COUNTY COUNCIL

OF

TALBOT COUNTY

2017 Legislative Session, Legislative Day No.: February 28, 2017

Resolution No.: 243

Introduced by: Mr. Bartlett, Mr. Callahan, Mr. Pack, Ms. Price, Ms. Williams

A RESOLUTION TO APPROVE EXECUTION OF A LEASE OF APPROXIMATELY 53,264 SQUARE FEET OF MANUFACTURING SPACE AND 3,421 SQUARE FEET OF OFFICE SPACE IN A COUNTY BUILDING LOCATED AT 28712 GLEBE ROAD, EASTON, MARYLAND 21601, FURTHER DESCRIBED AS TAX MAP 25, PARCEL 58 (THE FORMER BLACK AND DECKER PROPERTY), FOR A TERM OF FIVE YEARS (5) YEARS WITH UP TO FIVE (5) 1-YEAR RENEWAL TERMS AND WITH CUMULATIVE RENT OF APPROXIMATELY $183,765 PER YEAR

By the Council: February 28, 2017

Introduced, read the first time, and ordered posted, with Public Hearing scheduled on Tuesday, March 28, 2017 at 6:30 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland 21601.

By order: Susan W. Moran
Susan W. Moran, Secretary

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WHEREAS, Local Government Article ("LG") § 10-312, Md. Code Ann., states that the County may dispose of any real or leasehold county property provided that "before the county makes any disposition, grant, or lease of county property, the county shall publish notice of the disposition, grant, or lease once a week for 3 successive weeks in at least one newspaper of general circulation in the county and shall include the terms of compensation to be received and give opportunity for objections."

NOW, THEREFORE, BE IT RESOLVED by the County Council of Talbot County, Maryland that:

1. The County Council finds that:

   (a) The County has duly advertised the proposed transfer and given opportunity for public comment pursuant to Local Government Article § 10-312, Md. Ann. Code;

   (b) The requirements of Local Government Article § 10-312, Md. Ann. Code, have been fulfilled; and,

   (c) The subject manufacturing and office space is not needed for public use and the County is lawfully authorized to lease the space on the terms and conditions set forth herein.

2. The terms of the proposed lease are attached hereto as Exhibit "A", which is incorporated by reference herein, and shall be and are hereby APPROVED.

3. The Council President is hereby authorized and directed to execute the same on behalf of Talbot County, Maryland.

BE IT FURTHE RESOLVED, that this Resolution shall take effect immediately upon its date of passage.

PUBLIC HEARING

Having been posted and Notice, Time and Place of Hearing, and Title of Resolution No. having been published, a public hearing was held on _____ in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland.

BY THE COUNCIL

Read the second time:

Enacted: _____

By Order: _____
Susan W. Moran, Secretary

Williams	-
Price	-
Bartlett	-
Pack	-
Callahan	-

EXHIBIT "A"

LEASE AGREEMENT

THIS LEASE AGREEMENT effective as of February 20, 2017, by and between Talbot County Maryland, a political subdivision of the State of Maryland, with its principal office at 11 N. Washington St., Easton, MD 21601 (hereinafter referred to as **"Landlord"**), and The Whalen Company, a Maryland corporation with its principal place of business located at 8900 Glebe Park Dr., Easton, MD 21601 (hereinafter referred to as **"Tenant"**).

W I T N E S S E T H :

WHEREAS, Landlord is the fee simple owner of certain real property located in Easton, Talbot County, Maryland such real property having a street address of 26812 Glebe Rd., Easton, MD 21601 (the **"Property"**);

WHEREAS, Landlord is desirous of leasing to Tenant that portion of the Property and building, together with the common areas, parking areas, walkways and other improvements described herein (the **"Leased Premises"**), and Tenant is desirous of leasing the same from Landlord, on the terms and conditions stated below;

THEREFORE, IN CONSIDERATION OF THE TERMS, COVENANTS, CONDITIONS AND OBLIGATIONS contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

TERM OF LEASE

SECTION 1: TERM. The term of this Lease is five (5) years commencing on February 1, 2017 and ending at 12 o'clock midnight on January 31, 2022 (the "Initial Lease Term").

SECTION 2: RENEWAL OPTION. Provided that (a) there shall have been no material default by Tenant during the Initial Lease Term which remains uncured after notice and any applicable cure period has expired, and (b) Landlord has determined that use of the Property is not necessary for extension of Runway 4-22 or creation of a runway safety area, and (c) Tenant shall have given written notice to Landlord of Tenant's intent to renew at least one hundred eighty (180) days prior to the expiration of the then current term, Tenant shall have the right to renew the term of the Lease for successive periods of one (1) year each following the expiration of the Initial Lease Term; provided, however, that the maximum number of one year options to renew shall not exceed five (5), and provided further that in the event the Property is required for construction of an extension of Runway 4-22 or a runway safety area, Landlord shall provide written notice to Tenant at least one hundred eighty (180) days prior to the expiration of the then current term of Landlord's intention to not renew for an additional term.

LEASED PREMISES

SECTION 1: LEASED PREMISES. The Leased Premises consist of the following areas:

(1) that part of the first floor located in the northeasterly area of the building shown as "Manufacturing Floor" on Exhibit "A," containing approximately 51,440 square feet; and

(2) the exclusive right to use the six (6) loading docks located at the eastern end of the Manufacturing Floor area; and

(3) that part of the first floor located in the northeasterly area of the building shown as "Covered Loading Bay" on Exhibit "A," containing approximately 1,824 square feet; and

(4) that part of the first floor located on the south side of the building shown as "First-Floor Office" on Exhibit "A," containing approximately 470 square feet; and

(5) that part of the second floor located on the south side of the building shown as "Second Floor Conference" on Exhibit "A," as containing approximately 2,951 square feet (the "Second Floor Conference Area") The Second Floor Conference Area shall be a common area for the joint use of Tenant and any future tenant who may occupy the adjacent office area (an **"Adjacent Tenant"**). Tenant may use the Second Floor Conference area for meetings and to display some of Tenant's manufactured units as show pieces, provided that Tenant's use shall not be exclusive and the Area shall available for use by an Adjacent Tenant. Tenant and Adjacent Tenant shall each be entitled to schedule use of the Second Floor Conference Area as mutually agreed and with reasonable advance written notice.

(6) The right to use in common, with all others legally entitled to the use thereof, those areas of ingress and egress and the lavatories located on the first floor of the building and being more particularly shown and depicted as "Common Areas" on Exhibit "A," and

(7) The right to use, in common with all others legally entitled to the use thereof, those areas of exterior vehicular parking south of the Manufacturing Floor as well as the entry drive providing access to and from the building to Glebe Road.

RENT

SECTION 1: BASE RENT. The Annual Base Rent set forth on Exhibit "B" attached hereto shall be payable in twelve (12) equal monthly installments on the 1st day of each calendar month during the Lease Term and any Renewal Term, in advance and without offset, deduction, prior notice or demand. The Base Rent is payable at 11 N. Washington St., Easton, MD 21601 or at such other place as Landlord may designate in writing from time to time. Payments of Base Rent for any partial calendar month will be pro-rated. Base Rent shall commence on April 1, 2017, with the installments for the months of February and March being abated by Landlord as a fit-out period for Tenant. The rent shall be computed on the basis of the square footage contained in the Leased Premises. Pass through charges for common area, parking, grounds, and building maintenance, insurance and taxes shall be in payable as Additional Rent in addition to the Base Rent, all as more particularly set forth in Section 2 below and on the Rent Schedule attached hereto as Exhibit "B".

SECTION 2: ADDITIONAL RENT. All sums payable by Tenant under this Lease other than Base Rent are **"Additional Rent"**; as used in this Lease the term **"Rent"** includes both Base Rent and Additional Rent. Landlord will estimate in advance and charge to Tenant the following

costs, which Tenant will pay as Additional Rent with the Base Rent on a monthly basis throughout the Occupancy Period: (a) Tenant's pro-rata portion of all Real Property Taxes; (b) Tenant's pro-rata portion of all Utility Costs as defined hereinafter, (to the extent utilities are not separately metered); (c) Tenant's pro-rata portion of all insurance premiums for which Tenant is liable hereunder; and (d) all Common Area Maintenance Expenses for which Tenant is liable hereunder. Landlord may adjust its estimates of Additional Rent at any time based upon Landlord's experience and reasonable anticipation of actual costs. Such adjustments will be effective as of the next Rent payment date after notice to Tenant. As used in this Lease, **"Occupancy Period"** includes the time Tenant first enters the Leased Premises, throughout the Lease Term and thereafter as long as Tenant remains in the Leased Premises.

SECTION 3: ANNUAL RECONCILIATION. After the end of each fiscal year (June 30) during the Occupancy Period, Landlord will deliver to Tenant a statement setting forth, in reasonable detail, the Total Operating Costs paid or incurred by Landlord during the preceding fiscal year. As used in this Lease, **"Total Operating Costs"** means: (1) the total Real Property Taxes for the property (without credit, set-off, or reduction for any exemption, credit, or refund because Landlord uses any part of the property or building for governmental purposes); (2) All Utility Costs for the entire building or property; (3) all Landlord's insurance costs for the entire building or property for which Tenant is required to contribute a pro-rata portion. Within thirty (30) days after Tenant's receipt of such statement, there will be an adjustment between Landlord and Tenant, with payment to or credit given by Landlord (as the case may be).

SECTION 4: Intentionally Deleted.

SECTION 5: LATE CHARGES. If any installment of Rent or any other sums due from Tenant is not received by Landlord within ten (10) days following the due date, Tenant will pay to Landlord a late charge equal to five (5%) percent of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant.

PROPERTY TAXES

SECTION 1: REAL PROPERTY TAXES. Tenant will pay a pro-rata portion of all Real Property Taxes allocable to the Occupancy Period. Tenant's pro-rata share shall be calculated by multiplying the total gross floor area occupied by Tenant by the gross floor area of the entire building. Landlord is a governmental unit generally exempt from real property taxes. Calculation of Tenant's obligation to pay a pro-rata portion of Real Property Taxes shall not take into account any credit, reduction, or exemption attributable to Landlord's governmental status.

SECTION 2: DEFINITION OF REAL PROPERTY TAXES. "Real Property Taxes" means taxes, assessments (special, betterment, or otherwise), levies, fees, excises, impositions, charges, and all other government levies and charges, general and special, ordinary and extraordinary, foreseen and unforeseen, which are imposed or levied upon or assessed against the Property.

SECTION 3: PERSONAL PROPERTY TAXES. Tenant will pay directly all taxes charged against trade fixtures, furnishings, equipment, inventory or any other personal property belonging to Tenant. Tenant will use its best efforts to have personal property taxed separately

from the Leased Premises. If any of Tenant's personal property is taxed with the Leased Premises, Tenant will pay Landlord the taxes for such personal property within fifteen (15) days after Tenant receives a written statement from Landlord for such personal property taxes.

UTILITIES

SECTION 1: UTILITIES. Tenant shall be solely responsible for utility charges relating to the Leased Premises during the Occupancy Period. Tenant will promptly pay, directly to Landlord as Additional Rent, the cost of all natural gas, heating, cooling, energy, light, power, sewer service, water, refuse disposal and other utilities and services supplied to the Leased Premises, together with any related installation or connection charges or deposits (collectively, **"Utility Costs"**) incurred during the Occupancy Period. Tenant's pro-rata portion of all such Utility Costs shall be calculated by multiplying the total gross floor area occupied by Tenant by the gross floor area of the entire building.

INSURANCE

SECTION 1: TENANT'S INSURANCE. Tenant, at its expense, will maintain the following insurance coverages during the Occupancy Period:

(a) Liability Insurance. Commercial general liability insurance insuring Tenant against liability for bodily injury, property damage (including loss of use of property) and personal injury at the Leased Premises, including contractual liability. Such insurance will name Landlord, any mortgagee, and such other parties as Landlord may designate, as additional insureds. The initial amount of such insurance will be One Million Dollars ($1,000,000) per occurrence and will be subject to periodic increases reasonably specified by Landlord based upon inflation, increased liability awards, recommendations of Landlord's professional insurance advisers, and other relevant factors. The liability insurance obtained by Tenant under this will (1) be primary and (2) insure Tenant's obligations to Landlord hereunder. The amount and coverage of such insurance will not limit Tenant's liability nor relieve Tenant of any other obligation under this Lease.

(b) Worker's Compensation Insurance. Worker's Compensation Insurance in the statutory amount (and Employers' Liability Insurance) covering all employees of Tenant employed or performing services at the Leased Premises, in order to provide the statutory benefits required by the laws of the State of Maryland.

(c) Personal Property Insurance. Personal Property Insurance covering leasehold improvements paid for by Tenant and Tenant's personal property and fixtures from time to time in, on, or at the Leased Premises, in an amount not less than 100% of the full replacement cost, without deduction for depreciation, providing protection against events protected under "All Risk Coverage," as well as against sprinkler damage, vandalism, and malicious mischief. Any proceeds from the Personal Property Insurance will be used for the repair or replacement of the property damaged or destroyed, unless the Lease Term is terminated under an applicable provision herein. If the Leased Premises are not repaired or restored in accordance with this Lease, Landlord will receive any proceeds from the personal property insurance allocable to Tenant's leasehold improvements.

(d) Landlord's Insurance. During the Lease Term, Landlord will maintain in effect all risk insurance covering loss of or damage to the Leased Premises in such amounts and with such endorsements and deductibles as Landlord determines from time to time. Landlord will have the right to obtain flood, earthquake, and such other insurance as Landlord determines from time to time or is required by any mortgagee of the Leased Premises. Landlord will not insure Tenant's fixtures or equipment or building improvements installed or paid by Tenant. Landlord may obtain commercial general liability insurance in an amount and with coverage determined by Landlord insuring Landlord against liability with respect to the Leased Premises. The policy obtained by Landlord will not provide primary insurance, will not be contributory and will be excess over any liability insurance maintained by Tenant. Landlord may also maintain a rental income insurance policy, with loss payable to Landlord. Tenant will pay Landlord a pro-rata portion of all such premiums for the insurance policies maintained by Landlord calculated by multiplying the total gross floor area occupied by Tenant by the gross floor area of the entire building. Any increase in the cost of Landlord's insurance due to Tenant's use or activities at the Leased Premises will be paid by Tenant to Landlord as Additional Rent.

SECTION 2: GENERAL INSURANCE PROVISIONS

(a) Any insurance which Tenant is required to maintain under this Lease will include a provision which requires the insurance carrier to give Landlord not less than thirty (30) days' written notice prior to any cancellation or modification of such coverage.

(b) Prior to the earlier of Tenant's entry into the Leased Premises or the Commencement Date, Tenant will deliver to Landlord an insurance company certificate that Tenant maintains the insurance required by herein and not less than thirty (30) days prior to the expiration or termination of any such insurance, Tenant will deliver to Landlord renewal certificates therefor. Tenant will provide Landlord with copies of the policies promptly upon request from time to time.

(c) All insurance policies required under this Lease will be with companies having a General Policy Rating of "A" or better, as set forth in the most current issue of the Best Key Rating Guide.

(d) Without limiting the provisions of Section 3 hereafter, Landlord, to the extent permitted by law, and Tenant, on behalf of themselves and their insurers, each hereby waives any and all rights of recovery against the other, the agents, advisors, employees, members, officers, directors, partners, trustees, beneficiaries and shareholders of the other and the agents, advisors, employees, members, officers, directors, partners, trustees, beneficiaries and shareholders of each of the foregoing (collectively, "Representatives"), for loss of or damage to its property or the property of others under its control, to the extent that such loss or damage is covered by any insurance policy in force (whether or not described in this Lease) at the time of such loss or damage, or required to be carried under this Lease. All property insurance carried by either party will contain a waiver of subrogation against the other party to the extent such right was waived by the insured party prior to the occurrence of loss or injury.

SECTION 3: INDEMNITY. To the fullest extent permitted by law, Tenant hereby waives all claims against Landlord and its Representatives (collectively, the "Indemnitees") for damage to

any property or injury to or death of any person in, upon or about the Property and the Leased Premises arising at any time and from any cause. Tenant shall hold Indemnitees harmless from and defend Indemnitees from and against all claims, liabilities, judgments, demands, causes of action, losses, damages, costs and expenses, including reasonable attorneys fees, for damage to any property or injury to or death of any person arising from (a) the use or occupancy of the Property or Leased Premises by Tenant or persons claiming under Tenant, except such as is caused by the sole negligence or willful misconduct of Landlord, its agents, employees or contractors, (b) the negligence or willful misconduct of Tenant in, upon or about the Property or Leased Premises, or (c) any breach or default by Tenant under this Lease.

USE OF LEASED PREMISES

SECTION 1: MANNER OF USE. Tenant will use the Leased Premises only for the Permitted Uses of manufacturing, assembling, shipping and receiving HVAC parts and equipment, and office uses related thereto. Tenant will not cause or permit the Leased Premises to be used in any way which (a) constitutes a violation of any Legal Requirements (as defined below) or the rules and regulations (the "Rules and Regulations") established by Landlord, a copy of which is attached as Exhibit "C", as they may be amended in writing by Landlord, (b) annoys or interferes with the rights of other tenants (if any) of the Property, or any adjacent property owned by Landlord, (c) constitutes a nuisance or waste or will invalidate any insurance carried by Landlord. Tenant will obtain and pay for all necessary permits, including a certificate of occupancy, and will promptly take all actions necessary to comply with all applicable Federal, State or local statutes, ordinances, notes, regulations, orders, recorded declarations, covenants and requirements (collectively, **"Legal Requirements"**) regulating the use by Tenant of the Premises, including, without limitation, the Occupational Safety and Health Act and the Americans With Disabilities Act, and State and local fire and building codes.

SECTION 2: ENVIRONMENTAL REQUIREMENTS.

(a) Definition of **"Hazardous Material."** "Hazardous Material" means any flammable items, explosives, radioactive materials, oil, hazardous or toxic substances, material or waste or related materials, including any substances defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials" or "toxic substances" now or hereafter regulated under any Legal Requirements, including without limitation petroleum-based products, paints, solvents, lead, cyanide, DDT, printing inks, acids, pesticides, ammonia compounds and other chemical products, asbestos, PCBs and similar compounds, and including any different products and materials which are found to have adverse effects on the environment or the health and safety of persons; provided, however, "Hazardous Material" does not include any *de minimis* quantities of office or other cleaning supplies commonly used in accordance with Legal Requirements.

(b) Tenant's Obligations. Tenant will not cause or permit any Hazardous Material to be generated, produced, brought upon, used, stored, treated or disposed of in or about the Property or Leased Premises by Tenant, its agents, employees, contractors, sublessees or invitees without (i) the prior written consent of Landlord except for Hazardous Materials used in the ordinary course of the Permitted Uses and which shall be used, stored and disposed of in accordance with all applicable laws, and (ii) complying with all applicable Legal Requirements pertaining to the

transportation, storage, use or disposal of such Hazardous Material (collectively, "Environmental Laws"), including, but not limited to, obtaining proper permits. Landlord is entitled to take into account such other factors or facts Landlord deems reasonably relevant in granting or withholding consent to Tenant's proposed activity with respect to Hazardous Material. Landlord's consent will be required for any installation or use of any underground storage tanks on the Property or Leased Premises.

(c) If Tenant's transportation, storage, use or disposal of Hazardous Materials results in the contamination of the soil or surface or ground water, release of a Hazardous Material or loss or damage to person(s) or property or the violation of any Environmental Law, then Tenant agrees to: (x) notify Landlord immediately of any contamination, claim of contamination, release, loss or damage, (y) after consultation with Landlord, clean up the contamination in full compliance with all Environmental Laws and (z) indemnify, defend and hold Landlord harmless from and against any claims, suits, causes of action, costs and fees, including, without limitation, attorney's fees and costs, arising from or connected with any such contamination, claim of contamination, release, loss or damage. Tenant will fully cooperate with Landlord and provide such documents, affidavits and information as may be requested by Landlord (A) to comply with any Environmental Law, (B) to comply with the request of any lender, purchaser or tenant, and/or (C) as otherwise deemed reasonably necessary by Landlord in its discretion. Tenant will notify Landlord promptly in the event of any spill or other release of any Hazardous Material at, in, on, under or about the Property or Leased Premises which is required to be reported to a governmental authority under any Environmental Law, will promptly forward to Landlord copies of any notices received by Tenant relating to alleged violations of any Environmental Law, will promptly pay when due any fine or assessment against Landlord, Tenant or the Property or Leased Premises and remove or bond any lien filed against the Property or Leased Premises relating to any violation of Tenant's obligations with respect to Hazardous Material.

(d) Landlord's Rights. Landlord will have the right, but not the obligation, without in any way limiting Landlord's other rights and remedies under this Lease, to enter upon the Leased Premises, or to take such other actions as it deems necessary or advisable, to investigate, clean up, remove or remediate any Hazardous Material or contamination by Hazardous Material present on, in, at, under or emanating from the Leased Premises in violation of Tenant's obligations under this Lease or under any laws regulating Hazardous Material or that Tenant is liable under this Lease to clean up, remove or remediate. Landlord will have the right, at its election, in its own name or as Tenant's agent, to negotiate, defend, approve and appeal, at Tenant's expense, any action taken or order issued by any governmental agency or authority against Tenant, Landlord or the Leased Premises relating to any Hazardous Material or under any related law or the occurrence of any event or existence of any condition that would cause a breach of any of the covenants set forth in this Section.

(e) If Landlord determines in good faith that a release or other environmental condition may have occurred during the Occupancy Period, at Tenant's cost, Landlord may require an environmental audit of the Leased Premises by a qualified environmental consultant. Tenant will, at its sole cost and expense, take all actions recommended in such audit to remediate any environmental conditions for which it is responsible under this Lease.

SECTION 4: OUTSIDE AREAS.

(a) Outside Areas. "Outside Areas" means all areas within the Property which are outside of the Leased Premises, including, but not limited to, parking areas, driveways, sidewalks, access roads, landscaping, and planted areas. Landlord, from time to time, may change the size, location, nature, and use of any of the Outside Areas, convert Outside Areas into leaseable areas, construct additional parking facilities in the Outside Areas, and increase or decrease Outside Area land or facilities so long as Tenant's use of the Leased Premises is not materially affected.

(b) Use of Outside Areas. Tenant will have the nonexclusive right to use the Outside Areas for the purposes permitted under this Lease Agreement, subject to such reasonable rules and regulations as Landlord may establish or modify from time to time. Tenant agrees to abide by all such rules and regulations and to use its best efforts to cause others who use the Outside Areas with Tenant's express or implied permission to abide by the Rules and Regulations. At any time, Landlord may close any Outside Areas to perform any acts as, in Landlord's reasonable judgment, are desirable to maintain or improve the Property or Leased Premises. Tenant will not interfere with the rights of Landlord, other tenants, or any other person entitled to use the Outside Areas.

CONDITION AND MAINTENANCE OF LEASED PREMISES

SECTION 1: EXISTING CONDITIONS. Tenant hereby accepts the Leased Premises in their present condition, "AS IS", "WHERE IS", and "WITH ALL FAULTS", subject to all Legal Requirements. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation as to the condition of the Leased Premises or the suitability of the Leased Premises for Tenant's intended use. Tenant represents and warrants that Tenant has made its own inspection of and inquiry regarding the condition of the Leased Premises and is not relying on any representations of Landlord or any broker with respect thereto. The Building and the Outside Areas shall be maintained in at least the condition which exists upon the execution of this Lease.

SECTION 2: LANDLORD'S OBLIGATIONS. Throughout the Lease, Landlord shall maintain the Property and the Building (excluding the interior of the Leased Premises) in good condition and shall comply with all applicable codes, regulations and laws, including roof and exterior of the Building and all major repairs to the plumbing, mechanical and electrical systems serving the Leased Premises. For purposes of this paragraph, a "major repair" shall be deemed to be any incident or item of repair costing in excess of One Thousand Dollars ($1,000). Landlord shall be responsible for routine maintenance and repair on HVAC subject to Tenant's obligation to pay for all repairs to the plumbing, mechanical and electrical systems serving the Leased premises costing One Thousand Dollars ($1,000) or less per incident, project, or service.

Landlord and Tenant acknowledge and agree that Landlord shall have NO obligations relating to routine maintenance or cleaning of the Leased Premises or repairs that cost less than $1,000 per incident, project, or service and that Tenant shall be solely responsible for the same. Provided, however, subject to the provisions of this Lease and Tenant's obligation to pay Additional Rent pursuant thereto, and except for damage caused by any act or omission of Tenant or Tenant's employees, agents, contractors or invitees, Landlord may elect to perform routine maintenance on the Leased Premises to the extent not undertaken by Tenant to keep them in good order, condition and repair, at Tenant's sole cost and expense. Landlord shall notify Tenant if it elects

to perform routine maintenance and in such an event Tenant shall pay to Landlord upon demand any cost or expense incurred by Landlord relating to such routine maintenance or repair. In no event will Landlord be obligated to maintain or repair windows, doors or plate glass. Tenant will promptly report in writing to Landlord any defective condition known to it which either Landlord or Tenant is required to repair. The Leased Premises shall be maintained in at least the condition which exists upon the execution of this Lease.

SECTION 3: TENANT'S OBLIGATIONS. Subject to the provisions of Article 10 (Casualty and Condemnation) and Section 9.02 above (to the extent Landlord elects to provide maintenance or repairs as provided for therein), at its sole cost and expense, Tenant will keep all portions of the Leased Premises (including without limitation, all doors, windows and floors) in good order, condition and repair (including repainting and refinishing, as needed). At Tenant's request, Landlord may elect to perform Tenant's maintenance and repair obligations hereunder and Tenant will reimburse Landlord for all costs incurred in doing so promptly upon receipt of an invoice from Landlord. The Leased Premises shall be maintained in at least the condition which exists upon the execution of this Lease.

SECTION 4: ALTERATIONS, ADDITIONS, AND IMPROVEMENTS.

(a) Alterations. Tenant shall be solely responsible, at Tenant's expense, to design, arrange, configure, and construct any installations, additions, improvements, partitions, or other structural, mechanical, HVAC or electrical changes to the interior of the Leased Premises (collectively, **"Alterations"**).

(b) Tenant's Work. Tenant may not make any Alterations or major repairs in or to the Leased Premises without obtaining Landlord's prior written consent, which consent shall not unreasonably be withheld or delayed. All work will be performed in accordance with plans and specifications approved in advance by Landlord. Tenant will procure all necessary permits and licenses before undertaking any work on the Leased Premises and will perform all work in a good and workmanlike manner employing materials of good quality and in conformity with all applicable Legal Requirements and insurance requirements. Tenant will (i) employ only contractors reasonably approved by Landlord, (ii) require all contractors employed by Tenant to carry worker's compensation insurance in accordance with statutory requirements and commercial general liability insurance covering such contractors on or about the Leased Premises with a combined single limit not less than One Million Dollars ($1,000,000) and (iii) submit certificates evidencing such coverage to Landlord prior to the commencement of any work. Landlord may inspect Tenant's work at reasonable times. Tenant will prosecute and complete such work with reasonable diligence and will provide Landlord with "as built" plans, copies of all construction contracts and proof of payment for all labor and materials.

(c) No Liens. Tenant will pay when due all claims for labor and material furnished to the Leased Premises and keep the Leased Premises at all times free from liens for labor and materials. Tenant will give Landlord at least twenty (20) days" prior written notice of the commencement of any work on the Leased Premises. Landlord may record and post notices of non-responsibility on the Leased Premises.

(d) No Authority. Nothing contained in this Lease shall authorize Tenant to do any act which may create or be the foundation for any lien, mortgage or other encumbrance upon the reservation or other estate of Landlord, or of any interest of Landlord in the Leased Premises or in the Property or any improvements thereof; it is agreed that should Tenant cause any alterations, changes, additions, improvements or repairs to be made in the Leased Premises, or cause materials to be furnished or labor to be performed therein, neither Landlord nor the Leased Premises shall, under any circumstances, be liable for the payment of any expenses incurred or for the value of any work done or material furnished to the Leased Premises or any part thereof. Tenant shall, upon request of Landlord, deliver such documents as may be required by Landlord in order to effectuate the lien protection required by this Section, all such alterations, changes, additions, improvements and repairs and materials and labor shall be at Tenant's expense and Tenant shall be solely and wholly responsible to contractors, laborers and materialmen furnishing labor and materials to the Leased Premises, or any part thereof. Tenant shall inform every service or material provider of the foregoing provisions prior to contracting with any of them for goods or services.

(e) Discharge. Tenant shall discharge any lien filed against the Leased Premises, the Building or the Property, or any part thereof, for work done or materials furnished at Tenant's request with respect to the Leased Premises within ten (10) calendar days after such lien is filed. The failure of Tenant to do so shall be a material default hereunder. If Tenant fails to keep this covenant, in addition to any other remedies available to Landlord under this Lease, Tenant agrees to pay Landlord, as Additional Rent, the sum equal to the amount of the lien thus discharged by Landlord, plus all costs and expenses, including without limitation reasonable attorneys' and paralegals' fees and court costs, incurred by Landlord in discharging such lien.

(f) Work by Landlord. Tenant hereby acknowledges and agrees that Landlord shall have the right to renovate the Building and/or expand same and/or alter the Outside Areas during the Lease Term. In the event Landlord expands the Building, Tenant shall only be responsible for its proportionate share (based on square footage) of costs and expenses associated with operation and maintenance of the Building and the Outside Areas following completion of such expansion.

SECTION 5: CONDITION UPON TERMINATION. Upon the expiration or termination of the Lease Term, Tenant will surrender the Leased Premises to Landlord broom clean and in the condition which Tenant is required to maintain the Leased Premises under this Lease. Tenant will not be obligated to repair any damage which Landlord is required to repair hereunder. Except for improvements and alterations approved by Landlord and completed by Tenant at the time of Tenant's commencement of business from the Leased Premises which Tenant shall not be required to remove, Landlord may require Tenant, at its expense, to remove any alterations, additions or improvements prior to the expiration of the Lease and to restore the Leased Premises to their prior condition. With respect to any alterations, additions or improvements which require Landlord's approval, Landlord will specify if Tenant will be required to remove the same at the time of such approval. Any work which Tenant is not required to remove will, at Landlord's option, become Landlord's property and will be surrendered to Landlord upon the expiration or earlier termination of the Lease, except that Tenant may remove any of Tenant's machinery or equipment which can be removed without damage to the Leased Premises so long as Tenant repairs any damage caused by such removal.

SECTION 6: EXEMPTION OF LANDLORD FROM LIABILITY. Landlord will not be liable for any damage or injury to the person, business (or any loss of income therefrom), goods, wares, merchandise or other property of Tenant, Tenant's employees, invitees, customers or any other person or about the Leased Premises, whether such damage or injury is caused by or results from: (a) fire, steam, electricity, water, gas or rain; (b) the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures or any other cause; (c) conditions arising in or about the Leased Premises, or from other sources or places; or (d) any curtailment or interruption in utility services. Tenant will give Landlord prompt notice upon the occurrence of any accident or casualty at the Leased Premises. The provisions of this Section will not exempt Landlord from liability for its gross negligence or willful misconduct; provided, however, Landlord will not be liable for any consequential damages.

CASUALTY AND CONDEMNATION

SECTION 1: DAMAGE TO LEASED PREMISES.

(a) If the Leased Premises are destroyed or rendered untenantable, either wholly or in part, by fire or other casualty ("Casualty"), Tenant will immediately notify Landlord in writing upon the occurrence of such Casualty. Landlord may elect either to (i) repair the damage caused by such casualty as soon as reasonably possible, in which case this Lease will remain in full force and effect, or (ii) terminate the Lease Term as of the date the Casualty occurred. Landlord will notify Tenant within sixty (60) days after receipt of notice of the Casualty whether Landlord elects to repair the damage or terminate the Lease Term. If Landlord elects to repair the damage, Tenant will pay Landlord the portion of the deductible amount (which deductible shall not exceed $25,000) under Landlord's insurance allocable to the damage to the Leased Premises and, if the damage was due to an act or omission of Tenant or its employees, agents, contractors or invitees, the difference between the actual cost of repair and any insurance proceeds received by Landlord.

(b) If the damage to the Leased Premises caused by casualty is estimated by Landlord to require more than sixty (60) days to repair and Tenant would be precluded from continuing the conduct of its business in substantially the same manner as it conducted its business prior to such casualty, Tenant may elect to terminate the Lease Term as of the date the Casualty occurred, which must be exercised by written notification to Landlord within ten (10) days after receipt of notice regarding the estimate of the time required to rebuild.

(c) If the Leased Premises is destroyed or damaged by Casualty and Landlord elects to repair or restore the Leased Premises pursuant to the provisions of this Article 10, any Rent payable during the period of such damage, repair and/or restoration shall be reduced as reasonably agreed upon by Landlord and Tenant according to the degree, if any, to which Tenant's use of the Leased Premises is impaired. .

(d) The provisions of this Section will govern the rights and obligations of Landlord and Tenant in the event of any damage or destruction of or to the Leased Premises. Tenant waives the protection of any statute, code or judicial decision which grants a tenant the right to terminate a lease in the event of the damage or destruction of the leased property.

SECTION 2: CONDEMNATION. If more than twenty percent (20%) of the floor area of the Leased Premises or more than twenty-five percent (25%) of the parking at the Leased Premises is taken by eminent domain, either Landlord or Tenant may terminate the Lease Term as of the date the condemning authority takes title or possession, by delivering notice to the other within ten (10) days after receipt of written notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority takes title or possession). If neither party terminates the Lease Term, this Lease will remain in effect as to the portion of the Leased Premises not taken, except that the Base Rent will be reduced in proportion to the reduction in the floor area of the Leased Premises. Any condemnation award or payment will be paid to Landlord. Tenant will have no claim against Landlord for the value of the unexpired lease term or otherwise; provided, however, Tenant may make a separate claim with the condemning authority for its personal property and/or moving costs so long as Landlord's award is not reduced thereby.

ASSIGNMENT AND SUBLETTING

SECTION 1: LANDLORD'S CONSENT REQUIRED. Tenant will not assign or transfer this Lease or sublease the Leased Premises or any part thereof or interest therein, or mortgage, pledge or hypothecate its leasehold interest, without Landlord's prior written consent, which consent may be withheld in Landlord's sole unfettered discretion. Unless Tenant is a publicly traded company, a transfer of a controlling interest in Tenant will be deemed an assignment of this Lease. Any attempted transfer without consent will be void and constitute an Event of Default under this Lease (as defined below). Tenant's request for consent will include the details of the proposed sublease or assignment, including the name, business and financial condition of the prospective transferee, financial details of the proposed transaction (e.g., the term of and the rent and security deposit payable under any proposed assignment or sublease), and any other information Landlord deems relevant. Landlord will have the right to withhold consent or to grant consent, based on the following factors: (i) the business of the proposed assignee or subtenant and the proposed use of the Leased Premises; (ii) the net worth and financial condition of the proposed assignee or subtenant; (iii) Tenant's compliance with all of its obligations under this Lease; and (iv) such other factors as Landlord may reasonably deem relevant. Tenant will promptly furnish to Landlord copies of all transaction documentation.

SECTION 2: TRANSFERS TO AFFILIATES. Notwithstanding Section 1, Tenant, on prior notice to Landlord (but without Landlord's consent), may assign this Lease or sublet the Leased Premises to any entity controlling Tenant, controlled by Tenant or under common control with Tenant (a "Tenant Affiliate"), provided such Tenant Affiliate after the assignment or sublease will have a comparable net worth to Tenant.

SECTION 3: OFFER TO TERMINATE. If Tenant desires to assign this Lease or sublease all of any part of the Leased Premises, Tenant will notify Landlord and Landlord for a period of thirty (30) days will have the right to terminate the Lease Term. If Tenant desires to sublease only a portion of the Leased Premises, and such portion is subdividable (with any costs paid by Tenant), then the right to terminate may be exercised with respect to only that portion of the Leased Premises to be subleased. If Landlord elects not to terminate the Lease Term as provided in this Section, Tenant shall pay to Landlord fifty percent (50%) of any net profits received by Tenant from any assignment of this Lease or sublet of the Leased Premises.

SECTION 4: NO RELEASE OF TENANT. Notwithstanding any assignment or subletting, Tenant will at all times remain fully responsible and primarily liable for the payment of Rent and compliance with all of Tenant's obligations under this Lease. Consent to one transfer will not be deemed consent to any subsequent transfer or a waiver of the obligation to obtain consent on subsequent occasions. If Tenant's assignee or transferee defaults under this Lease, Landlord may proceed directly against Tenant without pursuing remedies against the assignee or transferee.

DEFAULTS AND REMEDIES

SECTION 1: COVENANTS AND CONDITIONS. Tenant's performance of each of Tenant's obligations under this Lease is a condition as well as a covenant. Tenant's right to continue in possession of the Leased Premises is conditioned upon such performance. Time is of the essence in the performance by Tenant of all covenants and conditions.

SECTION 2: DEFAULTS. Each of the following constitutes an "Event of Default" under this Lease:

(a) Tenant fails to pay Rent or any other sum payable under this Lease within 10 days after it is due; provided, however, with respect to the first such nonpayment in any calendar year, Tenant will have 5 days after receipt of written notice that Rent is due to pay such amount;

(b) Tenant fails to perform any of Tenant's other obligations under this Lease and such failure continues for a period of 30 days after notice from Landlord; provided that if more than 30 days are reasonably required to complete such performance, Tenant will not be in default if Tenant commences such performance within the 30 day period and thereafter diligently pursues its completion;

(c) Tenant abandons the Leased Premises; or

(d) Tenant becomes insolvent or bankrupt, has a receiver or trustee appointed for any part of its property, makes an assignment for the benefit of its creditors, or any proceeding is commenced either by Tenant or against it under any bankruptcy or insolvency laws, which proceeding is not dismissed within sixty (60) days; provided, however, if a court of competent jurisdiction determines that any of the acts described in this subsection (d) is not an Event of Default under this Lease, and a trustee is appointed to take possession (or if Tenant remains a debtor in possession) and such trustee or Tenant assigns, subleases, or transfers Tenant's interest hereunder, then Landlord will receive, as Additional Rent, the excess, if any, of the rent (or any other consideration) paid in connection with such assignment, transfer or sublease over the rent payable by Tenant under this Lease.

SECTION 3: REMEDIES. On the occurrence of an Event of Default, Landlord may, at any time thereafter, with or without notice or demand, and without limiting Landlord in the exercise of any right or remedy which Landlord may have:

(a) Terminate the Lease Term by written notice to Tenant. Tenant will then immediately quit and surrender the Leased Premises to Landlord, but Tenant will remain liable as hereinafter

provided. Following termination, without prejudice to other remedies Landlord may have by reason of Tenant's default or of such termination, Landlord may (i) peaceably reenter the Leased Premises upon voluntary surrender by Tenant or remove Tenant therefrom and any other persons occupying the Leased Premises, using such legal proceedings as may be available; (ii) repossess the Leased Premises or relet the Leased Premises or any part thereof for such term (which may be for a term extending beyond the Lease Term), at such rental and upon such other terms and conditions as Landlord in Landlord's sole discretion determines, with the right to make alterations and repairs to the Leased Premises; and (iii) remove all personal property therefrom. Following termination, Landlord shall have all the rights and remedies of a landlord provided at law or in equity.

(b) The amount of damages Tenant will pay to Landlord following termination will include all Rent unpaid up to the termination of the Lease Term, the value of any free or reduced rent provided for in this Lease, costs and expenses incurred by Landlord due to such Event of Default and, in addition, Tenant will pay to Landlord as damages, at the election of Landlord (if Landlord shall elect subsection (y) below, it may cease such election at any time), either (x) the amount, discounted to present value (at the then Federal Reserve Bank discount rate) by which, at the time of the termination of the Lease Term or of Tenant's right to possession (or at any time thereafter if Landlord initially elects damages under subsection (y) below), (i) the aggregate of the Rent and other charges projected over the period commencing with such termination and ending on the expiration date of this Lease exceeds (ii) the aggregate projected rental value of the Leased Premises for such period; or (y) amounts equal to the Rent and other charges which would have been payable by Tenant had the Lease Term or Tenant's right to possession not been so terminated, payable upon the due dates therefor specified herein following such termination and until the expiration date of this Lease, provided, however, that if Landlord re-lets the Leased Premises during such period, Landlord will credit Tenant with the net rents received by Landlord from such re-letting, such net rents to be determined by first deducting from the gross rents received from such re-letting the expenses incurred or paid by Landlord in terminating this Lease, and the reasonable expenses of re-letting, including, without limitation, altering and preparing the Leased Premises for new tenants, brokers" commissions and legal fees, it being understood that any such re-letting may be for a period equal to or shorter or longer than the remaining Lease Term; and provided, further, that in no event (i) will Tenant be entitled to receive any excess of such net rents over the sums payable by Tenant to Landlord hereunder or (ii) will Tenant be entitled in any suit for the collection of damages pursuant to this subsection (y) to a credit in respect of any net rents from a re-letting except to the extent that such net rents are actually received by Landlord prior to the commencement of such suit.

(c) If the Leased Premises or any parts thereof are re-let in combination with other space, then proper apportionment on a square foot area basis will be made of the rent received from such re-letting and of the expenses of re-letting. In calculating the Rent and other charges under subsection (x) above, there will be included, in addition to the Rent, other considerations agreed to be paid or performed by Tenant, on the assumption that all such considerations would have remained constant for the balance of the full Lease Term hereby granted. Landlord may re-let the Leased Premises or any part thereof for such rent and on such terms as it determines (including the right to re-let the Leased Premises for a greater or lesser term than the Lease Term, the right to re-let the Leased Premises as part of a larger area and the right to change the character or use made of the Leased Premises). Landlord will use reasonable efforts to relet the

Leased Premises and otherwise to mitigate Tenant's damages upon redelivery of the Leased Premises to Landlord. Suit or suits for the recovery of damages, or any installments thereof, may be brought by Landlord from time to time at its election, and nothing contained herein will be deemed to require Landlord to postpone suit until the date when the Lease Term would have expired if it had not been terminated hereunder.

(d) Maintain Tenant's right to possession, in which case this Lease will continue in effect whether or not Tenant has abandoned the Leased Premises. In such event, Landlord will be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the Rent as it becomes due.

(e) Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the state in which the Leased Premises is located.

SECTION 4: DAMAGES. On any termination, Landlord's damages will include all costs and fees, including reasonable attorneys' fees that Landlord incurs in connection with any bankruptcy court or other court proceeding with respect to the Lease, the obtaining of relief from any stay in bankruptcy restraining any action to evict Tenant, or the pursuing of any action with respect to Landlord's right to possession of the Leased Premises. All such damages suffered (apart from Rent payable hereunder) will constitute pecuniary damages which will be paid to Landlord prior to assumption of the Lease by Tenant or any successor to Tenant in any bankruptcy or other proceedings.

SECTION 5: CUMULATIVE REMEDIES. Except as otherwise expressly provided herein, any and all rights and remedies which Landlord may have under this Lease and at law and equity are cumulative and will not be deemed inconsistent with each other, and any two or more of all such rights and remedies may be exercised at the same time to the greatest extent permitted by law.

PROTECTION OF LENDERS

SECTION 1: SUBORDINATION. This Lease shall be automatically subordinated to any Mortgage encumbering the Leased Premises. Landlord shall provide to Tenant an instrument in commercially reasonable form providing that the ground lessor, mortgagor or beneficiary of such Mortgage (if any) agrees that in the event of the foreclosure or termination of such Mortgage, this Lease and the rights of Tenant hereunder will continue in full force and effect so long as Tenant continues to comply with all its obligations hereunder. "Mortgage" includes any mortgage, deed of trust or ground lease, together with any amendments, additional advances, restatements, modifications or consolidations of such instrument. If any ground lessor, beneficiary or mortgagee elects to have this Lease prior to the lien of its Mortgage and gives written notice thereof to Tenant, this Lease will be deemed prior to such Mortgage whether this Lease is dated prior or subsequent to the date of said Mortgage or the date of recording thereof.

SECTION 2: ATTORNMENT. If Landlord's interest in the Leased Premises is acquired by any ground lessor, beneficiary, mortgagee, or purchaser at a foreclosure sale, Tenant will attorn to the transferee of or successor to Landlord's interest in the Leased Premises and recognize such transferee or successor as successor Landlord under this Lease. Tenant waives the protection of

any statute or rule of law which gives Tenant any right to terminate this Lease or surrender possession of the Leased Premises upon the transfer of Landlord's interest.

SECTION 3: ESTOPPEL CERTIFICATES. Within ten (10) days after Landlord's request, Tenant will execute, acknowledge and deliver to Landlord a written statement certifying: (i) that none of the terms or provisions of this Lease have been changed (or if they have been changed, stating how they have been changed); (ii) that this Lease has not been canceled or terminated; (iii) the last date of payment of the Base Rent and other charges and the time period covered by such payment; (iv) that Landlord is not in default under this Lease (or if Landlord is claimed to be in default, setting forth such default in reasonable detail); and (v) such other information with respect to Tenant or this Lease as Landlord may reasonably request or which any prospective purchaser or encumbrancer of the Leased Premises may require. Landlord may deliver any such statement by Tenant to any prospective purchaser or encumbrancer of the Leased Premises, and such purchaser or encumbrancer may rely conclusively upon such statement as true and correct. If Tenant does not deliver such statement to Landlord within such ten (10) day period, Landlord, and any prospective purchaser or encumbrancer, may conclusively presume and rely upon (and Tenant will be estopped from denying): (i) that the terms and provisions of this Lease have not been changed except as otherwise represented by Landlord; (ii) that this Lease has not been canceled or terminated except as otherwise represented by Landlord; (iii) that not more than one month's Base Rent or other charges have been paid in advance; and (iv) that Landlord is not in default under this Lease.

MISCELLANEOUS PROVISIONS

SECTION 1: COVENANT OF QUIET ENJOYMENT. Tenant on paying the Rent and performing its obligations hereunder will peacefully and quietly have, hold and enjoy the Leased Premises throughout the Lease Term without any manner of hindrance from Landlord, subject however to all the terms and provisions hereof.

SECTION 2: LANDLORD'S ACCESS. Notwithstanding Section 1, Landlord or its agents may enter the Leased Premises, upon twenty-four (24) hours' notice to Tenant (except in the case of an emergency), to show the Leased Premises to potential buyers, investors or tenants or other parties, for routine property inspections and maintenance or for any other purpose Landlord deems reasonably necessary. During the last three (3) months of the Lease Term, Landlord may place customary "For Lease" signs on the Leased Premises.

SECTION 3: LANDLORD'S LIABILITY. The obligations of this Lease run with the land, and this Lease will be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. No owner of the Leased Premises will be liable under this Lease except for breaches of Landlord's obligations occurring while it is owner of the Leased Premises. The obligations of Landlord will be binding upon the assets of Landlord which comprise the Leased Premises but not upon other assets of Landlord. No individual representative will be personally liable under this Lease or any other instrument, transaction or undertaking contemplated hereby.

SECTION 4: INDEMNIFICATION. Tenant shall indemnify and hold harmless Landlord from any liabilities, losses, damages, costs, expenses (including reasonable attorneys" fees and expenses), causes of action, suits, claims, demands or judgments arising from any act of

negligence of Tenant, except to the extent arising out of Landlord's gross negligence or willful misconduct or breach of this Lease. This indemnity includes claims arising from the presence or release of Hazardous Materials.

SECTION 5: NOTICE TO LANDLORD. Tenant will give written notice of any failure by Landlord to perform any of its obligations under this Lease to Landlord and to any ground lessor, mortgagee or beneficiary under any Mortgage encumbering the Leased Premises whose name and address have been furnished to Tenant. Landlord will not be in default under this Lease unless Landlord (or such ground lessor, mortgagee or beneficiary) fails to cure such non-performance within 30 days after receipt of Tenant's notice or such longer period as may be required to diligently complete such matter. If Landlord (or such ground lessor, mortgagee or beneficiary) cannot perform any of its obligations due to events beyond its reasonable control, the time provided for performing such obligations will be extended by a period of time equal to the duration of such events. Events beyond Landlord's reasonable control include, but are not limited to, acts of God, war, civil commotion, labor disputes, strikes, fire, flood or other casualty or weather conditions, shortages of labor or material, and Legal Requirements.

SECTION 6: HOLDING OVER. If Tenant does not vacate the Leased Premises upon the expiration or earlier termination of this Lease, (i) Tenant will indemnify Landlord against all damages, costs, liabilities and expenses, including attorneys" fees, which Landlord incurs on account of Tenant's failure to vacate and (ii) the Base Rent will increase to Two Hundred Percent (200%) of the Base Rent then in effect and Tenant's obligation to pay Additional Rent will continue. Any holdover by Tenant does not constitute an extension of the Lease or recognition by Landlord of any right of Tenant to remain in the Leased Premises.

SECTION 7: LANDLORD'S RIGHT TO CURE. If Tenant defaults in the performance of any obligation under this Lease, Landlord will have the right (but is not required) to perform such obligation and, if necessary, to enter upon the Leased Premises. All costs incurred by Landlord (together with interest at a fixed rate of interest per year set at the Wall Street Journal Prime Rate on the date preceding the date the Landlord incurred a financial expenditure to perform an obligation of Tenant hereunder but not to exceed the highest legal rate) will be deemed to be Additional Rent under this Lease and will be payable to Landlord immediately on demand. Landlord may exercise the foregoing rights without waiving any of its other rights or releasing Tenant from any of its obligations under this Lease.

SECTION 8: INTERPRETATION. The captions of this Lease are not a part of the terms or provisions of this Lease. Whenever required by the context of this Lease, the singular includes the plural and the plural includes the singular. The masculine, feminine and neuter genders each include the other. In any provision relating to the conduct, acts or omissions of Tenant, the term "Tenant" includes Tenant's agents, employees, contractors, invitees, successors or others using the Leased Premises with Tenant's express or implied permission. This Lease does not, and nothing contained herein, will create a partnership or other joint venture between Landlord and Tenant. A determination by a court of competent jurisdiction that any provision of this Lease or any part thereof is illegal or unenforceable will not invalidate the remainder of such provision, which will remain in full force and effect.

SECTION 9: INCORPORATION OF PRIOR AGREEMENTS; MODIFICATIONS. This Lease is the only agreement between the parties pertaining to the lease of the Leased Premises. All prior or contemporaneous discussions, representations, or negotiations are merged herein. Amendments to this Lease must be in writing and signed by all parties. Any other attempted amendment will be void.

SECTION 10: NOTICES. All notices, requests and other communications required or permitted under this Lease will be in writing and personally delivered or sent by a national overnight delivery service which maintains delivery records. Notices will be delivered to Tenant's Notice Address or to Landlord's Notice Address, as appropriate. All notices will be effective upon delivery (or refusal to accept delivery). Either party may change its notice address upon written notice to the other party.

SECTION 11: WAIVERS. All waivers will be in writing and signed by the waiving party. Landlord's failure to enforce any provision of this Lease or its acceptance of Rent is not a waiver and will not prevent Landlord from enforcing that provision or any other provision of this Lease in the future. No statement on a payment check from Tenant or in a letter accompanying a payment check will be binding on Landlord. Landlord may, with or without notice to Tenant, negotiate such check without being bound by to the conditions of such statement.

SECTION 12: MEMORANDUM OF LEASE. Tenant is specifically prohibited from recording this Lease, a memorandum of lease, or any other instrument referencing or describing this Lease.

SECTION 13: BINDING EFFECT; CHOICE OF LAW. This Lease will bind any party who legally acquires any rights or interest in this Lease from Landlord or Tenant, provided that Landlord will have no obligation to Tenant's successor unless the rights or interests of Tenant's successor are acquired in accordance with the terms of this Lease. The laws of the State of Maryland govern this Lease. The parties hereto waive trial by jury in any action, proceeding or counterclaim brought by any party(ies) against any other party(ies) on any matter arising out of or in any way connected with this Lease or the relationship of the parties hereunder.

SECTION 14: EXECUTION OF LEASE. This Lease may be executed in counterparts and, when all counterpart documents are executed, the counterparts will constitute a single binding instrument. Landlord's delivery of this Lease to Tenant is not be deemed to be an offer to lease and will not be binding upon either party until executed and delivered by both parties.

SECTION 15: SURVIVAL All representations and warranties of Landlord and Tenant, Tenant's indemnity under Insurance, Section 4, the provisions of Use of Leased Premises, Section 2 and all obligations of Tenant to pay Additional Rent hereunder, shall survive the termination of this Lease.

SECTION 16: SECURITY DEPOSIT. Upon the execution of this Lease, Tenant will deposit with Landlord the Security Deposit. The Security Deposit shall be equal to one month's Base Rent. Landlord may, at its option, apply all or part of the Security Deposit to any unpaid Rent or

other charges due from Tenant, cure any other defaults of Tenant, or compensate Landlord for any loss or damage which Landlord may suffer due to Tenant's default. If Landlord uses any part of the Security Deposit, Tenant will restore the Security Deposit to its full amount within ten (10) days after Landlord's request. No interest will be paid on the Security Deposit, no trust relationship is created herein between Landlord and Tenant with respect to the Security Deposit, and the Security Deposit may be commingled with other funds of Landlord. Upon expiration or termination of this Lease not resulting from Tenant's default and after Tenant has vacated the Leased Premises in the manner required by this Lease, Landlord will pay to Tenant any balance of the Security Deposit not applied pursuant to this Section. If the Security Deposit is in the form of an unconditional, irrevocable letter of credit, such letter of credit will be issued by a financial institution and in a form acceptable to Landlord.

SECTION 17: NO BROKERS. Landlord and Tenant each represent and warrant to the other that neither party has engaged the services of any Brokers, real estate agent, finder, or other agent or intermediary who is or may claim to be entitled to any commission or other compensation arising out of the negotiation or execution of this Lease Agreement. Landlord and Tenant each agree to indemnify and hold the other party harmless from any claim, demand, cost or liability, including, without limitation, attorneys' fees and expenses, asserted by any such person or claimant.

SECTION 18: LEGAL COSTS. In any enforcement proceeding brought by either party with respect to this Lease, the non-prevailing party will pay to the prevailing party in such proceeding all costs, including reasonable attorneys' fees and court costs, incurred by such other party with respect to said proceeding and any appeals therefrom.

SECTION 19: ADDITIONAL PROVISIONS. The exhibits and riders, if any, attached hereto, are incorporated herein by reference.

IN WITNESS WHEREOF, the parties have duly affixed their signatures.

LANDLORD:

Witness:

TALBOT COUNTY, MARYLAND

_____ _____ (SEAL)

By: Jennifer Williams, Pres.
Talbot County Council

TENANT:

THE WHALEN COMPANY

_____ _____ (SEAL)

By: Craig Wanner, Chief Operating Officer

other charges due from Tenant, cure any other defaults of Tenant, or compensate Landlord for any loss or damage which Landlord may suffer due to Tenant's default. If Landlord uses any part of the Security Deposit, Tenant will restore the Security Deposit to its full amount within ten (10) days after Landlord's request. No interest will be paid on the Security Deposit, no trust relationship is created herein between Landlord and Tenant with respect to the Security Deposit, and the Security Deposit may be commingled with other funds of Landlord. Upon expiration or termination of this Lease not resulting from Tenant's default and after Tenant has vacated the Leased Premises in the manner required by this Lease, Landlord will pay to Tenant any balance of the Security Deposit not applied pursuant to this Section. If the Security Deposit is in the form of an unconditional, irrevocable letter of credit, such letter of credit will be issued by a financial institution and in a form acceptable to Landlord.

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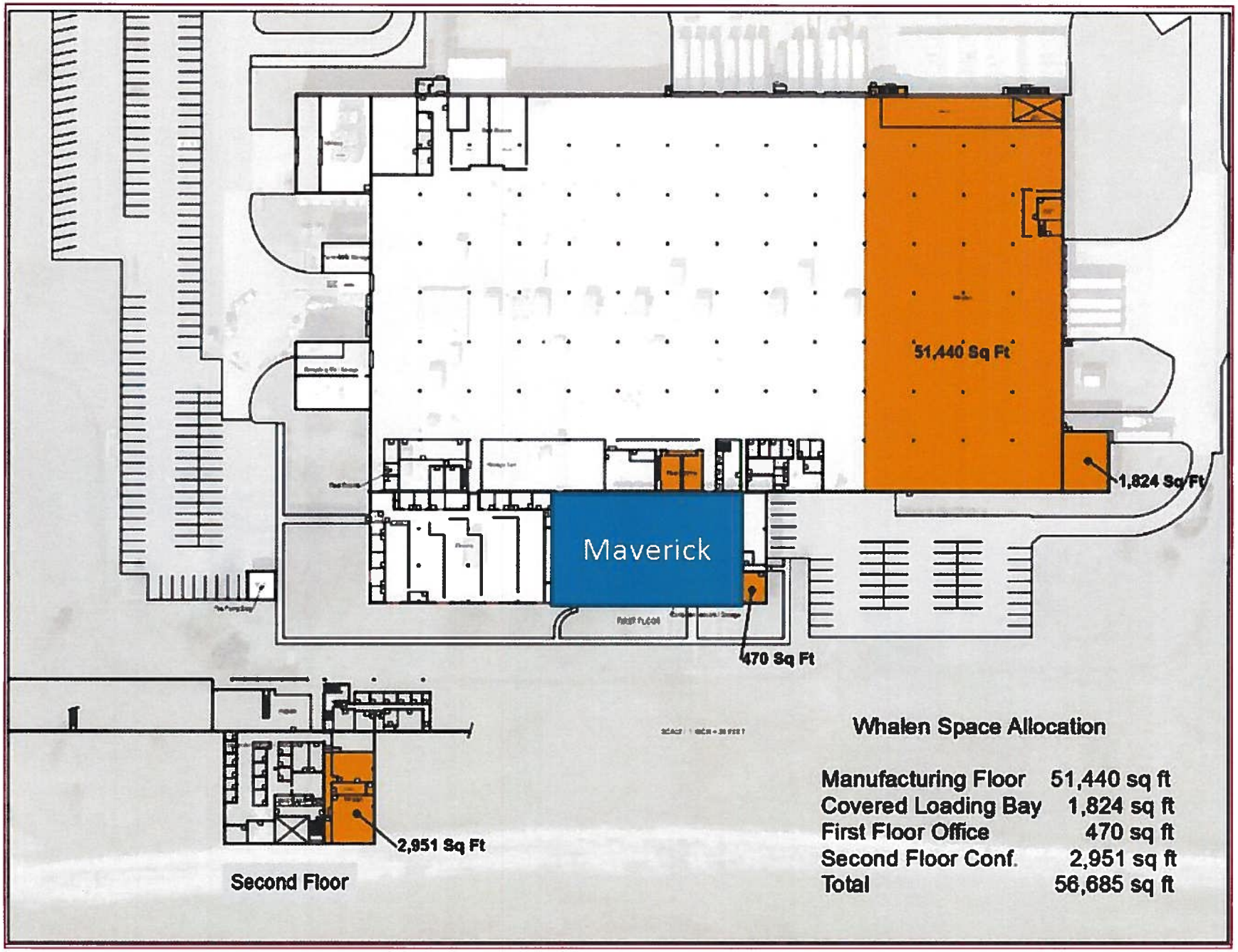
_____ (SEAL)

By: Craig Wanner, Chief Operating Officer


51,440 Sq Ft
1,824 Sq Ft
Maverick
470 Sq Ft
2,951 Sq Ft
Second Floor
Whalen Space Allocation
Manufacturing Floor 51,440 sq ft
Covered Loading Bay 1,824 sq ft
First Floor Office 470 sq ft
Second Floor Conf. 2,951 sq ft
Total 56,685 sq ft

RENT SCHEDULE – EXHIBIT B

LEASE AGREEMENT BY AND BETWEEN TALBOT COUNTY, MARYLAND AND THE WHALEN COMPANY

		Rent per s.f.	Total Area	Annual	Monthly
Base Rent (man)		$3.00	53,264	$ 159,792	$ 13,316
Base Rent (ofc)		$3.50	3,421	$ 11,973	$ 997
Additional Rent			Annual	Percent	
Common Area Maint.			$12,000	1	$1,000
Utilities	(2016 costs)		$79,224	0.25	$1,665
Insurance	(estimated)		TBD	0.25	TBD
Property Taxes	(estimated)		TBD	0.25	TBD

Area (square feet)	Whalen	Entire Building
Manufacturing Floor	51,440	
Covered Loading Bay	1,824	
First Floor Office	470	
Second Floor Conf.	2,951	
Total area	56,685	224,735
Percent share	0.25	0.75

Total Base & Add'l Rent Plus Ins. and Prop. Taxes	$15,313.79

Note: Utility costs ($79,224) are for the entire bldg. for 2016: Tenant's mo. share is .25 /12 mo. ($1,665) Monthly utility costs are estimates; actual costs will be determined and reconciled annually per the "Rent" Section 3 of the Lease.