

**COMMERCIAL REAL ESTATE LEASE AGREEMENT**

**THIS COMMERCIAL REAL ESTATE LEASE AGREEMENT** (this "Lease") is made and entered into as of the last date below written by and between the CHARTER TOWNSHIP OF KINROSS, a township existing under the laws of the State of Michigan, whose address is P.O. Box 175, Kinross, MI 49752 (hereafter referred to as "Landlord"); and \_\_\_\_\_, whose address is \_\_\_\_\_ (hereafter referred to as "Tenant") and the parties hereby agree, acknowledge and recite as follows:

THAT, Landlord, in consideration of the rents to be paid and covenants to be performed pursuant to this mutual Lease, does hereby lease to Tenant, commercial real property located \_\_\_\_\_, as follows:

**SECTION I  
DESCRIPTION OF PREMISES**

Landlord shall lease to Tenant, commercial real property located at \_\_\_\_\_ described as follows (the "Premises"):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Tax I.D. No.: \_\_\_\_\_

**SECTION II  
TERM OF LEASE**

Tenant shall lease from Landlord the Premises for an initial term of \_\_\_\_\_ years (the "Term") commencing on \_\_\_\_\_ (the "Commencement Date") and terminating on \_\_\_\_\_, subject to Tenant's option to renew set forth in Section XXIV hereof.

**SECTION III  
RENT**

1. **Rent.** Tenant agrees to pay to Landlord, as rent (the "Base Rent") for the leased Premises during the Term as follows:

|                |                                       |
|----------------|---------------------------------------|
| \$ _____/month | January 1, 200__ - December 31, 200__ |
| \$ _____/month | January 1, 200__ - December 31, 200__ |
| \$ _____/month | January 1, 200__ - December 31, 200__ |
| \$ _____/month | January 1, 200__ - December 31, 200__ |
| \$ _____/month | January 1, 200__ - December 31, 200__ |

In the event Tenant exercises the option to renew pursuant to Section XXIV hereof, the Base Rent shall increase as set forth in that Section and the other provisions of this Lease shall continue to be in force and effect.

2. **Late Payment.** If any monthly payment due hereunder from Tenant is not received by Landlord within five (5) days from and after the date due, Tenant shall pay to Landlord as a late charge for each such late monthly installment, a late charge equal to five percent (5%) of the amount of such late payment. Acceptance of any late charge shall not constitute a waiver of Tenant's default with respect to the overdue amount, or prevent Landlord from exercising any of the other rights and remedies available to Landlord for Tenant's default.

3. **Time for Payment.** All Base Rent shall be payable in advance on the first (1st) day of each and every month during the Term of this Lease, including extensions thereof. If this Lease commences or terminates on a day other than the first (1st) day of the month, Base Rent shall be prorated accordingly on the basis of a thirty (30) day month.

#### **SECTION IV** **SECURITY DEPOSIT**

Landlord hereby acknowledges receipt of Tenant's check in the sum of \_\_\_\_\_ and 00/100 (\$\_\_\_\_\_.00) Dollars (provided that such check shall not be deemed payment until honored and paid by the drawee), which sum is to be retained by Landlord as security for the faithful performance for all covenants, conditions and agreements of this Lease, but in no event shall Landlord be obliged to apply the same upon rents or other charges in arrears or upon damages for Tenant's failure to perform the said covenants, conditions and agreements; Landlord may so apply the security at its option; and Landlord's right to the possession of the Premises for non-payment of Base Rent or any other reason shall not in any event be affected by reason of the fact that Landlord holds this security. The said sum, if not applied toward the payment of Base Rent in arrears or toward the payment of damages suffered by Landlord by reason of Tenant's breach of the covenants, conditions and agreements of this Lease, is to be returned to Tenant, without interest, when this Lease, including all *extensions hereto, is terminated, according to these terms and in no event is the said security to be returned until Tenant has vacated the Premises and delivered possession to Landlord in the condition called for in this Lease.* In the event that Landlord repossesses itself of the Premises because of Tenant's default or because of Tenant's failure to carry out the covenants, conditions or agreements of this Lease, Landlord may, without affecting any other rights or remedies, apply the said security upon any damages suffered to the date of said repossession and may retain the said security to apply upon such damages as may be suffered or shall accrue thereafter by reason of Tenant's default or breach. Landlord shall not be obliged to keep the said security as a separate fund, but may mix the said security with its own funds.

**SECTION V**  
**UTILITIES, MAINTENANCE EXPENSES AND REAL ESTATE TAXES**

This Lease is a TRIPLE NET lease, meaning that Tenant is to pay all utilities, insurance, real estate taxes, personal property taxes, maintenance expenses and all other costs and expenses required to service and maintain the Premises during the Term of the Lease, in addition to the Base Rent. In addition, the following specific provisions shall apply:

1. **Utilities.** Tenant shall pay when due (without interest or penalty) any and all utility bills rendered for servicing the Premises including, but not limited to electricity, natural gas, water, sewer and telephone. Tenant shall maintain a contract and directly pay the utility expenses with each service provider for the respective utility services. Tenant shall maintain telephone and other utility services to assure prompt receipt of billing information as well as prompt payment for such services. Upon Landlord's request, Tenant shall provide Landlord with written proof of payment of all applicable utilities. Should Tenant fail to pay any utilities when due, Landlord shall have the same remedies against Tenant provided in this Lease for Tenant's failure to timely pay the Base Rent; provided further, however, Landlord may, but is not obligated to pay the utilities Tenant shall be liable for the amount thus paid by Landlord plus interest at the rate of nine percent (9%) per annum and the Landlord's costs incurred in collecting the utilities from Tenant, including reasonable attorney fees.

2. **Taxes.** Tenant shall pay when due (without interest or penalty) all real estate taxes, personal property taxes, general or special assessments, license fees, permit fees and other governmental charges of any nature that may be assessed or imposed upon the Premises during the Term of the Lease. Tenant shall pay the taxes and other financial charges on or before the last day on which payment is required before the accrual of penalty or interest. If applicable, Landlord shall submit tax bills to Tenant as received by Landlord from the taxing authorities and Tenant shall directly pay such taxes on or before the due date. Tenant shall not be obligated to pay any income tax, profits tax, excise tax or other tax or charge that may be payable or chargeable to Landlord under the laws of the United States or the State of Michigan or imposed by any political or taxing authority in regard to rent received by Landlord under the Lease. Upon Landlord's request, Tenant shall provide Landlord with written proof of payment of all applicable taxes. Should Tenant fail to timely pay the taxes as referred to in this paragraph, Landlord shall have the same remedies against Tenant provided in this Lease for Tenant's failure to timely pay the Base Rent; provided further, however, Landlord may, but is not obligated to pay the taxes and Tenant shall be liable for the amount thus paid by Landlord plus interest at the rate of nine percent (9%) per annum and the Landlord's costs incurred in collecting the taxes from Tenant, including reasonable attorney fees.

3. **Maintenance and Repairs.** Tenant, at its sole expense, shall maintain and repair the Premises, including all improvements thereto, including but not limited to the roof, all outer walls and windows. The repairs shall be promptly performed and have

a quality equal to the original condition of the Premises at the time Tenant assumed occupancy. Landlord shall not be liable or responsible to make any alterations, replacements, improvements or repairs during the Term of this Lease. If Landlord deems any repairs to be necessary and Tenant refuses or fails to perform such repairs following demand by Landlord, Landlord may perform any such repairs and shall not be responsible to Tenant for any loss or damage that may accrue by reason of such repair. If Landlord performs such repairs, Tenant shall within thirty (30) days of receipt of notice reimburse Landlord for the costs of the repair plus interest at the rate of nine percent (9%) per annum. If Tenant shall default on the payment to Landlord for the repairs or any interest for payment on the repairs, Landlord shall have the same remedies as provided in this Lease if Tenant fails to timely pay the Base Rent. Upon Landlord's request, Tenant shall provide Landlord with written proof of payment of all applicable maintenance and repairs.

## **SECTION VI** **USE OF LEASEHOLD PREMISES**

The leased Premises are to be used solely as a \_\_\_\_\_. Tenant shall not use or occupy the Premises for any other purpose or purposes without the written consent of Landlord and said Tenant shall not use the Premises for any purpose in violation of any law, municipal ordinance or regulation. In the event Tenant shall fail to comply with this provision of the Lease, such act shall be considered a breach of this Lease and Landlord may, at its option, terminate this Lease, re-enter the leased Premises and repossess same.

## **SECTION VII** **RESTRICTIONS ON USE**

Tenant shall comply with all laws, ordinances, or regulations of all federal, state, county and municipal authorities, including the ordinances or regulations duly adopted by the Landlord, pertaining to the Premises and governing the trade of Tenant including but not limited to any regulation governing employment practices, pollution, safety and health. Tenant shall not use the Premises in any manner that will increase the risks covered by insurance on the Premises and/or result in an increase in the insurance premium or cancellation of any insurance policy maintained by Landlord. Tenant shall not retain, use or sell any products prohibited by the policy of fire insurance covering the Premises and shall comply with the requirements of the insurer, if any, to maintain the fire and liability insurance in full force and effect. Tenant shall not exclude a person on the basis or race, color, national origin, marital status, physical or mental handicap, religion, sex or age from participation in, the use or, employment by or service provided by Tenant on the Premises.

**SECTION VIII**  
**WASTE, NUISANCE OR UNLAWFUL ACTIVITY**

Tenant shall not commit, permit or allow any waste or nuisance on the Premises or permit, use or allow same to be employed for any unlawful purpose. Further, Tenant shall not permit any liens or encumbrances to attach to the Premises.

**SECTION IX**  
**PHYSICAL CONDITION OF LEASEHOLD**

Tenant shall maintain the Premises in good repair during the Term of this Lease, reasonable wear and tear excepted. Tenant shall also assume and pay the cost of any modifications to the Premises necessary for the business use of Tenant. Tenant shall also assume and pay the cost of any painting and interior decorating of the Premises performed during the Term of the Lease. Tenant shall maintain the grounds in a clean and orderly condition.

Tenant shall not make any material alterations, additions or improvements to the Premises without the written consent of Landlord. If Tenant elects not to remove any of said alterations, additions or improvements from the Premises at the termination of the Lease, they shall become the property of Landlord and remain upon or be surrendered with the Premises at the termination of the Lease. In the alternative, Tenant may remove such alterations, additions or improvements and return the Premises to its original condition as existed at the commencement of the Lease at the option of Tenant. Landlord at the expense of Tenant may remove any alterations, additions or improvements made by Tenant without the written consent of Landlord.

**SECTION X**  
**DELIVERY, ACCEPTANCE AND SURRENDER OF THE PREMISES**

Tenant accepts the Premises "AS-IS, WHERE-IS" and acknowledges that they are in an acceptable condition. Tenant shall surrender the Premises at the end of the Term in the same condition as when Tenant assumed occupancy other than reasonable wear and tear, which is excepted. For a period beginning six (6) months prior to the expiration of this Lease, Landlord may show the Premises to any prospective tenants and display on or about the Premises signs advertising the availability thereof. Tenant has examined the Premises and acknowledges that the condition of the leasehold Premises is satisfactory for occupancy as of the date of the commencement of the Term.

**SECTION XI**  
**INDEMNITY AND INSURANCE**

Tenant covenants and agrees to save and hold harmless Landlord from any and all costs, damages, claims, obligations, liabilities and expenses (including costs and reasonable attorney fees) arising from every event, transaction, or occurrence which may occur on the Premises or about the Premises or as a result of the Premises or the

activities of any kind and nature on or about the Premises, whether arising from any of Landlord's or Tenant's agents, officers, employees, customers, invitees, guests or trespassers.

Tenant shall keep the Premises insured against loss or damage due to fire, casualty and the risks normally included in extended coverage, malicious mischief and vandalism, for not less than the full replacement value for the Premises. Tenant shall also carry public liability insurance, both personal injury and property damage, with a combined single limit of not less than Five Million & 00/100 (\$5,000,000) Dollars per occurrence or other higher commercially reasonable coverage amounts acceptable to Landlord. All said insurance shall be in form and amount and with companies reasonably satisfactory to Landlord. All insurance for loss or damage shall provide that losses shall be payable to Landlord and Tenant, as their interests may appear. Landlord shall be named as an additional insured with respect to all such insurance. Tenant shall pay the premiums therefor and deliver to Landlord evidence satisfactory to Landlord of such insurance coverage. Tenant shall cause to be provided to Landlord, not less than fifteen (15) days prior to the scheduled expiration or lapse of such insurance coverage, evidence satisfactory to Landlord of renewal or replacement coverage. Each insurer shall agree, by endorsement upon the policy or by independent instrument furnished to Landlord, that (a) it will give Landlord thirty (30) days' prior written notice of the effective date of any material alteration or cancellation of such policy; and (b) insurance as to the interest of any named additional insured or loss payee other than Tenant shall not be invalidated by any actions, inactions, breach of warranty or conditions or negligence of Tenant with respect to such policy or policies. The proceeds of such insurance payable as a result of loss of or damage to the Premises shall be applied as required by the provisions of Section XII hereof. Landlord and Tenant hereby waive any and all right of recovery against each other for any loss or damage caused by fire or any of the risks covered by their standard fire and extended coverage, vandalism, malicious mischief and loss of revenue insurance policies.

Tenant shall procure and maintain insurance in commercially reasonable amounts acceptable to Landlord on Tenant's personal property, fixtures, equipment and contents contained in the Premises and shall defend, indemnify and hold harmless Landlord from any damage or destruction of said personal property of Tenant. Tenant shall also maintain insurance covering Tenant's revenue loss in the event of fire or other casualty. Further, Tenant shall maintain a policy of workers compensation insurance as required by law, or a program or self insurance in accordance with applicable law. Upon Landlord's request, Tenant shall provide Landlord with written proof of the existence and good standing of all insurance required hereunder.

## **SECTION XII**

### **COMPLETE/PARTIAL DESTRUCTION OF THE PREMISES**

If the Premises are damaged or destroyed in whole or in part by fire or other casualty during the Term hereof (including any extensions), the Base Rent and all of the other expenses herein provided for shall not abate, and provided further that if the

Premises, or the building of which they are a part, shall be destroyed to the extent of more than one-half of the value thereof, Landlord may at its option terminate this Lease forthwith by a written notice to Tenant.

Notwithstanding the foregoing, Tenant further covenants and agrees that in case of damage to or destruction of any building on the Premises or of the machinery, fixtures and equipment thereof by fire or otherwise, Tenant will immediately notify Landlord of such event and will promptly, at its sole cost and expense, repair, restore and rebuild the same as nearly as possible to the condition they were in immediately prior to such damage or destruction. All insurance money recovered by Landlord or Tenant, or both, on account of such damage or destruction less the cost, if any, to Landlord of such recovery, shall be applied to the payment of the cost of the repairing, restoring and rebuilding (hereinafter in this paragraph referred to as the "work") and shall be paid out from time to time to Tenant as such work progresses upon the written request of Tenant, which shall be accompanied by a certificate of the architect or engineer in charge of the work which is acceptable in all respects to Landlord, stating (a) that the sum requested is justly due to the contractors, sub-contractors, material-men, laborers, engineers, architects or other persons, firms or corporations rendering services or material for such work, or is justly required to reimburse Tenant for expenditures made by Tenant in connection with such work and when added to all sums previously paid out by Tenant does not exceed the value of the work done to the date of such certificate; and (b) that the insurance money remaining in the hands of Landlord, together with the sums, if any, deposited by Tenant with Landlord as hereinafter provided, will be sufficient upon the completion of such work to pay for the same in full if the insurance proceeds are insufficient to cover the cost of repairing and restoring the Premises to good and tenantable condition. Tenant shall forthwith deposit with Landlord or the mortgagee of any first mortgage on the leased Premises, as the case may be, the amount by which such proceeds are insufficient and Landlord shall thereupon authorize Tenant to proceed with such repairs and restoration as hereinabove provided. If Tenant fails to make such a deposit, Landlord shall be under no obligation to make such repairs or undertake such restoration, or to use any portion of the insurance proceeds for such restoration and repair, but Tenant shall not thereby be relieved of its obligations to repair and restore the leased Premises to good tenantable condition. Tenant shall also furnish Landlord at the time of any such payment with an official search or other evidence satisfactory to Landlord that there has not been filed with respect to the Premises any mechanic's or other lien which has not been discharged of record in respect of any work, labor, services or materials performed, furnished or supplied or claimed to have been performed, furnished or supplied in connection with any such work. Landlord shall not be required to approve the pay out of any insurance money when the Premises shall be encumbered with any such lien. If the insurance money in the hands of Landlord or Tenant, or both, shall be insufficient to pay the entire cost of such work, Tenant agrees to pay the deficiency.

**SECTION XIII**  
**NON-LIABILITY OF LANDLORD FOR DAMAGES**

Landlord shall not be liable for any claims for injury to persons or property from any cause relating to the occupancy of the Premises or the business operations of Tenant. Tenant shall indemnify and hold Landlord and its agents, employees and representatives harmless from any and all costs, damages, claims, obligations, liabilities and expenses (including costs and reasonable attorney fees) arising from any such claims occurring during the Term of the Lease.

**SECTION XIV**  
**ENTRY BY LANDLORD**

Landlord reserves the right to enter the leased Premises at reasonable times to inspect same, perform required maintenance and repairs or to make additions, alterations or modifications to any part of the Premises. Landlord shall not be liable to Tenant for disturbance of quiet enjoyment of the Premises or business interference if there is construction, improvements or repairs to the Premises.

**SECTION XV**  
**SIGNAGE**

Tenant shall be permitted to use the allotted signage space as agreed upon by the parties. The purchase, installation and erection of signage by Tenant shall be at its expense. Tenant shall not construct or erect other signs, awnings, marquees or other structures projecting from the exterior of the Premises or otherwise located on the Premises without the written consent of Landlord.

**SECTION XVI**  
**PARKING**

Tenant shall be allowed to use the existing parking spaces for its customers during normal business hours.

**SECTION XVII**  
**PROHIBITION OF ASSIGNMENT OR SUBLEASE**

1. **Tenant Assignment.** Tenant shall not assign, sublease or share occupancy of the Premises or any portion of same with any person or entity without the written consent of Landlord. For purposes of this prohibition, any change in the ownership, management or control of Tenant shall constitute an "assignment" requiring Landlord's prior written consent. Any request by Tenant to sublet or share occupancy of the Premises would be conditioned upon the use being compatible with the business use by other lessees and would require the written consent of Landlord. An unauthorized assignment or sublease shall be void and constitute termination of the Lease at the option of Landlord.

2. **Landlord Assignment.** Landlord may assign its interest in this Lease to any person or entity, in its sole and absolute discretion and without Tenant's consent. Upon such assignment, Tenant shall completely attorn to the new landlord hereunder, Landlord shall be completely and permanently released from any and all obligations under this Lease and thereupon all later accruing liabilities and obligations shall be binding upon the new landlord. Further, Landlord may sell, transfer or convey the Premises to any party at any time without Tenant's consent. Upon such sale, transfer or conveyance of the Premises, Tenant shall completely attorn to the new owner as the landlord hereunder, Landlord shall be completely and permanently released from any and all obligations under this Lease, and thereupon all later accruing liabilities and obligations shall be binding upon the new landlord/owner.

## **SECTION XVIII** **BANKRUPTCY OR INSOLVENCY BY TENANT**

1. **Tenant's Interest Not Transferable.** Neither Tenant's interest in this Lease, nor any estate hereby created in Tenant nor any interest herein or therein, shall pass to any trustee or receiver or assignee for the benefit of creditors or otherwise by operation of law except as may specifically be provided pursuant to the Bankruptcy Code.

2. **Termination.** In the event the interest or estate created in Tenant hereby shall be taken in execution or by other process of law, or its executors, administrators, or assigns, if any, shall be adjudicated insolvent or bankrupt pursuant to the provisions of any State Act or the Bankruptcy Code or if Tenant is adjudicated insolvent by a court of competent jurisdiction other than the United States Bankruptcy Court, or if a receiver or trustee of the property of Tenant shall be appointed by reason of the insolvency or inability of Tenant to pay its debts, or if any assignment shall be made of the property of Tenant for the benefit of creditors, then and in any such events, this Lease and all rights of Tenant hereunder shall automatically cease and terminate with the same force and effect as though the date of such event were the date originally set forth herein and fixed for the expiration of the Term, and Tenant shall vacate and surrender the leased Premises but shall remain liable as herein provided.

3. **Tenant's Obligation to Avoid Creditors' Proceedings.** Tenant shall not cause or give cause for the appointment of a trustee or receiver of the assets of Tenant and shall not make any assignment for the benefit of creditors, or become or be adjudicated insolvent. The allowance of any petition under any insolvency law except under the Bankruptcy Code or the appointment of a trustee or receiver of Tenant or of its assets shall be conclusive evidence that Tenant caused, or gave cause therefor, unless such allowance of the petition, or the appointment of a trustee or receiver, is vacated within thirty (30) days after such allowance or appointment. Any act described in this Paragraph shall be deemed a material breach of Tenant's obligations hereunder, and this Lease shall thereupon automatically terminate. Landlord does, in addition, reserve any and all other remedies provided in this Lease or in law or equity.

**4. Rights And Obligations Under The Bankruptcy Code.**

(a) Upon the filing of a petition by or against Tenant under the Bankruptcy Code, Tenant, as debtor and as debtor in possession, and any trustee who may be appointed, agree as follows: (1) to perform each and every obligation of Tenant under this Lease until such time as this Lease is either rejected or assumed by order of the United States Bankruptcy Court; and (2) to pay monthly, in advance on the first day of each month as reasonable compensation for use and occupancy of the leased Premises, an amount equal to all minimum rent and other charges otherwise due pursuant to this Lease; and (3) to reject or assume this Lease within sixty (60) days of the filing of such petition under Chapter VII of the Bankruptcy Code or within one hundred twenty (120) days (or such shorter term as Landlord, in its sole discretion, may deem reasonable so long as notice of such period is given) of the filing of a petition under any other Chapter, and (4) to give Landlord at least forty-five (45) days' prior written notice of any proceeding relating to any assumption of this Lease; and (5) to give at least thirty (30) days' prior written notice of any abandonment of the leased Premises; any such abandonment to be deemed a rejection of this Lease; and (6) to do all other things of benefit to Landlord otherwise required under the Bankruptcy Code; and (7) to be deemed to have rejected this Lease in the event of the failure to comply with any of the above; and (8) to have consented to the entry to an order by an appropriate United States Bankruptcy Court providing all of the above, waiving notice and hearing of the entry of same.

(b) No default of this Lease by Tenant, either prior to or subsequent to the filing of such a petition, shall be deemed to have been waived unless expressly done so in writing by Landlord.

(c) Included within and in addition to any other conditions or obligations imposed upon Tenant or its successor in the event of assumption and/or assignment are the following: (1) the cure of any monetary defaults and the reimbursement of pecuniary loss within not more than thirty (30) days of assumption and/or assignment; and (2) the deposit of an additional sum equal to three (3) months' rent to be held pursuant to the terms of Section IV of this Lease; and (3) the prior written consent of any mortgagee to which this Lease has been assigned as collateral security.

**SECTION XIX**  
**CONDEMNATION**

In the event any public authority under the Power of Eminent Domain shall take the Premises, the Term of this Lease shall cease from the date possession shall be required for such purpose and Base Rent shall be prorated to said date. Any and all damages awarded for the taking by condemnation shall belong to and be the property of Landlord.

**SECTION XX**  
**PEACEFUL AND QUIET POSSESSION BY TENANT**

Landlord covenants that Tenant, on the performance of the conditions and covenants set forth in this Lease, shall and may peacefully and quietly have, hold and enjoy the Premises for the Term of this Lease.

**SECTION XXI**  
**REMEDIES OF LANDLORD FOR BREACH BY TENANT**

In the event, prior to the expiration of the Term (including extensions) a) Tenant shall fail or refuse to timely pay the Base Rent or any of the other obligations of Tenant due under this Lease, b) Tenant shall breach the terms of this Lease, which breach is not cured within ten (10) days after Landlord notifies Tenant of such breach, c) Tenant shall vacate, abandon or desert the Premises or Tenant ceases business operations on the Premises, d) Tenant assigns or attempts to assign or sublet the Premises or any portion thereof without Landlord's prior written consent, e) Tenant files for Bankruptcy or makes an assignment for the benefit of creditors, or f) a receiver or trustee is appointed for Tenant and such appointment is not vacated within ten (10) days after it is made, then Landlord shall have the following remedies, in addition to any other legal and/or equitable remedies available to Landlord:

1. Landlord may immediately re-enter the Premises and remove the property of Tenant, store the property in a public warehouse or at a place selected by Landlord at the expense of Tenant.

2. Landlord may terminate the Lease on giving ten (10) days' written notice of termination to Tenant. Landlord may then proceed to terminate said Lease by summary proceedings, institute litigation against Tenant for breach of contract or resort to whatever other remedies may be available under the laws of the State of Michigan. Landlord may recover from Tenant all damages resulting from the breach of Lease.

3. Tenant shall be liable for all expenses of the reletting of the Premises, including, by way of illustration and not of limitation, alterations and repairs, and real estate commissions and the difference between any Base Rent received by Landlord from a subsequent Tenant and the rental installments that were due during the remaining Term of this Lease, and Tenant shall be liable for the costs and reasonable attorney fees incurred by Landlord in enforcing the provisions of this Lease.

**SECTION XXII**  
**OFF-SET STATEMENT, ATTORNMENT AND SUBORDINATION**

1. **Off-set Statement.** Tenant agrees within ten (10) days after request therefor by Landlord to execute in recordable form and deliver to Landlord a statement, in writing, certifying (a) that this Lease is in full force and effect, (b) the date of commencement of the Term of this Lease, (c) that rent is paid currently without any off-

set or defense thereto, (d) the amount of rent, if any, paid in advance, and (e) that there are no uncured defaults by Landlord or stating those claimed by Tenant, provided that, in fact, such facts are accurate and ascertainable.

2. **Attornment.** In the event that Landlord shall sell or convey the Premises, or if any proceedings are brought for the foreclosure of, or in the event of the conveyance by deed in lieu of foreclosure of, or in the event of exercise of the power of sale, under any mortgage made by Landlord covering the Premises, Tenant hereby attorns to, and covenants and agrees to execute an instrument in writing reasonably satisfactory to the new owner whereby Tenant attorns to such successor in interest and recognizes such successor as Landlord under this Lease.

3. **Subordination.** Tenant agrees that this Lease, at the request of Landlord, be subordinate to any mortgages or deeds of trust that may hereafter be placed upon the leased Premises at any time and to any and all advances to be made thereunder, and to the interest thereon, and all renewals, replacements and extensions thereof, provided the mortgagee or trustee named in said mortgages or trust deeds shall agree to recognize the Lease of Tenant in the event of foreclosure if Tenant is not in default. Tenant also agrees that any mortgagee or trustee may elect to have this Lease deemed a prior lien to its mortgage or deed of trust, and in the event of such election and upon notification by such mortgagee or trustee to Tenant to that effect, this Lease shall be deemed prior in lien to the same mortgage or deed of trust, whether this Lease is dated prior to or subsequent to the date of said mortgage or deed of trust. Tenant agrees that upon the request of Landlord, any mortgagee or any trustee, Tenant shall execute whatever instruments may be required to carry out the intent of this Section.

4. **Remedies.** Failure of Tenant to execute any statement or instruments necessary or desirable to effectuate the foregoing provisions of this Article within ten (10) days after request so to do by Landlord, shall constitute a breach of this Lease and Landlord shall have the right by not less than ten (10) days' notice to Tenant to declare this Lease terminated and the Term ended, in which event, this Lease shall cease and terminate on the date specified in such notice with the same force and effect as though the date set forth in such notice were the date originally set forth herein and fixed for the expiration of the Term, and Tenant shall vacate and surrender the leased Premises but shall remain liable as provided in this Lease. Further, Tenant hereby irrevocably appoints Landlord as attorney-in-fact for Tenant with full power and authority to execute and deliver in the name of Tenant any such statements or instruments.

### **SECTION XXIII ADDITIONAL CONDITIONS**

Landlord and Tenant agree to the following additional conditions of this Lease:

1. The keys and locks for the Premises shall be considered the property of Landlord and Tenant shall deliver all keys and lock assemblies or combinations to keyless locks to Landlord on the date of this Lease and thereafter when applicable.

2. In the event that Tenant fails to timely vacate the Premises, Tenant shall be liable to Landlord for all loss or damage incurred through loss of rents or sale or any other consequential damages arising from the failure of Tenant to vacate the property.

3. Landlord shall not be liable for theft, vandalism or malicious destruction or any loss of personal property incurred by Tenant from the Premises.

4. The parties agree that any existing Lease, option or other agreement between the parties relating to the leased Premises is hereby terminated and is of no further force or effect whatsoever.

#### **SECTION XXIV OPTION TO RENEW LEASE**

Tenant shall have the exclusive option to renew this Lease for an additional term of \_\_\_\_\_ ( ) years, commencing on the day immediately succeeding the expiration date of the Term, at a commercially reasonable rental rate to be agreed upon by the parties which shall be no less than the rental rate paid under the last month of the initial Term of this Lease. Tenant may exercise this option by providing Landlord written notice of its election to do so on or before \_\_\_\_\_. Upon such renewal, except for the increased rent, all the provisions of this Lease shall be renewed, ratified and confirmed for the new Lease term.

#### **SECTION XXV ENVIRONMENTAL**

Tenant shall pay for and be totally responsible for the control and proper handling or clean-up of any hazardous material or other chemicals used or stored upon the Premises by Tenant both prior to and during the Term of this Lease. Tenant shall ensure that no person spills discharges, introduces, or buries any toxic chemical or contaminants of any type, in on or under the Premises or any portion thereof, and will not permit the discharge thereof into the plumbing (sanitary or storm sewer or fresh water system) for the facility, or into any municipal plumbing system. Tenant shall employ every reasonably appropriate protection and procedure necessary to protect such systems from contamination. Furthermore, Tenant agrees to indemnify and hold Landlord harmless from and against any and all claims, liabilities, damages, costs, expenses, fines and penalties whatsoever (including reasonable attorney fees) incurred by Landlord relating to or arising as a result of Tenant's breach of this representation and warranty, including, without limitation, clean-up costs and future response costs under CERCLA, SARA, or any other Federal, state or local law, ordinance or regulation. Tenant will forward to Landlord, on or before the Commencement Date, any applicable environmental studies or reports pertaining to the Premises available to Tenant.

**SECTION XXVI**  
**HOLDING OVER**

The occupation of the Premises by Tenant beyond the expiration of the Term shall not extend or renew the Term for any period of time. In this event, Tenant is presumed to occupy the Premises against the will of Landlord and Landlord is entitled to all remedies provided for in law or equity, including all claims for loss or damage; provided, however, that if Tenant remains in possession of the Premises without Landlord's written consent, Tenant's holding over shall constitute a month-to-month tenancy subject to the terms and conditions of this Lease, except that Base Rent shall be payable at the rate of one hundred fifty percent (150%) of the Base Rent then in effect.

**SECTION XXVII**  
**WAIVER OF JURY TRIAL**

Landlord and Tenant acknowledge that, by executing this Lease, they are waiving any right they may have to a trial by jury in any proceeding that is in any way connected with a dispute arising from or relating in any way to this Lease. Landlord and Tenant further acknowledge that this waiver is made voluntarily with full knowledge of its legal implications.

**SECTION XXVIII**  
**LIABILITY OF LANDLORD**

Tenant shall look only to Landlord's estate and interest in the Premises (or to the proceeds thereof) for the satisfaction of Tenant's remedies for the collection of any judgment (or other judicial process) requiring the payment of money by Landlord in the event of any default by Landlord under this Lease, and no other property or other assets of Landlord shall be subject to levy, execution or other enforcement, procedure for the satisfaction of Tenant's remedies under or with respect to this Lease and neither Landlord nor any other person shall be liable for any deficiency. Nothing contained in this Section shall be construed to permit Tenant to offset against rents due a successor landlord, a judgment (or other judicial process) requiring the payment of money by reason of any default of a prior landlord, except as otherwise specifically set forth herein.

**SECTION XXIX**  
**MISCELLANEOUS**

This Lease shall be construed in accordance with the laws of the State of Michigan. The covenants, conditions and agreements made and entered into by the parties are declared to be binding on their respective heirs, successors or personal representatives and assigns. Any modification, alteration, revision, amendment or extension of this Lease shall be in writing and signed by all parties. Tenant shall not record a Memorandum of Lease or similar document regarding this Lease without Landlord's prior written consent. This Lease and any Exhibits attached hereto embody the entire understanding between the parties relating to the subject matter hereof and

supersede any prior arrangement, understanding and communication between the parties regarding the subject matter hereof, and there are no oral agreements existing between the parties relating to this transaction that are not expressly set forth herein. Any provision of this Lease which is determined by a court of competent jurisdiction to be prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction. In any such case, such determination shall not affect any other provision of this Lease, and the remaining provisions of this Lease shall remain in full force and effect. If any provision or term of this Lease is susceptible to two or more constructions or interpretations, one or more of which would render the provision or term void or unenforceable, the parties agree that a construction or interpretation, which renders the term or provision valid, shall be favored.

**SECTION XXX**  
**NOTICE**

All notices under this Lease must be in writing and may be given as follows: a) notices may be personally delivered; b) delivered by private carrier (e.g., Federal Express), but will be valid only if receipt is acknowledged in writing; or c) notices may be deposited with the U.S. Postal Service, certified or registered mail, with return receipt requested and postage prepaid, and will be deemed received 2 business days thereafter. Notices to Landlord must be given to Landlord's address set forth on Page 1. Notices to Tenant must be given to Tenant's address set forth on Page 1. Landlord will send all bills or invoices payable by Tenant but received by Landlord to Tenant's address. By notice to the other, either party may change, add or delete a notice or invoice address. Time is of the essence in giving all notices under this Lease.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the last date below written.

**LANDLORD:**

\_\_\_\_\_

Dated: January \_\_\_\_, 2005

\_\_\_\_\_

Dated: January \_\_\_\_, 2005

**TENANT:**

\_\_\_\_\_

By:

Print Name:

Its: \_\_\_\_\_

Dated: January \_\_\_\_, 2005

**PERSONAL GUARANTY**

For and in consideration of the agreement of Landlord to enter into the above Lease, the undersigned hereby personally guarantee the performance of Tenant under the terms and conditions of the Lease as the same may be modified from time to time by written agreement. It is acknowledged by the undersigned that this Personal Guaranty is joint and several and that said guaranty is unconditional and absolute. It is further acknowledged by the undersigned that the undersigned are not entitled to any notice of any modifications of the Lease, regardless of the nature of said modifications and regardless of whether or not said modifications materially modify the terms and conditions of the Lease, extend the length of the Lease, or further waive any right to notice of default by Tenant under the terms of said Lease, and agree that Landlord (or its successors and assigns) may look directly to the undersigned for performance of any and all terms and provisions of the Lease. It is expressly agreed by the undersigned that the obligations which the undersigned have undertaken pursuant to this Personal Guaranty may be waived only by a written document expressly setting forth the fact that said obligations are waived, which document must be signed on behalf of Landlord (or its authorized successors or assigns). It is further expressly acknowledged by the undersigned that Landlord would not enter into the Lease without the undersigned executing this absolute and unconditional Personal Guaranty. It is further expressly acknowledged and agreed that this Personal Guaranty shall be binding upon the heirs, successors and assigns of the undersigned.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
\_\_\_\_\_