will not materially interfere with, or cause a delay to, County's occupancy of the Leased Premises as contemplated herein. Within fifteen (15) days after the Commencement Date, County shall deliver a punch list, if any, to Landlord. Landlord agrees to correct all such punch list items as soon as reasonably practicable, but in any event no later than twenty (20) business days from the date of the punch list. Notwithstanding the foregoing, County shall have a period of three hundred sixty-five (365) days following the Commencement Date to reasonably identify any latent defects in the systems and equipment serving the Leased Premises; upon receipt of written notice from County with regard to such latent defects, Landlord shall, at Landlord's expense, promptly commence the repair or replacement of any such latent defects. Landlord shall replace any exterior window with broken seal which has allowed for humidity to enter prior to the Commencement Date, subject to Design Intent Plan as set forth in the Work Agreement below.

c. **Tenant Improvement Allowance; Landlord's Obligation.** The Landlord has agreed to provide a Tenant Improvement Allowance for the completion of the Tenant Improvements in the amount of Twenty Dollars (\$20.00) per square foot of leasable space for a total of Nine Hundred Fourteen Thousand Dollars (\$914,000.00). In no event shall the County be liable to any contractor or other third party performing the Landlord's Work. The Landlord's Work shall be warranted for a repair and replacement for a period of two (2) years.

d. **County Access.** County and its contractors, subcontractors and agents will be permitted, upon reasonable prior notice to Landlord, to enter and access the Leased Premises four (4) weeks before the anticipated Commencement Date (and without triggering any obligation to pay Rent hereunder) solely for the purpose of installing furniture, fixtures, cabling and equipment, and any critical items needed prior to occupancy including electronic security. County's contractors, workers and suppliers shall work in harmony with and not interfere with workers or contractors of Landlord.

7. **USE.** County shall use and occupy the Leased Premises for office and warehouse use. The County may allow the State's agencies, quasi-governmental agencies, or non-profit entities to use a portion of the Leased Premises from time to time, subject to such state agency or nonprofit satisfying the insurance requirements on the County herein imposed, in the County's sole discretion, and such uses shall not be deemed an assignment or subletting of this Lease.

County shall not permit, allow, or cause any in person public or private auction sales or sheriffs' or constables' sales to be conducted on or from the Leased Premises.

8. **LAWS AND REGULATIONS.** Landlord and County shall observe and comply with all laws, orders, rules, requirements, ordinances and regulations of the United States and the State and City or County in which the Leased Premises are located, and of all governmental authorities or agencies and of any board of the fire underwriters or other similar organization (collectively the "Legal Requirements"), with respect to the Property, Building and the Leased Premises and the manner in which the Property, Building and Leased Premises are used by Landlord, and County. In no way limiting the generality of this section, Landlord and County shall complete all improvements or alterations to the Property, Building and/or Leased Premises, as applicable, in accordance with the Americans with Disability Act of 1990 (42 U.S.C., Section 12101 *et seq.*) and regulations and guidelines promulgated thereunder, as amended and supplemented from time to time, (collectively the "ADA").

9. **ASSIGNMENT BY COUNTY.** Landlord acknowledges that the County may allow agencies of the state of Maryland, quasi-governmental agencies and non-profits entities serving the citizens of the County to utilize a portion of the Leased Premises from time to time, subject to the terms and conditions of Section 7 above. Except as otherwise specifically permitted by this Section 9, County shall not assign or sublease all or any portion of the Leased Premises without first obtaining Landlord's prior written consent, which shall not be unreasonably withheld, delayed or conditioned.

10. **INSURANCE, SUBROGATION and INDEMNIFICATION.**

a. **County's Self-Insurance.** Landlord acknowledges that County is self-insured and will maintain or appropriate reasonable reserves or funds, as the case may be, to cover claims, losses and damages that might arise or be incurred during its occupancy of the Leased Premises which otherwise may be covered by Business Personal Property Insurance covering Special Causes of Loss, Commercial General Liability insurance (written on an occurrence basis) which, unless approved by Landlord in writing, in no event shall be for coverage less than Two Million Dollars (\$2,000,000) combined single limit per occurrence with a Three Million Dollar (\$3,000,000) annual aggregate, and Workers' Compensation insurance including Employer's Liability insurance, which, unless approved by Landlord in writing, such Workers' Compensation insurance shall be for the statutory benefits in the jurisdiction in which the Leased Premises are located. . County's self-insurance program shall also include insurance coverage that would normally be covered by Garage Liability Insurance with limits of not less than Two Million Dollars (\$2,000,000.00) per accident for auto, Two Million Dollars (\$2,000,000.00) per accident for other-than-auto, and a Three Million Dollar (\$3,000,000.00) annual aggregate for other-than-auto. The County shall provide Landlord with reasonable documentation of the nature and extent of its self-insurance program, together with evidence that Landlord, its property manager and mortgagee, if any, are considered additional insureds under the County's self-insurance program. The

certificate of self-insurance shall be provided by the County at the time the County enters the Leased Premises to install cable and furnishings pursuant to Section 6(d).

b. **Landlord's Insurance.** Throughout the term of this Lease, Landlord shall obtain and maintain:

(i) Real Property Insurance against Special Causes of Loss and said insurance shall be subject to Replacement Cost valuation covering the Building and all of Landlord's property therein in an amount required by its insurance company to avoid the application of any coinsurance provision, and

(ii) Commercial General Liability insurance (written on an occurrence basis) and said insurance shall include Contractual Liability coverage insuring the obligations assumed by Landlord under this Lease, Leased Premises and Operations coverage, Personal Injury Liability coverage, Independent Contractor's Liability coverage. Such Commercial General Liability insurance shall be in amounts not less than Two (2) Million Dollars (\$2,000,000) combined single limit per occurrence with a Three (3) Million Dollar (\$3,000,000) annual aggregate.

c. **Waiver of Subrogation and Indemnity.**

(i) If either party hereto is paid any proceeds under any policy of insurance naming such party as an insured on account of any loss or damage, then such party and its insurer hereby releases the other party, to the extent of the amount of such proceeds including applicable deductibles, from any and all liability for such loss or damage, notwithstanding that such loss, damage or liability may arise out of the negligent or intentionally tortious act or omission of the other party, its agents, invitees or employees; provided that such release shall be effective only as to property loss or damage occurring while the appropriate policy of insurance of the releasing party provides for the insured's ability to recover thereunder. Each party shall assure that its insurance carriers agree to waive subrogation in the event of a loss.

(ii) Subject to Maryland's Local Government Tort Claims Act, approved budget appropriations and applicable law, County shall indemnify and hold harmless Landlord from and against all claims, damages, losses, liabilities, judgments, costs and/or expenses (i) relating to or arising out of County's sole acts or omissions from the use and occupancy of the Leased Premises, or (ii) due to or arising out of any mechanic's lien filed against the Building, or any part thereof, for labor performed or for materials furnished or claimed to be furnished to County, which have not been bonded by the County or contested by the County in accordance with the State court procedures. The provisions of this Section shall survive the termination of this Lease for a period of three (3) years with respect to any claims or liability accruing prior to such termination. Notwithstanding anything to the contrary contained in this section, County will act in good faith to secure appropriations sufficient to meet its obligations under this Section. Nothing

contained in this Section 10(c)(2) or this Lease shall be construed as the County having waived any of the defenses of immunity provided to it under law.

11. **ALTERATIONS.** Except for any improvements required to maintain and repair the interior of the Leased Premises in accordance with this Lease or the installation of trade fixtures, furniture and equipment necessary for the County use of the Leased Premises, the County shall make no alterations, installations, additions or improvements beyond the Landlord's Work in the Leased Premises (herein collectively referred to as "Alterations") in or to the Leased Premises without the Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed in the case of non-structural alterations, and may be withheld in Landlord's sole and absolute discretion in the case of structural alterations, and then only by contractors or mechanics reasonably approved by Landlord, and at such times and in such manner as Landlord may from time to time reasonably designate.

12. **REPAIRS AND MAINTENANCE.**

a. **Maintenance of Interior of Leased Premises.** County shall maintain the interior of the Leased Premises in good order and condition, ordinary wear and tear excepted. The County shall be responsible for the repair and maintenance of any security system serving the Leased Premises. To the extent that the Leased Premises are damaged by the negligence or willful misconduct of the Landlord or its employees, agents, contractors, or invitees, the Landlord shall reimburse the County for all costs incurred by the County including the need to move and rent space for its use during the repair of the Leased Premises.

b. **Maintenance of Building and Exterior of Leased Premises.** Landlord shall maintain, repair and replace, as applicable, all (i) structural exterior walls, exterior doors past the one (1) year warranty, windows/glass and (ii) common areas, the roof and the exterior of the Building, as well as the structure thereof, and (iii) the parking facilities, private drives and ways and sidewalks, so that the Leased Premises, the Building and the Property remain in good order and repair, reasonable wear and tear excepted, and safe for occupancy and use. Such repair and maintenance shall include the seasonal services of landscaping and grass cutting of the Property and the removal of snow and ice from driveways and sidewalks, as needed. If Landlord does not initiate any required maintenance, repairs, or replacements within three (3) business days following receipt of written notice from the County and thereafter diligently pursue such required maintenance, repairs, or replacements to completion, County shall have the right to perform such maintenance, repair or replacement. Notwithstanding the foregoing, if the Landlord does not initiate snow removal efforts within one (1) hour following receipt of verbal or written notice from the County, Landlord shall allow the County to remove snow and ice from the driveway and parking area as needed and Landlord shall reimburse County for the cost of such work at Landlord's current contracted snow removal rate. In addition, Landlord shall repair or replace at its expense, any HVAC unit if the County expends more than (i) Three Thousand Dollars (\$3,000.00) in a calendar year for the maintenance and repair of such unit within the first five (5) years of the Initial Term and (ii) \$5,000 in repair costs in a

calendar year for the maintenance and repair of such unit within the next 5 years of the Initial Term, and during any Option Period described in Section 2(a) above.. To the extent that Landlord's maintenance, repair, and replacement obligations are caused by the negligence or willful misconduct of County, its employees, agents or contractors or invitees, the County shall be obligated to reimburse Landlord, as Additional Rent, for all costs incurred therefor by Landlord. Notwithstanding any language to the contrary herein, if, as a result of County's specific use of the Leased Premises, alterations need to be made in order to comply with The Americans With Disabilities Act or other applicable code, the County shall, at its sole cost and expense, make all such alterations, after receiving Landlord's written consent therefor, which consent shall not be unreasonably withheld, delayed or conditioned.

13. **SERVICES.** All Landlord's services to be provided to the Leased Premises twenty- four (24) hours per day three hundred sixty-five (365) days per year.

a. **Electricity.** Landlord shall furnish the Property, Buildings and Leased Premises with electricity and the electricity supplied to the Leased Premises shall be suitable for County's intended use as office and warehouse space; County acknowledges that the Building has 277/480v 3 phase power which is sufficient for County's intended use. The electricity for the Leased Premises shall be separately metered (or sub-metered) at Landlord's expense and the cost of the electricity supplied paid for directly by County.

b. **HVAC.** Subject to Section 12(b), County shall maintain and repair the HVAC system and equipment for the Building and the Leased Premises such that heating and air conditioning are supplied for the comfortable use and occupancy of the Leased Premises, as determined by the County. County shall have sole control over the temperature of the Leased Premises to regulate heating and air conditioning from within the Leased Premises. At its option, the County shall obtain contracts, at County's sole cost, for the maintenance of the systems serving the Leased Premises, including the HVAC system, or use its County employees in order to comply with the requirements of this Subsection (b); in either situation, County shall provide Landlord with periodic, but not less than quarterly, reports from its maintenance contractor or personnel demonstrating the maintenance and repair of such interior systems.

c. **Water and Sewer.** Landlord shall maintain and supply adequate water and sewer services for the Building, including without limitation the Leased Premises. County acknowledges that the Building is not separately metered for water, and that the cost thereof shall be included in Operating Expenses. Landlord, at Landlord's sole cost, may at any time separately meter or submeter the Building during the Term.

d. **Voice and Data.** County shall contract directly for the installation and maintenance of its voice and data systems and a telecommunications service provider for all phone, internet and network services, including the use of the roof of each Building. County and Landlord shall coordinate during the period of Landlord's Work to determine if voice and data installation should take place during this time. Landlord shall

have reasonable approval rights for wiring installation. County shall extend its fiber optic service to the Leased Premises at its own cost. County acknowledges that, as of the Effective Date, the Building is wired for service by Cogent and Verizon. County further acknowledges that, if it should use the roof of the Building for the use as permitted herein, County shall notify Landlord and obtain written consent from Landlord prior to use, which consent shall not be unreasonably withheld, delayed or conditioned.

e. **Miscellaneous.** Given County's obligation to maintain the interior of the Premises, except as otherwise specifically set forth in this Lease, County shall furnish, supply and maintain, repair and replace, as applicable and to the extent that they exist in or about the Building, all hallways, light fixtures (including light bulbs), stairways, lobbies, restroom facilities. Landlord shall maintain the Building grounds, parking facilities and other common areas of the Property at its sole cost and expense (subject to inclusion in Operating Expenses), in a safe and sanitary condition. The Landlord shall use its commercially reasonable efforts to clear snow and ice from the driveways and sidewalks within the Property in a manner to allow the continued business operations of the County, subject to Section 12(b). Janitorial services, including the removal and recycling of County's trash for the Building shall be provided by the County, at its sole cost and expense and therefore not included as an Operating Expense charged to the County.

f. **Loss of Service.** Landlord shall have no liability or responsibility to supply heat, air conditioning, plumbing, cleaning, and/or electric service, when prevented from so doing by laws, orders or regulations of any Federal, State, County or Municipal authority or by strikes, accidents, or by any other cause whatsoever, beyond Landlord's control and shall have no liability whatsoever for any interruptions in utility services. Notwithstanding the foregoing, if any of the foregoing services is interrupted due solely to the non-payment, gross negligence or willful misconduct of Landlord such that the County cannot and does not reasonably conduct its permitted use in the Leased Premises from the standpoint of prudent business management and the interruption continues for more than (1) one business day following Landlord's receipt of notice from the Tenant, then Annual Rent shall abate as to the portion of the Leased Premises rendered unusable during the period beginning on the business day of the interruption and ending on the date the service is restored.

g. **Generator.** County, at its sole cost and expense, shall be permitted to purchase and to install a generator on the Property in order to support County's Permitted Use, provided that the location of the generator shall be approved in advance in writing by Landlord, whose consent shall not be unreasonably withheld, delayed or conditioned.

14. **DEFAULT.** If County fails (i) to pay installments of Annual Rent and such failure continues for ten (10) days after Landlord has given written notice to County, or (ii) to pay installments of Operating Expenses and such failure continues for ten (10) days after Landlord gives written notice to County or (iii) to perform any other obligation of County under this Lease and such failure continues for thirty (30) days after Landlord has given written notice to County then, upon the happening of such event Landlord may

terminate the Lease and repossess the Leased Premises and be entitled to recover as damages a sum of money equal to the total of the following amounts: (i) any unpaid rent or any other outstanding monetary obligation of County to Landlord under the Lease for the remainder of the then current Term of the Lease and (ii) all reasonable costs incurred in recovering the Leased Premises, and restoring the Leased Premises to good order and condition. The foregoing shall not limit any other remedies Landlord may have as a result of such default, it being acknowledged and agreed that Landlord shall be entitled to all remedies available at law and equity for any default by the County hereunder.

15. **DAMAGE.** In the case of the total destruction of the Leased Premises by fire, other casualties, the elements, or other cause, or of such damage thereto as shall render the same totally unfit for occupancy by County for more than one hundred fifty(150) days, this Lease, upon surrender and delivery to Landlord by County of the Leased Premises, together with the payment of the Annual Rent to the date of such occurrence and a proportionate part thereof to the date of damage, shall terminate, and the parties shall have no further obligations or liabilities under this Lease from the date of said termination, except as provided for in provisions of this Lease which by their terms survive the expiration or earlier termination of the Term. If the Leased Premises are rendered partly untenantable by any cause mentioned in the preceding sentence, Landlord shall, at its own expense, within one hundred fifty (150) days from the date of the damage restore the Leased Premises with reasonable diligence, including without limitation modifications required by zoning and building codes and other laws or by the holder of a mortgage on the Building, and the Rent shall be abated proportionately for the period of said partial untenantability and until the Leased Premises are fully restored by Landlord to the prior or better condition.

Notwithstanding the terms of the foregoing paragraph, Landlord may elect not to rebuild and/or restore the Leased Premises and/or Building and instead terminate this Lease by notifying County in writing of such termination within sixty (60) days after the date of damage, such notice to include a termination date giving County ninety (90) days, from the date of said notice, to vacate the Leased Premises. Notwithstanding the foregoing, Landlord may elect this option of termination only if the Building is damaged by fire or other casualty or cause, whether or not the Leased Premises are affected, and one or more of the following conditions is present: (i) repairs cannot reasonably be completed within one hundred fifty (150) days from the date of damage (when such repairs are made without the payment of overtime or other premiums), (ii) the holder of any mortgage on the Building or ground or underlying lessor with respect to the Property and/or the Building shall require that the insurance proceeds or any portion thereof be used to retire the mortgage debt, or shall terminate the ground or underlying lease, as the case may be, or (iii) the damage is not fully covered, except for deductible amounts, by Landlord's insurance policies. In addition, if the Leased Premises or the Building is destroyed or damaged to any substantial extent during the last year of the Term, then notwithstanding anything contained in this Section, Landlord or County shall have the option to terminate this Lease by giving written notice to the other of the exercise of such option within thirty (30) days after such damage or destruction, in which event this Lease shall terminate as of the date of such notice. Upon any such termination of this Lease pursuant to this section, County shall pay the Annual

Rent and Operating Expenses properly apportioned up to such date of termination, and thereafter both parties shall be released and discharged of all further obligations hereunder, except as provided for in provisions of this Lease which by their terms survive the expiration or earlier termination of the Term.

16. **PARKING AND GROUNDS.** During the Term, County, at no additional charge, shall have the exclusive right to use up to hundred sixty-two (162) parking spaces in the parking lot serving the Property, as shown on **Exhibit E** attached hereto and incorporated herein. County shall not have the right to use the remainder of the parking spaces serving the Buildings. Landlord shall permit the County to install and maintain, at the County's sole cost and expense, electric car parking and plugins around the perimeter of the parking lot serving the Building, bike racks and outdoor seating areas on the grounds adjacent to the Buildings in a location approved by Landlord, such approval not to be unreasonably withheld, conditioned or delayed. County shall be responsible, at County's sole cost and expense, for the electricity supplied to the electric car plugins. Subject to Landlord's prior written approval, which shall not be unreasonably withheld, delayed, or conditioned, Landlord acknowledges that the County may install signage to limit the use of the plugins. In addition, the County shall have the exclusive right to utilize the loading docks in existence as of the Effective Date at the Building. County acknowledges that Landlord shall have the right to remove twenty (20) striped parking spaces as shown on **Exhibit E**, which parking spaces are not part of the County's original one hundred sixty-two (162) parking spaces. County, at County's sole cost, shall have the right to install a fenced outside storage area as shown on **Exhibit E**.

Landlord acknowledges that, as part of County's use of the parking spaces permitted herein, County may park County vehicles overnight. County represents and warrants that (i) no washing of any vehicles and (ii) no repair or maintenance work shall be performed on any County vehicles on the Property.

County further covenants and agrees not to pile or place anything on the sidewalk, parking lot or other exterior portion of the Leased Premises or Buildings or in the front, rear or sides of the Buildings, nor block the sidewalk, parking lot or other exterior portion of the Leased Premises or Buildings, nor do anything that directly or indirectly will interfere with any of the rights of ingress or egress or of light from any other tenant, nor do anything which will, in any way, change the uniform and general design of any property of Landlord in which the Leased Premises are situated.

17. **SIGNS.** The County may provide, install and maintain exterior signs (with an electronic display and County logo) in a location approved by Landlord, such approval not to be unreasonably withheld, conditioned or delayed. Additionally, if such signage is illuminated and the electricity serving such signage is not separately metered to the County, then the County shall reimburse Landlord within thirty (30) days following receipt of an invoice for all electricity costs associated with such illuminated signage. County shall have the right to install awnings or canopies at the entrance of the Building, subject to Landlord's approval not to be unreasonably withheld, conditioned or delayed.

18. **LANDLORD'S RIGHT OF ENTRY.** Provided that an employee of the County (including emergency personnel) is present on the Leased Premises, the Landlord, and its agents, servants, and employees, including any builder or contractor employed by Landlord, shall have, upon reasonable advance notice to County, the right, license and permission, at any and all reasonable times, (i) to inspect the Leased Premises for maintenance and repair, or (ii) to make any alteration, improvement or repair to the Leased Premises. Notwithstanding the foregoing, (i) Landlord, and its agents, servants, and employees, including any builder or contractor employed by Landlord, shall not interfere with the business or operations of County, and (ii) if County is conducting sensitive, confidential matters, or case work at the time planned for an entry by Landlord or anyone acting by, through or under Landlord, then Landlord shall reschedule such entry with County to a mutually agreeable date and time. Landlord represents and warrants that any persons entering the Leased Premises on behalf of Landlord shall have passed a security screening performed by or on behalf of Landlord.

19. **EXPIRATION.** It is agreed that the Term expires on the Term Expiration Date, without the necessity of any notice by or to any of the parties hereto. If County occupies the Leased Premises after such expiration, it is understood that, in the absence of any written agreement to the contrary, County shall hold the Leased Premises as a holdover "Tenant from month to month", subject to all the other terms and conditions of this Lease, at one hundred fifty percent (150%) the highest monthly rental installment reserved in this Lease or agreed to by Landlord and County in writing with respect to the Option Period, if applicable; provided that Landlord shall, upon such expiration, be entitled to the benefit of all public general or public local laws relating to the speedy recovery of the possession that may be now in force or may hereafter be enacted, excluding the recovery of consequential damages. As used in this Lease, a "month-to-month" tenancy shall mean that during such period either Landlord or County may terminate this Lease upon thirty (30) days' notice to the other party.

Not more than seven (7) days prior to expiration, County agrees to schedule an inspection with Landlord to confirm that the Leased Premises will be in the condition as provided in this Lease.

20. **CONDEMNATION.**

(a) If, during the term of this Lease, all or a substantial part of the Building shall be taken by or under power of eminent domain, this Lease shall terminate as of, and the rent (basic and additional) shall be apportioned to and abate from and after, the date of taking. County shall have the right to make its own claim for a condemnation award as long as it does not diminish the amount of the Landlord's award.

(b) If, during the Lease term, a portion of the Property other than the Building is taken by or under power of eminent domain, this Lease shall remain in full force and effect according to its terms. In such event Landlord shall, at its expense, promptly make such repairs and improvements as shall be necessary to make the remainder of the Property adequate to permit County to carry on its business to

substantially the same extent and with substantially the same efficiency as before the taking; provided that in no event shall Landlord be required to expend an amount in excess of the award received by Landlord for such taking. If, as a result of such taking, any part of the Leased Premises is rendered permanently unusable, the basic annual rent reserved hereunder shall be reduced in such amount as may be fair and reasonable, which amount shall not exceed the proportion which the area so taken or made unusable bears to the total area which was usable by County prior to the taking. If the taking does not render any part of the Leased Premises unusable, there shall be no abatement of rent.

(c) For purposes of this section, "taking" shall include a negotiated sale or lease and transfer of possession to a condemning authority under bona fide threat of condemnation for public use, and Landlord alone shall have the right to negotiate with the condemning authority and conduct and settle all litigation connected with the condemnation. As hereinabove used, the words "award or damages" shall, in the event of such sale or settlement, include the purchase or settlement price.

(d) Nothing herein shall be deemed to prevent County from claiming and receiving from the condemning authority, if legally payable, compensation for the taking of County's own tangible property and such amount as may be payable by statute or ordinance toward Tenant's damages for Tenant's loss of business, removal and relocation expenses.

21. **SUBORDINATION/ATTORNMEN; RECORDATION OF LEASE.** County covenants and agrees that all of County's rights hereunder are and shall be subject and subordinate to the lien of any mortgage now or hereafter placed on the Leased Premises or any part thereof, except the County's property or trade fixtures, and to any and all renewals, modifications, consolidations, replacements, extensions or substitutions of any mortgage. Such subordination shall be automatic, without the execution of any further subordination agreement by County. Notwithstanding the foregoing, the County's subordination of the lease to the mortgage shall allow for a non-disturbance and attornment agreement. Landlord shall use commercially reasonable efforts to obtain a subordination, non-disturbance and attornment agreement from its current lender and future lenders holding a deed of trust on the Leased Premises on such lender's standard form, subject to such commercially reasonable modifications as the County and such lender shall mutually agree upon. The parties agree that this Lease shall not be recorded among the Land Records of Howard County; however, a memorandum of this Lease and Subordination, Non-Disturbance, and Attornment Agreement ("SNDA") may be recorded in the Land Records of Howard County at the County's cost. The form of the SNDA provided by Landlord's lender is attached hereto as **Exhibit G** which shall be signed by the parties upon the execution of this Lease.

22. **NOTICES.** Any written notice required by this Lease shall be deemed sufficiently given, on the day it is hand delivered if there is a verified signed receipt, or

within three (3) business days if sent via first class mail, postage pre-paid, certified mail and there is a signed return receipt, or on the next business day if sent by overnight courier service if there is a verified signed receipt.

Any notice required by this Lease is to be sent to Landlord at:

c/o Bavar Properties Group, L.L.C.
1954 Greenspring Drive, Suite 400
Timonium, Maryland 21093

Any notice required by this Lease is to be sent to County at the Leased Premises with a copy to:

Chief Real Estate Services Division
Department of Public Works
George Howard Building
3430 Court House Drive
Ellicott City, Maryland 21043

Chief of Bureau of Facilities
Department of Public Works
Dorsey Building
9250 Bendix Road
Columbia, Maryland 21045

23. **REMEDIES NOT EXCLUSIVE.** No remedy conferred upon either Landlord or County at law or in equity shall be considered exclusive of any other remedy, but shall be in addition to every other remedy available to Landlord or County as to claims arising under this Lease. Every remedy available to Landlord or County may be exercised concurrently or from time to time, as often as the occasion may arise.

24. **WAIVERS.** It is understood and agreed that nothing shall be construed to be a waiver of any of the terms, covenants and conditions herein contained, unless the same be in writing, signed by the party to be charged with such waiver, and no waiver of the breach of any covenant shall be construed as the waiver or the covenant of any subsequent breach thereof.

25. **PERFORMANCE.** It is agreed that the failure of either Landlord or County to insist in any one or more instances upon a strict performance of any covenant of this Lease or to exercise any right provided for herein shall not be construed as a waiver or relinquishment for the future of such covenant or right, but the same shall remain in full force and effect, unless otherwise expressed in writing by Landlord or County.

26. **FINAL AGREEMENT.** This Lease contains the final and entire agreement between the parties hereto, and neither they nor their agents shall be bound by any terms, conditions or representations not herein written.

27. **QUIET ENJOYMENT.** County, upon paying the Annual Rent and Operating Expenses, and other charges herein provided, and observing and keeping all of its covenants, agreements, and conditions in this Lease, shall have the right of quiet enjoyment to the Leased Premises during the Term without hindrance or molestation by anyone claiming by, through or under Landlord

28. **ESTOPPEL CERTIFICATE.** Within fifteen (15) business days following a request in writing by Landlord, County shall execute and deliver to Landlord an estoppel certificate, which, as submitted by Landlord, shall be substantially in the form of **Exhibit E** attached hereto and incorporated herein (or such other form as reasonably may be required by any prospective mortgagee or purchaser of the Property, or any portion thereof), indicating any exceptions thereto that may exist at that time, and shall also contain any other information reasonably requested by Landlord or Landlord's mortgagee or prospective mortgagee or purchaser.

29. ENVIRONMENTAL REQUIREMENTS.

County shall not use or allow another person or entity to use any part of the Leased Premises for the storage, use, treatment, manufacture or sale of Hazardous Material in violation of Environmental Laws. Landlord acknowledges, however, that County will maintain products in the Leased Premises which are incidental to the operation of its general office use, including, without limitation, photocopy supplies, secretarial supplies and limited janitorial supplies, which products contain chemicals which are categorized as Hazardous Materials. Landlord agrees that the use of such products in the Leased Premises in the manner in which such products are designed to be used and in compliance with applicable laws shall not be a violation by County of this section. As used in this Lease, the term "Hazardous Materials" shall mean any substance that is or contains petroleum, asbestos, polychlorinated biphenyls, lead, or any other substance, material or waste which is now or is hereafter classified or considered to be hazardous or toxic under any federal, state or local law, rule, regulation or ordinance relating to pollution or the protection or regulation of human health, natural resources or the environment (collectively, "Environmental Laws").

30. BROKERS.

Landlord and County hereby warrant to each other that it has not dealt with any broker, agent or finder entitled to any commission, fee or others compensation by reason of the

execution of the Lease, except that the County has retained Chartwell Enterprises, LLC as the County's broker ("County's Broker"), and that the Landlord has retained KLNB, LLC as the Landlord's broker ("Landlord's Broker") and that they know of no other real estate agent broker or agent who is entitled to a commission or fee in connection with this Lease. Landlord shall pay County's Broker and Landlord's Broker in accordance with the terms of a separate commission agreement entered into between the Landlord and each broker. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, and costs and expenses with respect to any leasing commission or equivalent compensation alleged to be owing on account of the indemnifying party's dealings with any real estate broker or agent other than the Broker.

31. GENERAL.

a. **Governing Law.** The provisions of the Lease shall be governed by the laws of Howard County and the State of Maryland, excluding the latter's principles of conflicts of law. The Landlord agrees that any dispute arising under this Lease shall be filed in the District Court or Circuit Court of Maryland for Howard County, as may be appropriate.

b. **Efficiency Standards.** Landlord shall endeavor to maintain current International Building Code efficiency standards for all fixtures in the Leased Premises; to detect and repair leaks in distribution lines and plumbing fixtures; to retrofit or replace fixtures as required; to manage system pressure so as to reduce usage; and when feasible, install efficient landscape design and irrigation techniques and wastewater reclamation and recycling of water for non-potable applications.

c. **Political Contribution Disclosure.** The Landlord shall comply with Sections 14-101 through 14-108 of the Election Law Article of the Annotated Code of Maryland.

d. **Recycling Plan.** Landlord acknowledges that the County may participate, at its sole cost and expense, in applicable recycling plans and may, at the County's sole cost and expense, collect and properly recycle recyclable materials from the Leased Premises.

e. **Retention of Records.** The Landlord shall retain and maintain all records and documents relating to this Lease for three years after final payment by the County hereunder or for such time period specified under any applicable statute of limitations, whichever is longer, and shall make said records available for inspection and audit by authorized representatives of the County or its designee, at all reasonable times.

f. **Representations and Warranties.** The Landlord hereby represents and warrants that:

(i) It is qualified to do business in and in good standing with the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;

(ii) It is not in arrears with respect to the payment of any monies due and owing Howard County, Maryland or the State of Maryland, including, but not limited to, the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Lease;

(iii) It shall comply with all federal, state and local laws, regulations, and ordinances applicable to its activities and obligations under this Lease; and

(iv) It shall obtain at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Lease.

g. **Addendum.** The Landlord agrees to fully complete, execute and/or comply with the exhibits, affidavits and addenda that are attached to the Lease and fully incorporated as a part of the Lease by reference thereto.

h. **Lease Amendments.** The Lease may be amended, but only in writing, signed and executed with all formalities and signatures with which this Lease is signed and executed.

i. **Interpretation.** As used herein, all references made (a) in the neuter, masculine or feminine gender shall be deemed made in all such genders, (b) in the singular or plural number shall be deemed made in the plural or singular number as well, (c) to Landlord or County shall be deemed to refer to each person so named above and its successors and assigns, and (d) to a Section, subsection, paragraph or subparagraph shall, unless expressly stated to the contrary therein, be deemed made to such part of this Lease. The headings of such parts are provided herein only for convenience of reference, and shall not be considered in construing their contents. Any writing or plat referred to herein as being attached hereto as an exhibit or otherwise designated herein as an exhibit hereto is hereby made a part hereof. The Lease may be signed in counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same document.

j. **Public Information Act.** The County is subject to the Maryland Public Information Act, which requires public access to most of the County's records and documents, such as this Lease.

32. **RECOURSE.** The County specifically agrees to look solely to Landlord's interest in the Property (including, but not limited to, the proceeds of rents derived therefrom) for the recovery of any judgment from Landlord. The provision contained in the forgoing sentence is not intended to, and shall not, limit any right that County might otherwise have to obtain injunctive relief against Landlord.

33. **SEVERABILITY.**

a. It is agreed that, for the purpose of any suit brought or based on this Lease, this Lease shall be construed to be a divisible contract, to the end that successive actions may be maintained thereon as successive periodic sums shall mature or be due hereunder, and it is further agreed that failure to include in any suit or action any sum or sums then matured or due shall not be a bar to the maintenance of any suit or action for the recovery of said sum or sums so omitted.

b. If any terms, clause or provision of this Lease is declared invalid by a court of competent jurisdiction, the validity of the remainder of this Lease shall not be affected thereby but shall remain in full force and effect.

34. **NON-WAIVER.** It is understood and agreed that nothing herein shall be construed to be a waiver of any of the terms, covenants or conditions herein contained, unless the same shall be in writing, signed by the party to be charged with such waiver and no waiver of the breach of any covenant herein shall be construed as a waiver of such covenant or any subsequent breach thereof. No mention in this Lease of any specific right or remedy shall preclude Landlord or County from exercising any other right or from having any other remedy or from maintaining any action to which it may be otherwise entitled either at law or in equity.

35. **SUCCESSORS AND ASSIGNS.** Except as herein provided, this Lease and the covenants and conditions herein contained shall inure to the benefit of and be binding upon each of the parties hereto, the respective successors and assigns of each party hereto, and shall inure to the benefit of each party hereto. In the event Landlord's interest under this Lease is transferred or assigned and written notice thereof is given to County, the Landlord herein named (or any subsequent assignee or transferee of Landlord's interest under this Lease who gives such notice to County) shall be relieved and released from and after the date of such transfer or conveyance from all liability hereunder to the extent such liability hereunder is assumed by the Landlord's assignee or transferee, except that Landlord shall remain liable to County for the return of the security deposit unless Landlord pays over the security deposit to the assignee or transferee.

36. **ADDITIONAL RENT.**

All sums of money required to be paid by County to Landlord pursuant to the terms of this Lease, unless otherwise specified herein, shall be considered additional rent and shall be collectible by Landlord as additional rent, in accordance with the terms of this Lease. Nothing herein contained shall be deemed to suspend or delay the payment of any amount of money or charge at the time the same becomes due and payable hereunder or to limit any other remedy of Landlord.

[Signatures follow on next page.]

IN WITNESS WHEREOF, the parties execute this lease, under seal, the day and year first above written:

LANDLORD:

WITNESS/ATTEST:

**9200 BERGER BUSINESS TRUST,
a Maryland business trust**

By: _____ (SEAL)

Name: _____

Title: _____

Date: _____

ATTEST:

HOWARD COUNTY, MARYLAND

Lonnie Robbins
Chief Administrative Officer

By: _____(SEAL)
Allan H. Kittleman
County Executive

RECOMMENDED FOR APPROVAL:

James M. Irvin, Director
Department of Public Works

APPROVED FOR SUFFICIENCY OF FUNDS:

Janet R. Irvin, Director
Department of Finance

Approved for Form and Legal Sufficiency
on this ____ day of _____, 2018:

Gary W. Kuc
County Solicitor

Lisa S. O'Brien
Senior Assistant County Solicitor

EXHIBIT A
DEPICTION OF LEASED PREMISES

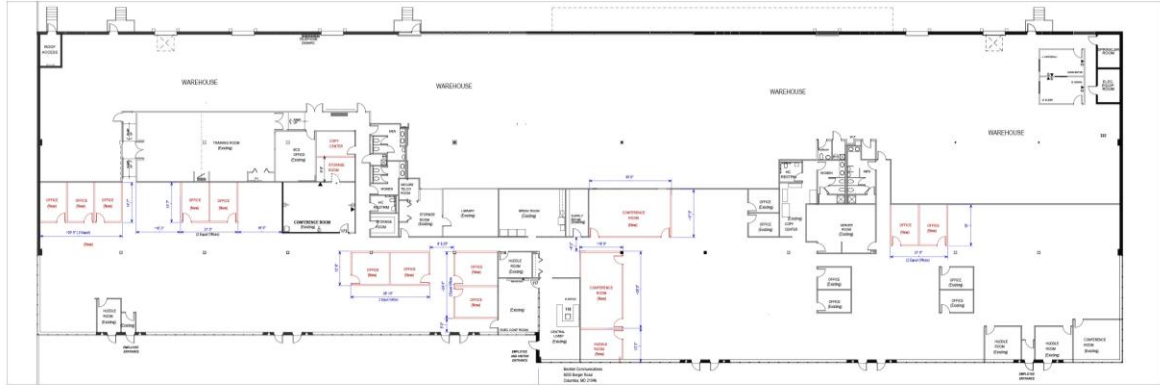


EXHIBIT B
DECLARATION OF COMMENCEMENT DATE

This Declaration of Commencement Date is made as of _____, 20__, by _____ ("Landlord"), and _____ ("County"), who agree as follows:

1. Landlord and County entered into a Lease Agreement dated _____, 20__ (the "Lease"), in which Landlord leased to County, and County leased from Landlord, certain Leased Premises described therein in the office building located at _____ (the "Building"). All capitalized terms herein are as defined in the Lease.

2. Pursuant to the Lease, Landlord and County agreed to and do hereby confirm the following matters as of the Commencement Date of the Term:

- a. the Commencement Date of the Lease is _____;
- b. the Initial Term Expiration Date of the Lease is _____;
- c. the number of rentable square feet of the Leased Premises is _____;
- d. Tenant's Proportionate Share of Operating Expenses is _____ %;

3. County confirms that:

a. it has accepted possession of the Leased Premises as provided in the Lease but subject to all the terms thereof;

b. Landlord has fulfilled all of its obligations under the Lease as of the date hereof except as follows: _____; and

c. the Lease is in full force and effect and has not been modified, altered, or amended, except as follows.

4. The provisions of this Declaration of Commencement Date shall inure to the benefit of, or bind, as the case may require, the parties and their respective successors and assigns, and to all mortgagees of the Building, subject to the restrictions on assignment and subleasing contained in the Lease, and are hereby attached to and made a part of this Lease.

LANDLORD:

_____, limited
liability company

EXHIBIT C **WORK AGREEMENT**

Capitalized terms not otherwise defined in this Work Agreement shall have the meanings set forth in the Lease. In the event of any conflict between the terms of this Work Agreement and the other terms of the Lease, the terms most favorable to the County shall prevail for the design and construction of the Tenant Improvements. The Landlord and Tenant agree that the Tenant Improvements are to be delivered to the County as a turnkey project and Landlord has agree to provide a Tenant Improvement Allowance of \$914,000.00, as set forth in the Tenant Improvement Budget, attached hereto as Schedule A. **The Landlord agrees that time is of the essence for the substantial completion (as the term "Substantially Complete" is defined in the Lease) of the Tenant Improvements and delivery of the possession of the Leased Premises to the County no later than March 31, 2019 (the "Completion Date"), subject to the signed Lease Agreement and Design Intent Plan both being provided to the Landlord no later than August 15, 2018 (as set forth in Section 2 above). The Landlord and County agree that if the delivery of the possession of the Leased Premises to County does not occur on or before March 31, 2019, Landlord shall provide to County liquidated damages by means of a rent credit in an amount equal to OneThousand FiveHundred Dollars (\$1,500.00) per day until delivery of the possession of the Leased Premises to the County. Notwithstanding the foregoing, if approval of the County Council is delayed as set forth in the prior sentence, or if the Design Intent Plan is not delivered to Landlord by August 15, 2018, or both, the County and Landlord shall enter into an agreement for County to fund Landlord's design cost, up to Ninety Thousand Dollars (\$90,000.00), in order for the Landlord to deliver the Leased Premises, with the Tenant Improvements by Landlord Substantially Complete, by the revised Completion Date of April 30, 2019. In such event of delay, if the Landlord does not deliver possession of the Leased Premises to County on or before April 30, 2019, Landlord shall provide to County liquidated damages by means of a rent credit in an amount equal to One Thousand Five Hundred Dollars (\$1,500.00) per day until delivery of the possession of the Leased Premises to the County.**

A. TENANT IMPROVEMENTS. Landlord shall furnish and install in the Leased Premises in accordance with the terms of this Work Agreement, the improvements set forth in the Tenant's Plans (hereinafter defined) which shall have been approved by County and Landlord in accordance with Paragraph B below (the "Tenant Improvements"). The Tenant Improvements shall utilize the Building standard materials and comply with the Building standards for construction set forth on Schedule B-1 attached hereto (collectively, the "**Building Standards**"). Except as otherwise set forth herein, the costs of all space planning, and architectural and engineering work for or in connection with the Tenant Improvements, including without limitation all drawings, plans, specifications, permits or other approvals relating thereto, and all insurance, bonds and other requirements and conditions hereunder, and all costs of demolition and construction shall be paid for by County, subject to the application of the Improvement Allowance in accordance with the terms of this Work Agreement. The County specifically acknowledges that, if the cost of the Tenant Improvements should exceed the Tenant

Improvement Allowance, Tenant shall reimburse Landlord for all such excess costs, within thirty (30) days of Landlord's invoice therefor as further defined in Section E(3). Landlord shall coordinate with its contractors for the County to install the telecommunications, fiber, and security systems, at County's expense. County shall be responsible for the delivery and inventory of the County's furnishings for the Leased Premises. Landlord, or Landlord's contractor, shall apply for all building permits required for the Tenant Improvements. Landlord shall provide current conditions as is and any changes to such shall be part of Tenant Improvements.

B. LANDLORD'S IMPROVEMENTS. Landlord shall provide, at Landlord's expense in addition to the Tenant Improvements subject to the Tenant Improvement Allowance, the following: all construction elements needed to remove any barriers for access to the Premises in accordance with the Americans with Disabilities Act and other elements that may be required to bring the Leased Premises in compliance with the Legal Requirements, as set forth in the agreed upon plans. Upon the completion of the Landlord's Improvements, the County shall inspect the Landlord's Improvements and provide to Landlord a punch list of items of Landlord's Improvements that need to be repaired or replaced to acceptable for County's use of the Leased Premises. All of Landlord's Improvements shall be warranted for repair and replacement for a period of one (1) year.

C. PLANS AND SPECIFICATIONS

1. Design Intent Plan. The County shall provide the Landlord with a space concept plan for the Leased Premises (the "**Design Intent Plan**") showing, inter alia, the layout of the Leased Premises upon completion of the Tenant Improvements, and certain materials, finishes and architectural details to be included in the Tenant Improvements, which Design Intent Plan may be embellished by the Landlord's Architect, Hoffman Architects (the "Architect"), who shall be licensed to practice in the state of Maryland and the Architect shall provide the County with an opportunity to review and approve any changes to the Design Intent Plan.

2. Architect. Landlord shall cause the Architect and, together with the Engineers (hereinafter defined), to prepare the Construction Documents (hereinafter defined) consistent with the Design Intent Plan. The parties expressly acknowledge and agree that, unless expressly provided to the contrary in the Design Intent Plan with respect to particular components of the Tenant Improvements, all Tenant Improvements depicted in the Construction Documents shall be in conformance with the Building Standards. The cost of preparation of the Construction Documents shall be borne by Landlord and paid from the Improvement Allowance.

3. Engineers. Landlord shall retain the services of an engineering firm selected by Architect and reasonably acceptable to the County (the "**Engineers**"; and, together with the Architect, the "**Design Professionals**") to: (i) design the type, number and location of all mechanical systems in the Leased Premises, including without limitation the heating, ventilating and air conditioning system therein, and to prepare all

of the mechanical plans; (ii) assist with the electrical design of the Leased Premises, including the location and capacity of light fixtures, electrical receptacles and other electrical elements, and to prepare all of the electrical plans; (iii) assist with plumbing-related issues involved in designing the Leased Premises and to prepare all of the plumbing plans; (iv) assist with the structural elements of the Design Professionals' design of the Leased Premises and to prepare all the structural plans; and (v) prepare the fire suppression and life-safety systems for the Leased Premises. Notwithstanding any language to the contrary in this Work Agreement, the County acknowledges that the fees and costs for the Design Professionals shall be deducted from the Tenant Improvement Allowance provided the Design Professionals allow the County an opportunity to review and approve any changes to the Design Intent Plan within five (5) business days, subject to Landlord approval not to be unreasonably withheld, conditioned or delayed.

4. County Review and Approval. County acknowledges and agrees that the Tenant Improvements shall be designed and constructed in conformity with the Design Intent Plan and the Building Standards or other comparable materials approved by Landlord and which are readily available in the Baltimore metropolitan area. County shall be provided the draft Construction Documents from the Design Professionals and estimated construction costs in the process of the final design development when the Construction Documents are at 95% completion. The County shall provide its written comments on the Construction Documents for the Design Professionals to address in the Construction Documents no later than five (5) business days after the County's receipt of the Construction Documents. The Construction Documents shall include an estimate of the costs for each line item in the Tenant Improvement Budget. The County shall approve the Construction Documents for release to Bid only after the County's comments have been resolved by the Design Professionals and Landlord.

5. Landlord's Approval. Landlord's approval of the Construction Documents (including revisions thereto) shall not be unreasonably withheld, conditioned or delayed. Landlord shall note with reasonable particularity those items, if any, shown on the Construction Documents which are not acceptable to Landlord.

6. Tenant Plans. The Construction Documents, once approved by Landlord and County in accordance with the terms of this Section B and as may be thereafter modified by Landlord-approved Change Orders, are referred to collectively as the "**Tenant Plans.**"

D. CHANGES TO TENANT PLANS.

1. Change Order. Any and all changes to the Tenant Plans or Tenant Improvements requested by County shall be in writing (each a "**Change Order**"). All Change Orders shall be subject to the prior approval of Landlord, which approval may be withheld by Landlord in its reasonable discretion. All requests for a Change Order shall provide a statement of the possible impact of the requested change to the delivery of the Tenant Improvements by the Completion Date.

2. Change Order Statement. Upon County's written request made at the time County requests any Change Order, Landlord shall deliver to County a written statement ("**Change Order Statement**") specifying (a) the estimated increase in the cost of Tenant Improvements resulting from a Change Order, as reasonably determined by Landlord, and (b) any delay in the anticipated date of substantial completion of the Tenant Improvements resulting from such Change Order. Within three (3) business days following Landlord's delivery of a Change Order Statement to County, County shall provide Landlord with written notice electing to either (a) reaffirm County's request for the Change Order, or (b) revoking its request for the Change Order. County's failure to respond to Landlord within the foregoing three (3) business day period may, at Landlord's election, be deemed a revocation by County of its request for the Change Order. If County reaffirms County's request for a Change Order within such three (3) business day period, Landlord shall have the right to proceed with the work in such Change Order and County shall be responsible for any and all costs and delays associated with such Change Order; provided, however, County hereby acknowledges and agrees that the Change Order Statement (i) represents Landlord's good-faith estimate of the costs and delays associated with any Change Order, (ii) is provided solely as an accommodation to County, and (iii) shall not be deemed to limit County's responsibility for all costs and delay associated with any Change Order regardless of whether such costs and/or delay exceed the costs and/or delay set forth in the Change Order Statement.

3. Change Order Costs and Delays. Landlord shall not be responsible for delay in occupancy by County, nor shall the Commencement Date be delayed, because of any delay caused by Change Orders (whether or not such Change Order is approved by Landlord, or revoked (or deemed revoked) by County). County shall be solely responsible for all costs and expenses associated with any Change Order (subject to application of the Improvement Allowance), and for any and all delay resulting therefrom, including without limitation costs or expenses relating to (i) any additional architectural or engineering services and related design expenses, (ii) any changes to materials in process of fabrication, (iii) cancellation or modification of supply or fabricating contracts, or (iv) removal or alteration of work or plans completed or in process. All such costs and expenses shall be deemed Construction Costs. Notwithstanding the foregoing, the Landlord's contractor Change Orders mark-up shall be no greater than a combined ten percent (10%) overhead plus profit.

E. COST OF TENANT IMPROVEMENTS

1. Construction Costs. All costs of design and construction of the Tenant Improvements, including without limitation the costs of all space planning, architectural and engineering work related thereto, all governmental and quasi-governmental approvals and permits required therefor, all construction costs, contractors' overhead and profit, insurance and other requirements, costs associated with any Change Orders, and all other costs and expenses incurred in connection with the Tenant Improvements (collectively, "**Construction Costs**"), shall be paid by County subject, however, to the application of the Improvement Allowance as set forth herein. Notwithstanding the foregoing to the contrary, Construction Costs shall not include, and County shall not be

liable for the payment of: (i) any changes to common areas of the Building (such as, for example only, common area restrooms) that may be required by Legal Requirements as a result of the construction of those Tenant Improvements; it being agreed that the costs of any such changes which are required as a result of any Tenant Improvements which are not Standard Improvements (such as, for example only, any general assembly space) may be included in Construction Costs; or (ii) costs incurred by Landlord to cure any violation of Legal Requirements existing as of the Effective Date, or (iii) the Landlord's Work.

2. Improvement Allowance. Landlord agrees to grant County an improvement allowance ("**Improvement Allowance**") in the amount of \$914,000.00 (or \$20.00 per rentable square foot of the Leased Premises), to be applied only against the Construction Costs incurred by Landlord and as otherwise provided in this Work Agreement.

3. Costs Exceeding Improvement Allowance. All Construction Costs in excess of the Improvement Allowance shall be paid by County (or if previously paid by Landlord, shall be reimbursed to Landlord by County) within thirty (30) days of receipt by County of invoices therefor, including an accounting of the Improvement Allowance to date. County shall have the right to review and approve the Architect's fees, contractor bids, shop drawings, change orders and pay applications within three (3) business days upon receipt of plans, subject to Landlord's approval not to be unreasonably withheld, conditioned or delayed.

4. Excess Improvement Allowance. If the Improvement Allowance exceeds the Construction Costs, such excess Improvement Allowance shall be paid by Landlord to County within thirty (30) days following the determination of the excess Improvement Allowance.

F. CONSTRUCTION

- 1. Contractor; Bid Package.** Landlord shall prepare a bid package (the "**Bid Package**"), requiring a competitive bid format developed by Landlord and reasonably acceptable to County, that provides for the parties' ability to easily identify and understand all material cost elements of the bid responses, including without limitation subcontractor costs, add alternates and deducts, long lead items, clarifications, exclusions, general conditions, fees and change order mark up, appropriate insurance coverage, and will contain such other requirements as County may reasonably request or as Landlord in its reasonable discretion shall determine. The bid package shall require (i) warranties of workmanship and supplies of no less than one (1) year shall be required and inure to the benefit of the County and Landlord and (ii) payment and performance bonds covering the contract for the completion of the Tenant Improvements and the payment of all obligations thereunder. The Landlord shall solicit bids from at least three (3) licensed contractors (at least two (2) of which shall be designated by Landlord and one (1) of which shall be

designated by County and approved by Landlord (provided that, if County does not give Landlord its designation within two (2) business days after Landlord requests such designation, then County shall be deemed to have waived its right to make any such designation)). The Landlord with input from the County, Engineers, and Architect shall select the successful bidder for the contract for construction of the Tenant Improvements (the "**Construction Contract**"). Following the execution of the Construction Contract, Landlord shall cause Contractor to commence and diligently pursue to completion by the Completion Date, in a good and workmanlike manner, the construction of the Tenant Improvements in accordance with the Tenant Plans and the Legal Requirements

2. **Contractor Draw Requests.** Landlord shall submit to County, for County's review, a copy of each draw request delivered by Contractor under the Construction Contract (each a "**Contractor Draw Request**") prior to Landlord's payment of same. County's failure to object to Landlord's payment of any Contractor Draw Request within five (5) business days after receipt shall be deemed County's approval of such Contractor Draw Request.

1. **Construction Supervision.** All Tenant Improvements shall be performed by the Contractor. Landlord may, at its expense, retain another construction supervisor ("**Construction Supervisor**") as Landlord's construction supervisor in connection with the construction of the Tenant Improvements.

2. **Periodic Inspection; Construction Meetings.** County's designated representative herein, is authorized by Landlord to make periodic inspections of the Leased Premises during construction during reasonable business hours, provided County is accompanied by a representative of Landlord or the Contractor. County shall be notified of the regularly scheduled construction progress meetings and may attend such meetings. In the event that the County's observations of the construction of the Tenant Improvements are inconsistent with the Construction Documents, the County shall report such observations to the Landlord for the Landlord to address or raise such concerns at the Construction meetings.

3. **Delays.**

- a. If Landlord shall be delayed in substantially completing the Tenant Improvements or in delivering the Leased Premises to County, as a result of any act, neglect, failure or omission of County, its employees or agents, such delay shall be deemed a "**Tenant Delay**," excluding all acts by County and its employees and contractors in exercising its regulatory duties.

- b. Except as otherwise expressly provided herein, in the event that Landlord submits any drawings, plans or other materials to County for County's approval, County shall, in writing, within ten (10) business days thereafter, either: (i) approve such

drawings, plans or other submittals in writing; or (ii) request that Landlord make specific changes thereto. County's failure to respond to any such written request for County's approval within the foregoing ten (10) business day period shall result in a day of Tenant Delay for each day thereafter in which no response is made, and such failure may, at Landlord's election, be deemed an approval of Landlord's submission.

G. ACCEPTANCE OF LEASED PREMISES.

1. Punch List. Approximately three (3) business day prior to the delivery of possession of the Leased Premises, Landlord, County, Design Professionals, and the Contractor shall make an inspection of the Leased Premises to determine whether the construction and installation of the Tenant Improvements has been completed in accordance with the Tenant Plans and to prepare a punch list (the "**Punch List**") of work requiring correction or completion by Contractor within fifteen (15) days from the Commencement Date in accordance with Section 2. Any disputes between Landlord and County concerning any Punch List item not resolved by Landlord and County shall be decided by Space Planner and an independent third-party architect selected by Landlord and reasonably acceptable to County, and any such decision reached by such architects shall be binding on Landlord and County. Except with respect to Latent Defects (hereinafter defined), a failure by County to include on the Punch List any failure of the Tenant Improvements to comply with the Tenant Plans which failure was discoverable upon reasonably diligent inspection and inquiry shall constitute County's acceptance of the Tenant Improvements with such errors or omissions and Landlord shall have no obligation to correct any such errors or omissions in the Tenant Improvements. Landlord shall use commercially reasonable efforts to cause Contractor to correct or complete all Punch List items prior to the delivery of possession of the Leased Premises and no later than fifteen (15) business days following date of inspection of the Tenant Improvements. The County shall not be obligated to accept possession of the Leased Premises if the Punch List contains any item or items which would materially and adversely interfere with the use of the Leased Premises for general office purposes.

2. Latent Defects. As set forth in Section 6 (b) of the Lease, in the event a Latent Defect is discovered by County and written notice thereof is received by Landlord within three hundred sixty-five (365) days following the Commencement Date, Landlord will diligently pursue and seek to enforce any warranties provided by Contractor with respect to such Latent Defect. As used herein, the term "**Latent Defect**" means any failure of the Tenant Improvements to comply with the Tenant Plans (as the same may have been revised pursuant to the terms of this Work Agreement) which failure was not discoverable with reasonably diligent inspection and inquiry prior to the Commencement Date.

3. Warranties. Landlord shall assign to County or make available for County's use all warranties associated with the Tenant Improvements to the County. Such assignment of warranties shall not relieve the Landlord from its obligation to promptly correct any Punch List items or Latent Defects, at no expense to County.

H. TENANT IMPROVEMENTS REMAIN. Unless Landlord specifies to the contrary when it approves the Tenant Improvements or later for subsequent improvements or alterations, all items of the Tenant Improvements, whether or not the cost is covered by the Improvement Allowance, or all of the subsequent improvements or alterations shall become the property of Landlord upon expiration or earlier termination of the Lease and shall remain on the Leased Premises upon the termination of the Lease.

I. COUNTY'S REPRESENTATIVE. County hereby designates Mark Stromdahl, Chief Bureau of Facilities, Department of Public Works, whose email address is mcstromdahl@howardcountymd.gov and whose telephone number is 410-313-5757 and his designated project manager for the Leased Premises, to act as County's representative for purposes of authorizing and executing any and all documents, workletters, plans, specifications, cost estimates, or other writings and changes thereto needed to effect this Work Agreement, and any and all changes, additions or deletions to the work contemplated herein, and Landlord shall have the right to rely on any documents executed by such authorized party. Landlord shall not be required to proceed with any Tenant Improvements without written authorization from County's Representative. Neither County nor County's Representative shall be authorized to direct Landlord's contractors or subcontractors in the performance of the Tenant Improvements, and in the event that Landlord's contractors or subcontractors perform any of the Tenant Improvements under the direction of County or County's Agent, then Landlord shall have no liability for the cost of such Tenant Improvements, for the cost of corrective work required as a result of such Tenant Improvements, for any legal noncompliance or for any delay that may result from the performance of such Tenant Improvements.

SCHEDULE A

TENANT IMPROVEMENT BUDGET

[TO BE ADDED WHEN COMPLETED BY THE PARTIES]

SCHEDULE B-1
BUILDING STANDARDS AND BASIS-OF-DESIGN INFORMATION
COUNTY'S BUILDING STANDARDS:

PARTITIONS:

- (A) Office: 5/8" sheetrock each side of 3 5/8" metal studs to underside of deck with interior batt insulation.
- (B) Demising: 5/8" sheetrock each side of 3 5/8" metal studs to structure with interior batt insulation.

DOORS:

- (A) Office: 3'-0" X 7'-0" - 1 3/4" solid core wood, single clear lite glazing, premium grade paint. 5-1/2" nominal top rail and stiles and 11" nominal bottom rail.
- (B) Miscellaneous: 3'-0" X 7'-0" - 1 3/4" solid core wood, premium grade paint.
- With the exception of main entrance doors, all doors and hardware leading into the Tenant space from the public corridor will be Building Standard and are to be recessed if the door swings out.
- Design of main entrance must be submitted to the building management for approval.

INTERIOR DOOR FRAMES:

- Three-piece, knock-down, hollow metal door frames.
- Finish: Paint selected by County.

HARDWARE:

- **Lock/latch sets:**
 - o Standard is Sargent with Best Cylinders - LB key way (Alternate: Yale, Schlage, or approved equal).
 - o Finish for all door hardware shall be (Satin Chrome) unless otherwise noted.
 - o Lever lockset is standard interior doors.
 - o Mortise lockset is standard suite entry doors.
 - o Latch set - Passage Function; Satin Stainless Steel with Floor Stop.
 - o Lockset- Keyed - Office Function (outside key/inside always unlocked) Brushed Stainless Steel, Floor Stop.
 - o Lever latch set - Office Lock Function -ANSI F82 (Function Outside Key/ Inside Push-Button Lock) with Floor Stop.
 - o Floor stop: (1st Choice) - Dome floor stop IVES 436 Dome Stainless Steel or equal.
 - o Wall stop: (2nd Choice) - IVES 407 CCV Stainless Steel or equal.
 - o Closer: LCN 4010T (pull side) or 4110 (push side); LCN 3130 concealed in door or equal.
 - o Hinges: McKinney TB2314 or equal (Standard weight, ball bearing, SST, Full Mortise).
 - o Silencers: Ives #20 or equal.

ACOUSTIC CEILING PANEL & GRID:

- Manufacturer: Armstrong, Prelude XL or equal 2' x 4' Beveled Tegular Ceiling Tiles 15/16".

CARPET:

- Carpet tile. Case by case basis and is to be approved by County.

HARD SURFACE FLOORING:

- Case by case basis and is to be approved by County.

FLOOR TILE:

- Case by case basis and is to be approved by County.

PAINT:

- Case by case basis and is to be approved by County.

BASE:

- 4" rubber cove base. Case by case basis and is to be approved by County.

WINDOW TREATMENT:

- Case by case basis and is to be approved by County.

FIRE PROTECTION:

- The building, or portions thereof, shall be completely sprinkled by a combination wet sprinkler-standpipe system. Building standard sprinkler heads are to be semi-recessed sprinkler heads. The entire system shall be in accordance with NFPA 13 and 14 and shall meet all requirements of State and local authorities and the Owner's Insurance Underwriter.

NORMAL POWER:

Receptacles and Equipment Connections

- Industrial heavy-duty specification grade switches and receptacles shall be provided. Receptacles shall be 20A, 125V rated wide body style with triple wipe brass power contacts, mounting strap with integral ground contacts and an impact resistant nylon face. Switches shall be 20A, 125/277V rated FSUL WS 896-E and UL 20 approved.
- County to select receptacle face plate type. All receptacle face plates shall be professionally (label maker) labeled with panel and circuit number(s).
- Where applicable, miscellaneous mechanical equipment shall be fed from 480-volt motor control centers, distribution panels, or branch circuit panelboards as appropriate. Miscellaneous equipment such as overhead doors, elevators, etc. shall be supplied from 480 volts or 208 volts branch panelboards as required.

LIGHTING SYSTEMS:

- All interior spaces shall be provided with lighting fixtures designed to enhance the aesthetics and to provide illumination levels consistent with current standards as defined by the Illuminating Engineering Society of North America (IESNA) "Lighting Handbook". In general, all interior lighting fixtures will utilize LED light sources wherever practical. All LED lighting to have a color temperature of 5000 Kelvin.
- Exit lights shall be specified with energy efficient, non-visible type, light emitting diode (LED) source with red letters.

LIGHTING CONTROLS:

- Switches shall be provided for all spaces. Interior offices, file room, and restrooms shall have occupancy sensor controlled switches. Vacancy Sensors or Occupancy Sensors, whichever applies, should be installed in all areas unless directed otherwise. Lighting relay control cabinets will be provided on each floor to control the automatic off function of all fixtures on normal power that are not controlled by sensors. The main control/time clock for the lighting relay control cabinets shall be located in the first-floor cabinet. The design shall be based on the Watt Stopper company lighting control products.
- County to select switch face plate type.

EMERGENCY LIGHTING:

- Emergency lighting shall be provided throughout the egress paths, stairwells, equipment rooms, and exit ways. All exit signs and egress lighting within the County space is required to be connected to the building's Emergency Power System and must comply with County, State, and Federal Codes and ADA Regulations. Corridor emergency lighting circuits shall be wired directly to the emergency panel branch circuit breaker.
-

VARIABLE FREQUENCY CONTROLLERS:

- Each controller will have an input line reactor. Starters for motors 40HP and above shall have a solid state soft start bypass starter. Controllers for motors below 40HP shall have across-the-line bypass starters.

FIRE ALARM SYSTEMS:

- The Owner's Fire Alarm system may need to be upgraded to meet current Life Safety Codes. If so, a complete multiplexed addressable fire alarm system shall be provided throughout the building in accordance with the requirements of NFPA and ADA. The fire alarm system shall include a control panel located in the main electrical room and a remote annunciator panel located in the Fire Command Center near the main entrance lobby. Manual pull stations, smoke detectors, thermal detectors, duct detectors, signaling devices (speaker/strobes), sprinkler flow switches, and sprinkler tamper switches shall be provided as required by NFPA and ADA. Concealed duct detectors shall have remote alarm lights located in corridors mounted 72" above the floor. All fire alarm wiring shall be installed in EMT conduit.

EXHIBIT D
LANDLORD'S WORK PURSUANT TO SECTION 6(b)(ii)

To be completed by Landlord, at its sole cost and expense, prior to the Commencement Date:

- 1) Connect water heater vent.
- 2) Confirm if 2" water line traveling under slab to unknown location has backflow protection; if it does not, install backflow protection.
- 3) Repair or replace wall heater in Mechanical Room.
- 4) Cap open gas line on roof.
- 5) Repair existing roof access ladder, so that it is OSHA compliant.
- 6) Repair or replace exterior windows pursuant to Section 6(b)

EXHIBIT E
PARKING AREAS and FENCED AREA

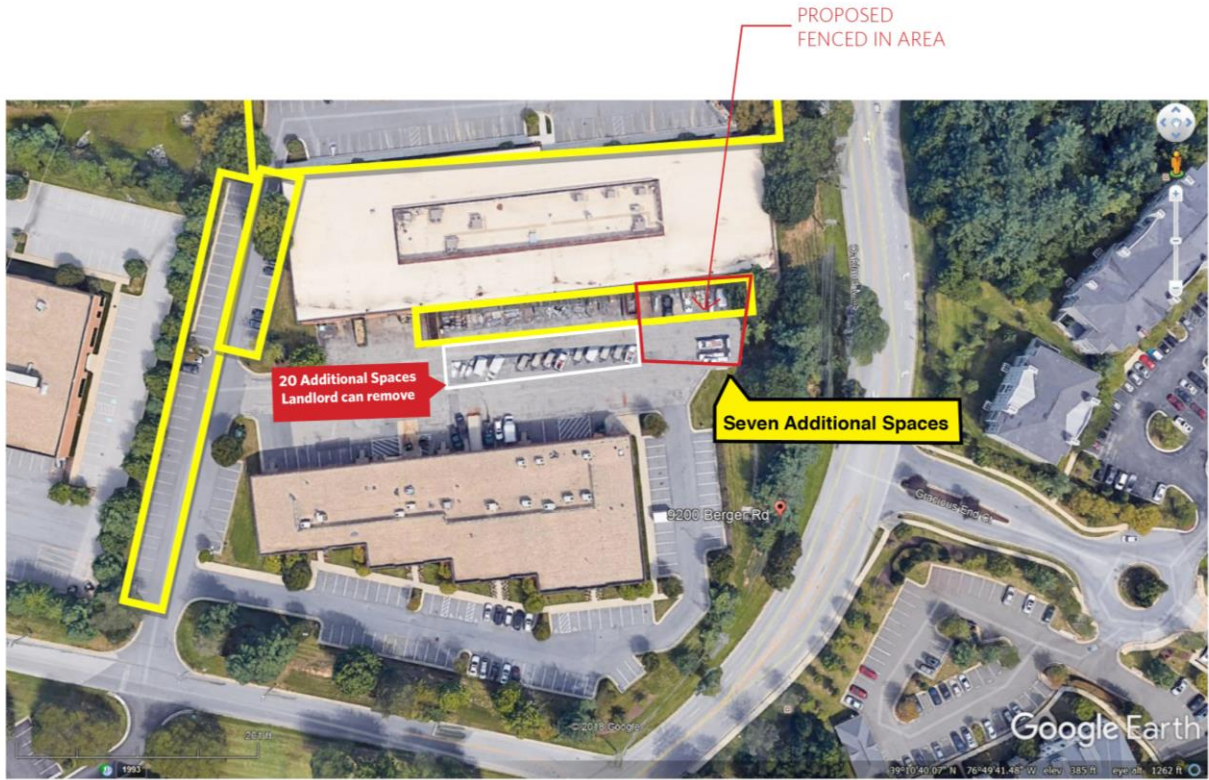


EXHIBIT F
FORM OF TENANT ESTOPPEL CERTIFICATE

The undersigned (the "Tenant") hereby certifies that it is the County under the Lease described in **Exhibit A**, attached hereto and made a part hereof. Tenant hereby further acknowledges that it has been advised that the Lease may be assigned to a purchaser of, and/or collaterally assigned in connection with a proposed financing secured by, the property on which the "Leased Premises" under the Lease are located, and certifies both to the landlord under the lease (the "Landlord") and to any and all prospective purchasers (the "Purchasers") and mortgagees of such property, including any trustee on behalf of any holders of notes or other similar instruments, and any holders from time to time of such notes or other instruments, and their respective successors and assigns (collectively the "Mortgagees") that as of the date hereof:

1. The information set forth in **Exhibit A** is true and correct.
2. Tenant is in occupancy of the Leased Premises and the Lease is in full force and effect and, except as set forth in **Exhibit A**, has not been modified, assigned, supplemented or amended since its original execution, nor are there any other agreements between Landlord and Tenant concerning the space rented under the Lease, oral or written.
3. All material conditions and agreements under the Lease to be satisfied or performed by Landlord have been satisfied and performed.
4. Tenant is not in default under the Lease, Tenant has not received any notice of default under the Lease, and, to Tenant's knowledge, there are no events which have occurred that with the giving of notice or the passage of time or both, would result in a default by Tenant under the Lease.
5. Tenant has not paid any rents or sums due under the Lease more than 30 days in advance of the date due under the Lease and Tenant has no rights of setoff, counterclaim, concession or other rights of diminution of any rent or sums due and payable under the Lease except as set forth in **Exhibit A**.
6. To Tenant's knowledge, there are no uncured defaults on the part of the Landlord under the Lease, Tenant has not sent any notice of default under the Lease to the Landlord, and there are no events which have occurred that, with the giving of notice or the passage of time or both, would result in a default by Landlord thereunder, and at the present time Tenant has no claim against Landlord under the Lease.
7. Except as expressly set forth in **Exhibit A**, there are no provisions for, and Tenant has no rights with respect to, renewal or extension of the initial term of the Lease, terminating the term, or leasing or occupying additional space or purchasing the Leased Premises.
8. No action, voluntary or involuntary, is pending against Tenant under federal or state bankruptcy or insolvency laws.

9. Tenant has the authority to execute and deliver this estoppel certificate.

10. This estoppel certificate shall be binding upon the successors, assigns and representatives of Tenant and shall inure to the benefit of all Purchasers and Mortgagees.

IN WITNESS WHEREOF, Tenant has duly executed this Certificate this _____ day of _____, 20__.

ATTEST:

HOWARD COUNTY, MARYLAND

Chief Administrative Officer

By: _____(SEAL)

County Executive

RECOMMENDED FOR APPROVAL:

_____, Director
Department of Public Works

APPROVED FOR SUFFICIENCY OF FUNDS:

_____, Director
Department of Finance

Approved for Form and Legal Sufficiency
on this ____ day of _____, 201__:

County Solicitor

Senior Assistant County Solicitor

EXHIBIT A TO TENANT ESTOPPEL CERTIFICATE

Lease, Lease Terms and Current Status

- A. Date of Lease:
- B. Parties:
 - 1. Landlord:
 - 2. Tenant d/b/a:
- C. Leased Premises known as:
- D. Modifications, Assignments, Supplements or Amendments to Lease:
- E. Commencement Date:
- F. Expiration of Current Term:
- G. Rights to renew, to extend, to terminate, to rent or occupy additional space or to purchase any portion of the property:
- H. Security Deposit Paid to Landlord: None
- I. Current Annual Rent (Annualized): \$
- J. Current Operating Expenses (Annualized): \$
- K. Current Total Rent: \$
- L. Square Feet Demised:

EXHIBIT G

SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT

Date: _____

Lender: Sun Life Assurance Company of Canada, a Canadian corporation,
together with its subsidiaries and affiliates
c/o Sun Life Financial
One Sun Life Executive Park
Wellesley Hills, Massachusetts 02481
Attention: Mortgage Investments Group

Loan No: _____

Landlord: _____

Landlord's Notice Address:

Tenant: _____

Tenant's Notice Address:

Lease: a certain Lease dated _____
_____ between _____ as the landlord and _____
_____ as the tenant, as amended by _____.

1. Background. Landlord is the landlord and Tenant is the tenant under the Lease, pursuant to which Tenant occupies a portion (the "Premises") of the real property and improvements (the "Property") located at _____ and more particularly described in Exhibit A attached hereto. Lender is about to make a loan to Landlord secured by a mortgage or deed of trust (the "Mortgage") on the Property. Lender desires that the Lease be subject and subordinate to the Mortgage. Tenant desires to be assured of continued occupancy of the Premises under the terms of the Lease and subject to the terms of the Mortgage, notwithstanding any future default in the performance by Landlord or any successor-in-title to

Landlord of any of Landlord's obligations under the Mortgage, and Lender is willing to give Tenant such assurances.

2. Agreements, Terms and Conditions. In consideration of the mutual covenants herein contained, Lender, Landlord and Tenant agree as follows:

2.1. The Lease is and shall at all times be subject and subordinate to the Mortgage, the terms and conditions of the Mortgage, the rights and lien of the holder of the Mortgage, and all renewals, modifications, consolidations, replacements and extensions thereof.

2.2. For so long as Tenant shall not be in default of any of Tenant's obligations under the Lease beyond any applicable notice or grace period provided therein, Tenant shall not be evicted from the Premises, nor shall Tenant's leasehold estate under the Lease be terminated or disturbed or any of Tenant's rights under the Lease be disturbed by reason of any default by Landlord under the Mortgage or any resulting foreclosure or other action or proceeding taken by Lender under the Mortgage.

2.3. For so long as Tenant shall not be in default of any of Tenant's obligations under the Lease beyond any applicable notice or grace period provided therein, Lender shall not, for the purpose of terminating the Lease, join Tenant as a party defendant in any foreclosure or other action or proceeding taken by Lender under the Mortgage.

2.4. In the event of foreclosure of the Mortgage or the delivery of a deed in lieu of foreclosure thereof, the purchaser upon foreclosure of the Mortgage, or the grantee under a deed in lieu of foreclosure, shall thereby succeed to the position of landlord under the Lease, and Tenant shall attorn to and accept such purchaser or grantee as the landlord under the Lease, and (subject to the terms and conditions of the Lease) such purchaser or grantee shall not disturb the possession of the Tenant and shall be bound by all of the obligations of the landlord under the Lease; provided, however, that such purchaser or grantee shall not:

- (a) be liable for any act or omission of a prior landlord under the Lease, including Landlord;
- (b) be subject to any offsets, defenses or counterclaims which Tenant might have against any prior landlord under the Lease, including Landlord;
- (c) be bound by the payment of any rent, additional rent or other sums, including security deposits unless actually received by Lender, which Tenant may have paid more than thirty (30) days in advance to any prior landlord under the Lease, including Landlord;
- (d) be liable for refusal or failure to perform or complete any work to be performed by any prior landlord under the Lease, including Landlord, or otherwise to prepare the Premises for occupancy in accordance with the provisions of the Lease; or

(e) be bound by any termination or amendment of the Lease made without Lender's prior written consent.

3. Amendment of Lease. Landlord and Tenant hereby confirm that the Lease has not been amended or otherwise modified except as set forth above and is in full force and effect.

4. Notice. Any notice or demand which any party hereto may desire or be required to serve upon any other party hereto shall be given in writing by delivering the same in person to the intended addressee, by overnight courier service with guaranteed next day delivery or by certified United States Mail postage prepaid sent to the intended addressee at the applicable Notice Address stated above or to such different address as the addressee shall have designated by written notice to the other parties sent in accordance herewith. Such notices shall be deemed given when received or, if earlier, in the case of delivery by courier service with guaranteed next day delivery, the next day or the day designated for delivery, or in the case of delivery by certified United States Mail, 2 days after deposit therein.

5. Construction. The provisions of this Agreement shall be construed in accordance with the laws of the state in which the Property is located.

6. Waiver, Change or Discharge. This Agreement may not be waived, changed or discharged orally, but only by an agreement in writing and signed by the parties, and any oral waiver, change or discharge of any provision of this Agreement shall be without authority and of no force and effect.

7. Successors and Assigns. The provisions of this Agreement shall bind and inure to the benefit of the parties hereto and their heirs, successors and assigns. The word "Lender" as used herein shall mean not only the original Lender named herein but also all future holders of the Mortgage. The word "Tenant" as used herein shall mean not only the original Tenant named herein but also any entity which shall become the owner of the leasehold estate under the Lease and Tenant's rights, benefits and privileges under the Lease in compliance with the Lease or with the prior written consent of Landlord and Lender. The word "Landlord" as used herein shall mean not only the original Landlord named in the first paragraph hereof but also all future owners of the Property.

IN WITNESS WHEREOF, this Agreement has been executed and delivered under seal as of the date first above written.

ATTEST:

HOWARD COUNTY, MARYLAND

Lonnie Robbins
Chief Administrative Officer

By: _____(SEAL)
Allan H. Kittleman
County Executive

RECOMMENDED FOR APPROVAL:

James M. Irvin, Director
Department of Public Works

APPROVED FOR SUFFICIENCY OF FUNDS:

Janet R. Irvin, Director
Department of Finance

Approved for Form and Legal Sufficiency
on this ____ day of _____, 2018:

Gary W. Kuc
County Solicitor

Lisa S. O'Brien
Senior Assistant County Solicitor

WITNESS/ATTEST:

**9200 BERGER BUSINESS TRUST,
a Maryland business trust**

By: _____ (SEAL)

Name: _____

Title: _____

Date: _____

WITNESS:

Name: _____

Name: _____

LENDER:

**SUN LIFE ASSURANCE COMPANY OF
CANADA**

By: _____

Name: _____

By: _____

Name: _____

[ADD NOTARY FORMS/ACKNOWLEDGEMENTS]

EXHIBIT A

Property Description