

AGENDA ITEM REPORT



Date: April 5, 2023
To: Board of County Commissioners
From: Bob Tryanski, Director Behavioral Health Projects
Department: Administration
Subject: Treatment and Recovery Center Lease and Operating Agreement

BACKGROUND INFORMATION:

As a result of the 2018 Countywide Sales Tax for Behavioral Health, the Board of County Commissioners (BOCC) issued bonds and constructed the Treatment and Recovery Campus of Douglas County (TRC). The Douglas County Treatment and Recovery Center was completed in July of 2022. In December of 2022 the BOCC directed staff to develop a lease and operating agreement with Bert Nash Mental Health Center. Staff and counsel have been working closely with Bert Nash staff and counsel to prepare both documents.

County and Bert Nash staff will be available at the meeting to outline both agreements and the 2023 budget for the TRC.

RECOMMENDATION:

Consider authorizing the County Administrator to sign a facility lease with Bert Nash Community Mental Health Center for the Treatment and Recovery Center (TRC) from 2023-2027 and an operating agreement with Bert Nash Community Mental Health Center for the TRC at a cost not to exceed \$1.6 million dollars in 2023.

LEASE AND OCCUPANCY AGREEMENT

This Lease and Occupancy Agreement (“Lease”) is made effective as of _____, 2023, by and between **Douglas County, Kansas (“Landlord”)**, and **The Bert Nash Community Mental Health Center, Inc. (“Tenant” or “Bert Nash”)**. Landlord and Tenant may be referred to herein each as a “party” and collectively as the “parties.” Landlord and Tenant hereby agree as follows:

ARTICLE 1 – LEASED PREMISES; LANDLORD’S PERSONAL PROPERTY

1.01. Landlord, in consideration of the payments herein provided, and of the covenants, agreements and conditions herein contained, leases to Tenant the following premises in the City of Lawrence, Douglas County, Kansas:

1000 W. 2ND STREET, LAWRENCE, KS 66044

together with the structure(s), fixtures, parking areas, and appurtenances thereon and thereto, hereinafter referred to in this Lease as the “Premises.”

1.02. Tenant hereby agrees that it has inspected the Premises and it accepts possession of the Premises in “AS IS” physical condition as of the commencement date and acknowledges and agrees that Landlord is not obligated to (i) make any improvements or perform any work, alterations, repairs or replacements; (ii) obtain any building permits, certificates of occupancy or any other permits, licenses or governmental approvals; or (iii) spend any money, for the purpose of either putting Tenant in possession of, or improving or repairing, the Premises.

1.03. Tenant understands and agrees that its acceptance of the Premises in “AS IS” condition includes without limitation the condition of the structural elements and mechanical, plumbing, and utility systems of the Premises at the time of tender of possession of the Premises to Tenant. Landlord makes no representations or warranties regarding the Premises or the suitability of the Premises for Tenant’s business. Further, the taking of possession of, or commencement of work or operations in, the Premises (or any part thereof) by Tenant following Landlord’s tender of possession of the Premises to Tenant shall, for all purposes of this Lease, be conclusive evidence that the Premises are in good condition and that all work and materials required to be performed or supplied by Landlord, if any, was, in fact, achieved or deemed to have been achieved and is satisfactory.

1.04. Together with the Premises, Landlord leases to Tenant the “**Landlord’s Personal Property**,” defined to mean all items of personal property installed in, located in, or otherwise furnished by landlord at the Premises for the use of Tenant or the Tenant Parties in connection with the Permitted Use. The parties acknowledge and agree that, upon the commencement of the Initial Term, Landlord has provided the items of Landlord’s Personal Property listed on Exhibit A to this Lease. By commencing use of the Premises, Tenant acknowledges and agrees that all items of Landlord’s Personal Property as listed on **Exhibit A** are in new and operable condition.

ARTICLE 2 – TERM AND RENTAL PAYMENT

2.01. Lease Term. Landlord leases the Premises and the Landlord’s Personal Property to the Tenant for an initial term of sixty (60) months, commencing at 12:01 a.m. on **April 6, 2023** (the

“**Delivery Date**”) and ending at 12:00 midnight on **April 5, 2028**. Such period from **April 6, 2023** to **April 5, 2028** is the “**Lease Term**” of this Lease.

2.02. Rental Payment. Tenant will pay Landlord rent of \$70,000.00 per month. Rent is due and payable to Landlord on or before the first day of each calendar month; provided however, if the first month is a partial month the rent will be prorated accordingly with such rent payment being due on the Delivery Date. Failure to pay rent when due will constitute an Event Default under this Lease. Unless otherwise agreed by the parties, the rental payment for years 2, 3, 4, and 5 will increase by two percent (2%). In other words, rent for each year after the first 12 months will be increased by two percent (2%) over the rent for the immediately preceding year, unless otherwise agreed by the parties.

2.03. Expiration Date. The last day of the Lease Term, or the earlier date on which this Lease is terminated in accordance with the provisions of this Lease or pursuant to applicable Laws, is referred to herein as the “**Expiration Date**”. Notwithstanding anything herein to the contrary, the Lease Term shall expire automatically upon the expiration, non-renewal, or earlier termination of the Operating Agreement between Landlord and Tenant, dated on or about the date hereof (the “**Operating Agreement**”).

2.04. All payments required by this Agreement shall be made to Landlord at:

Douglas County, Kansas
Attn: Sarah Plinsky
1100 Massachusetts Street
Lawrence, Kansas 66044

or at such other place as may from time to time be designated by Landlord.

ARTICLE 3 – UTILITIES

3.01. Tenant, at its own expense, shall arrange with the appropriate utility companies for the provision of water, electricity, gas, internet, telephone service, sewer, and other utilities supplied, if any, to the Premises from and after the Delivery Date. Tenant shall pay to the appropriate utility companies all charges for such utilities consumed in the Premises as and when such charges become due and payable. The cost of any utilities under this Article 3 shall include any taxes, sewer rents, surcharges and billing, meter-reading, and other service fees charged to Landlord or Tenant, as applicable, in connection therewith.

3.2. Landlord shall not be liable to Tenant in damages or otherwise for the quality, quantity, failure, unavailability, or disruption of any utility service, unless caused by the gross negligence or willful misconduct of Landlord, and the same shall not constitute a termination of this Lease, or an actual or constructive eviction of Tenant, or entitle Tenant to any abatement of rent or other remedies under this Lease or applicable law. Landlord may at any time alter any utility, and related equipment, serving the Property and shall use commercially reasonable efforts so that such alteration does not materially interrupt service to the Premises and does not unreasonably interfere with Tenant’s business operations within the Premises. The costs for heating and cooling the Premises from any central boiler or heating, ventilation and air conditioning system serving the building in which the Premises are located, will be the sole responsibility of Tenant.

ARTICLE 4 - USE OF LEASED PREMISES

4.01. Tenant shall use and occupy the Premises for use in performing its Certified Community Behavioral Health Clinic (“**CCBHC**”) services and as a Crisis Intervention Center (“**CIC**”) as defined by state and federal law (the “**Permitted Use**”). Tenant shall not use or occupy the Premises for any other purpose or business without the prior written consent of Landlord. Tenant shall at all times use and occupy the Premises in furtherance of non-profit charitable, benevolent, educational, scientific, state, county, or municipal purposes that are in concert with and conform with those described in K.S.A. 79-201 or K.S.A. 79-201a, and amendments thereto, and consistent with the purposes, goals, and appropriate objectives of Landlord. Tenant shall not use or occupy the Premises for any unlawful purpose or in any manner that will violate Tenant's certificate of occupancy or that will constitute waste or nuisance. In addition to all other remedies provided to Landlord under this agreement, Tenant shall pay before they become delinquent all real estate taxes and assessments levied against the Premises in the event that Tenant's use of the Premises renders such Premises, or any portion thereof, subject to property taxation. In the event Landlord pays any property taxes with respect to the Premises, Tenant shall reimburse Landlord for such property taxes within ten (10) days after Tenant’s receipt of an invoice therefor.

4.02. For purposes of this Lease, the term “**Laws**” shall mean all present and future laws, orders, ordinances, directions, notices, rules and regulations of the federal government and of any state, county, city, and municipality, and of any division, agency, subdivision, bureau, office, commission, board, authority and department thereof, including, without limitation, the Americans With Disabilities Act, and any supporting regulations with respect to the foregoing, and all similar federal, state or local laws, regulations and ordinances, all as the same may be amended from time to time, and of any public officer or official, any quasi-governmental officials and authorities, and/or any private associations or other entities, in any case having or asserting jurisdiction over the Premises, the Property and/or the land on which they are located (each, a “**Governmental Authority**” and collectively, “**Governmental Authorities**”). Tenant shall comply with all present and future applicable Laws (including, without limitation, zoning ordinances and land use requirements, regulations and orders) concerning the use, occupancy and condition of the Premises and all machinery, equipment and furnishings therein, including, without limitation, any requirement to install fire protection systems. Tenant will comply with any recommendations required by Landlord's insurance carrier, safety engineers and loss prevention consultants as may from time to time be consulted by Landlord, all of which shall be complied with in a timely manner at Tenant's sole cost and expense. It is expressly understood that if any present or future applicable Law requires an occupancy or use permit or license for the Premises or the operation of any business or activities conducted therein, Tenant shall obtain and keep current such permit or license(s) at Tenant's own expense and shall promptly deliver a copy thereof to Landlord. Landlord makes no representation as to whether the Tenant’s use of the Premises is allowable under applicable Laws, and Tenant bears sole responsibility for verifying the same.

4.03. Tenant will be solely responsible for obtaining and paying for any and all necessary permits, licenses, registrations, and/or approvals for the performance of any activities or services to be rendered or performed at the Premises and Tenant shall furnish proof of such items to the County upon request. Tenant will be solely responsible for supervising and directing its personnel in performance of all activities on, in, and relating to the Premises. County assumes no authority, responsibility, or liability to direct, supervise, oversee or otherwise manage the work of these personnel.

4.04. Without limiting the generality of Section 4.02. of this Article 4, Tenant shall maintain the Premises, and its operations thereon, in compliance with all federal, state and local laws, regulations, ordinances, statutes, rules, orders, and agency policies or guidelines regarding the environment, human health or safety (collectively, “Environmental Laws”) that apply to the Premises or its use. Except for (i) de minimis quantities of ordinary and general office supplies typically used in the ordinary course of business, such as copier toner, liquid paper, glue and ink, and common household cleaning materials, and (ii) reasonable quantities of products which are necessary and customary in the conduct of Tenant’s business in accordance with the Permitted Use, all of which shall be stored, used and disposed of in accordance with all Environmental Laws (including obtaining all necessary permits and inspections therefor, copies of which shall be provided to Landlord upon request), Tenant shall not cause, or permit, the storage, use, generation, release or disposal of hazardous substances or wastes, toxic substances or wastes, pollutants, or contaminants as those terms are defined by Environmental Laws, including but not limited to “hazardous substances” as defined under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) (42 U.S.C. §§ 9601 et seq.); “hazardous wastes” as defined under the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. §§ 6901 et seq.); “toxic substances” as defined under the Toxic Substances Control Act (TSCA) (15 U.S.C. §§ 2601 et seq.); “hazardous materials” as defined under Occupational Safety and Health Administration (OSHA) laws and regulations; oil, petroleum products, or their derivatives; and PCBs, asbestos, explosives, radioactive materials and any other toxic, flammable, reactive, ignitable, corrosive or otherwise hazardous substances (collectively, hereinafter, “Hazardous Substances”). Tenant shall not install any storage tanks on the Premises, whether underground or above ground, without Landlord's prior written permission, which may be withheld in Landlord's sole discretion. Tenant shall give Landlord written notice immediately upon Tenant's knowledge of any Hazardous Substances existing in the Property that impacts soil, groundwater, or surface water, or requires notification of any Governmental Authorities. Tenant shall, at its sole risk and expense, promptly commence to perform, and diligently prosecute to completion, all work necessary or required to remove, treat, clean up, dispose of, and otherwise remediate and cure, any spill, leak, discharge, or other release of Hazardous Substances from, on, about, or under the Premises, which work shall be approved by Landlord and performed to its satisfaction in accordance with Environmental Laws, including, without limitation, any OSHA laws, regulations, policies, or guidelines, but Tenant shall not be responsible for curing any Hazardous Substances caused by Landlord during the Lease Term. Furthermore, Tenant shall take all measures to preclude any moisture from penetrating any portions of the Property and shall be responsible to Landlord directly for any damage caused thereby. Tenant shall respond to any moisture (or mold) conditions that it discovers inside the Premises by notifying Landlord within twenty-four (24) hours after Tenant identifies such conditions and Tenant shall be responsible therefor. Tenant releases Landlord from any liability for any personal injury or damages to property caused by or associated with moisture or the growth of or occurrence of mold or mildew on or in the Premises. At any time, and from time to time, Landlord shall have the right to (i) inspect any of Tenant's environmental records with respect to the Premises, and (ii) conduct appropriate tests and site investigations of the Premises to determine whether contamination has occurred.

4.05. Tenant shall indemnify, defend and hold Landlord and Landlord’s elected officials, administrators, employees, agents, attorneys, and insurers (each a “Landlord’s Indemnitee”, and, collectively, “**Landlord’s Indemnitees**”) harmless from any and all liabilities, actions, demands, penalties, losses, costs and expenses (including reasonable counsel fees, consultants' fees and remedial costs), suits, costs of any settlement or judgment and claims which may be paid, incurred or suffered by, or asserted against, any of Landlord’s Indemnitees arising out of or in any way related to (1) Tenant’s and the Tenant Parties’ (as hereinafter defined) use, handling, generation, treatment, storage, disposal,

and other management or release of any Hazardous Substances from, on, about or under the Property or the Premises, whether or not Tenant and/or the Tenant Parties may have acted negligently with respect to such Hazardous Substances; or (2) Tenant's and/or the Tenant Parties' failure to comply with the provisions of Article 4 of this Lease. Tenant's obligations and liabilities under this Lease shall survive Lease termination, and shall continue for so long as Landlord (including any successor or assignee) remains responsible or liable under Environmental Laws or otherwise for either any releases of Hazardous Substances (as releases is defined under Environmental Laws) or for any violations of Environmental Laws that occurred during Tenant's possession of the Premises, unless caused by Landlord. Tenant's failure to abide by the terms of this Section shall be enforceable by injunction. The term "**Tenant Parties**" shall mean Tenant's employees, agents, invitees, assignees, subtenants, contractors, licensees, and concessionaires.

4.06. Tenant shall be provided non-exclusive use of parking areas as designated, from time to time, by Landlord.

ARTICLE 5 – ASSIGNMENT AND SUBLETTING

5.01. Tenant (and any Transferee (as hereinafter defined)) shall not voluntarily or involuntarily, by operation of law or otherwise: (a) transfer, mortgage, encumber, pledge, hypothecate, or assign all, or any of, its interest in this Lease (either directly, indirectly or collaterally), or (b) sublet or permit the Premises, or any part thereof, to be used by others (including, without limitation, by concessionaires or licensees) or to be used for any purpose other than the Permitted Use, or (c) issue new stock (or membership interests or partnership shares), create additional classes of stock (or membership interests or partnership shares), or sell, transfer, assign, convey, endorse or otherwise transfer the outstanding stock (or membership interests or partnership shares) so as to result, directly or indirectly, in a change in the present control of Tenant, (d) sell, assign or otherwise transfer all, or substantially all, of Tenant's assets, capital stock, or memberships, (e) merge or consolidate with any entity, or (f) otherwise suffer or permit any change of control of Tenant; without, in each instance, obtaining the prior written consent of Landlord, which consent may be withheld or granted in Landlord's sole and absolute discretion. For purposes of this Article 5, the term "control" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities or rights, by contract, or otherwise. The transactions described in this Section are sometimes referred to herein as a "**Transfer**", and the person to whom Tenant's interest is transferred shall be referred to as a "**Transferee**," specifically including, without limitation, subtenants, licensees, and concessionaires of Tenant.

5.02. Any Transfer without Landlord's consent shall automatically be voidable in Landlord's sole and absolute discretion, in which case it shall not be binding upon Landlord, shall confer no rights upon any third party, and shall, without any notice or grace period of any kind, constitute an Event of Default. Notwithstanding any Transfer, Tenant shall at all times remain directly and primarily liable for the payment of rent and for compliance with all of its other obligations under this Lease. Landlord may proceed directly against Tenant without first exhausting any remedies for default which Landlord may have against any Transferee. In the event of a termination, re-entry or dispossession by Landlord following a sublease by Tenant, Landlord may, but shall not be obligated to, at Landlord's option exercisable in its sole and absolute discretion, take over all of the right, title and interest of Tenant (as sublessor) under such sublease, and the subtenant shall, at Landlord's option, exercisable in Landlord's sole and absolute discretion, attorn to Landlord pursuant to the provisions of such sublease.

5.03. All restrictions and obligations imposed pursuant to this Lease on Tenant shall be deemed to extend to any Transferee, and Tenant shall cause such Transferee(s) to comply with such restrictions and obligations.

5.04. Landlord may assign all or part of its interest in the Premises, the Landlord's Personal Property, or this Lease, at any time or times without consent of Tenant, provided such transfer or assignment is subject to this Lease.

ARTICLE 6 – MAINTENANCE AND REPAIRS

6.01. Tenant, at Tenant's sole cost and expense, shall promptly make all repairs, perform all maintenance, and make all replacements, in and to the Premises that are necessary or desirable to keep the Premises in first class condition and repair, in a safe and tenantable condition, and otherwise in accordance with applicable Laws and the requirements of this Lease and the requirements of the Operating Agreement. Tenant shall maintain all fixtures, furnishings and equipment located in, or exclusively serving, the Premises in a clean, safe and sanitary condition, shall take good care thereof and make all required repairs and replacements thereto. Tenant shall suffer no waste or injury to any part of the Premises, and shall, at the termination of this Lease, surrender the Premises and the Landlord's Personal Property in the same or better order and condition as on the first day of the Initial Term, ordinary wear and tear excepted. Without limiting the generality of the foregoing, Tenant, at Tenant's sole cost and expense, shall promptly make all repairs and replacements to (a) any pipes, lines, ducts, wires or conduits installed in, or exclusively serving, the Premises; (b) Tenant's signs; (c) any heating, air conditioning, electrical, ventilating, sprinkler or other fire protection, or plumbing equipment installed in, or serving, the Premises; (d) all glass, window panes and doors; (e) any loading dock, vertical transportation, any exterior stairs, ramps, platforms or similar improvements that serve the Premises; (f) any other mechanical systems or equipment (including, without limitation, utility meters) installed in or serving the Premises and (g) all sidewalks, walkways, parking areas, and all other paved surfaces located on the Premises. Tenant shall be responsible, at Tenant's sole cost and expense, for providing all janitorial and cleaning and pest and termite control services for the Premises. All such services shall be provided in accordance with standards customarily maintained for similar first-class properties, and Tenant shall maintain, at Tenant's sole cost and expense, service contracts therefor. Tenant shall maintain, at Tenant's sole cost and expense, a maintenance contract on the heating, ventilation and air conditioning equipment and systems ("HVAC") in or serving the Premises. Such contract shall be with a contractor licensed to do business in the jurisdiction in which the Property is located and approved by Landlord, such approval not to be unreasonably withheld, conditioned, or delayed, and shall cover all parts and labor with routine inspections and servicing as recommended by the manufacturer. From time to time, at Landlord's request, Tenant shall provide copies of all maintenance and service contracts to Landlord. In addition, Landlord reserves the right to establish a regular inspection and maintenance program for all equipment owned by Landlord and maintained by Tenant and to provide all necessary or appropriate maintenance and repairs at Tenant's expense. Tenant will be provided reasonable advanced notice and Landlord will make reasonable efforts to conduct such inspections at a time to be the least disruptive to Tenant's operations.

6.02. Tenant shall install and maintain such fire extinguishers and other fire protection devices as may be required by any agency having jurisdiction over, or by the underwriters issuing insurance for the Property. Tenant agrees to perform routine inspections of fire protection devices by contractors acceptable to Landlord. If any Governmental Authority with jurisdiction over the Property requires the installation, modification, or alteration of the sprinkler system, or other equipment, by reason of Tenant's

use and occupancy, or the location of any partitions, trade fixtures, or other contents of the Premises, then Tenant shall promptly install such sprinkler system or changes therein.

6.03. If any repairs and/or replacements required to be made by Tenant under this Article 6 are not made within -thirty (30) days after written notice thereof by Landlord to Tenant, then Landlord may, at its option, make any or all such repairs and/or replacements without further notice or any liability to Tenant for any loss or damage which may result to Tenant's business by reason of such repairs and/or replacements (including, without limitation, damage to Tenant's business). Notwithstanding the foregoing, Landlord may make any such repairs and/or replacements without notice to Tenant or without giving Tenant the benefit of the aforementioned cure period if necessary in the event of an emergency. If Landlord makes any of the foregoing repairs and/or replacements, Tenant shall pay Landlord, within thirty (30) days after Tenant receives Landlord's invoice accompanied by supporting documentation for actual cost incurred by Landlord for such repairs and/or replacements. If Landlord elects, Landlord may perform routine inspections and make repairs to any systems and equipment which serves the Premises, such as fire protection and sprinkler systems equipment. If Landlord so elects, Tenant's allocated share of the foregoing costs may, at Landlord's discretion, be billed to Tenant as additional rent, payable within fifteen (15) days after Tenant's receipt of such bill.

6.04. Tenant shall at reasonable intervals remove any snow and ice from all sidewalks and parking lots included within the Premises and any other pedestrian walks or drives included within the Premises.

6.05. Landlord shall, at Landlord's sole cost and expense repair and maintain the following portions of the Premises in good order, condition and repair (reasonable wear and tear excepted): roof (excluding any Tenant specific roof penetrations); exterior walls (excluding doors, signs, windows, and glass); structural portions of the Premises (consisting only of the foundation and members supporting the roof); and any utility lines located outside the Premises that serve other premises in common with the Premises, but only to the extent that such lines are not owned, operated or managed by any utility company or applicable governmental authorities. If any such repairs are necessitated by Tenant's breach of this Lease, or by any act or negligence of Tenant, its agents, employees, contractors, licensees, customers or invitees, Tenant shall reimburse Landlord for the reasonable cost incurred in completing such repairs, which payment shall be made to Landlord within thirty (30) days after Landlord's request therefor. Tenant shall promptly notify Landlord in writing of any repairs or maintenance for which Landlord is responsible hereunder.

6.06. If Landlord shall fail to commence the making of any repairs or the performance of any maintenance required to be performed by Landlord pursuant to Section 6.05 of this Lease, other than as a result of Force Majeure (as defined in Section 17.12, within thirty (30) days after Landlord's receipt of written notice from Tenant thereof, and such default by Landlord shall materially adversely impact the normal conduct of the Permitted Use in the Premises, Tenant's sole right and remedy for such failure shall be, after the expiration of five (5) days after Landlord's receipt of further written notice to Landlord of its intention so to do, to cause such repairs to be made or maintenance to be performed in compliance with the other terms and conditions of this Lease and to make a claim against Landlord for the Reimbursable Tenant Costs (as hereinafter defined) (provided, however, that in no event shall Tenant be permitted to withhold payment of any rent or other performance on account of such costs except as hereinafter expressly set forth). Landlord shall reimburse Tenant for the reasonable and actual out-of-pocket cost paid by Tenant to unaffiliated third parties for any maintenance or repairs Tenant is entitled to perform on Landlord's behalf pursuant to this Section 6.06, within thirty (30) days after receipt from

Tenant of a detailed statement of such costs, accompanied by reasonably satisfactory supporting documentation (any such costs, the **“Reimbursable Tenant Costs”**).

6.07. Except as otherwise expressly provided in this Lease, Landlord is not responsible (and Tenant shall reimburse Landlord) for any costs, charges, expenses or outlays arising from or relating to the Premises, the contents, use or occupancy thereof, or the business carried on therein.

ARTICLE 7 – ALTERATIONS; MECHANIC’S LIENS; AND SURRENDER OF PREMISES

7.01. Tenant will not make or permit anyone to perform any work and/or make any alterations, additions, improvements or other changes (hereinafter referred to collectively as **“Alterations”**), structural or otherwise, in or to the Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed with respect to Non-Structural Alterations (as hereinafter defined) and may be withheld or granted in Landlord's sole and absolute discretion with respect to Structural Alterations (as hereinafter defined). The term **“Structural Alterations”** shall mean proposed Alterations that (i) affect (x) the structural elements or exterior of any portion of the Property (including, without limitation, the Premises), and/or (y) any mechanical or utility systems serving the Property (including, without limitation, the Premises), and/or (ii) are visible from the exterior of the Premises. The term **“Non-Structural Alterations”** shall mean any Alterations, which are not Structural Alterations and do not require a building permit. Notwithstanding the foregoing, Tenant may, without Landlord's consent, make Non-Structural Alterations costing less than Fifty Thousand and 00/100 Dollars (\$50,000.00) per instance either individually or in the aggregate with other such Non-Structural Alterations performed within the same calendar year; provided, however, that Tenant gives Landlord prior written notice of any such Alterations to allow adequate consultation by and input from the County’s architect.

7.02. All Alterations shall be made: (i) in a good, workmanlike, first class and prompt manner; (ii) by contractors approved by Landlord, which approval shall not be unreasonably withheld; provided, however, that all Alterations involving structural, the HVAC and/or any roof related work shall, at Landlord's option, be performed by Landlord's designated personnel or contractor at Tenant's commercially reasonable expense; (iii) in accordance with plans and specifications approved in writing by Landlord and prepared by an architect licensed in the jurisdiction where the Property is located; (iv) in accordance with all applicable Laws and the requirements of any Governmental Authorities and any insurance company insuring the Property or portion thereof; (v) in compliance with all rules and regulations concerning the performance of Alterations as may be prescribed by Landlord from time to time with respect to the Property; and (vi) after Tenant has obtained, and/or caused its contractor(s) to obtain, pay for and maintain, during the continuance of construction on or about the Premises, insurance coverages in types and coverage amounts reasonable acceptable to Landlord, which insurance coverages shall be in addition to the insurance coverages required to be obtained and maintained by Tenant under this Lease. By approving any plans and specifications proposed by Tenant, or not requesting changes thereto, Landlord shall not be deemed to have made any representation or warranty to Tenant, or have any liability, with respect to the safety, adequacy, correctness, efficiency, compliance of such plans with any Laws, including, but not limited to, City, State and Federal laws, rules and regulations, fire safety, Hazardous Substances, or any other matter relating thereto, it being expressly understood and agreed that Tenant shall be responsible, at its sole cost and expense, for any additional costs resulting from the non-compliance of any such plans and specifications. Any damage to the roof caused by Tenant, its agents, employees or contractors, or Tenant’s equipment thereon shall be repaired by Landlord at Tenant’s cost and Tenant shall promptly reimburse Landlord therefor.

7.03. Without diminishing Landlord's rights to approve Alterations, all Alterations performed by Tenant shall further comply with the following: (i) such Alterations shall not increase the parking requirement for the Premises, require any waivers for parking from applicable governmental authorities, or otherwise directly or indirectly necessitate any sort of site plan amendment or modification for all or any portion of the Property; (ii) such Alterations shall not prevent the continued use of the Premises as a single integrated unit; (iii) such Alterations shall not affect the structural integrity of the Premises; (iv) no Alterations shall be undertaken until Tenant shall have procured and paid for, so far as the same may be required from time to time, all governmental approvals and permits; (v) such Alterations shall be pursued diligently and in good faith to completion; (vi) such Alterations shall be architecturally harmonious with the remainder of the Property.

7.04. Upon completion of any Alterations, Tenant shall obtain and deliver to Landlord written, unconditional waivers of mechanics' and materialmen's liens against the Premises and the Property from all contractors, subcontractors, laborers and material suppliers for all work, labor and services to be performed and materials to be furnished in connection with Alterations. If any Alterations are made without the prior written consent of Landlord, Landlord shall have the right at Tenant's expense to remove and correct such Alterations and restore the Premises to their condition immediately prior thereto, or to require Tenant to do the same. Further, if any alterations, additions, improvements or other changes in or to the Common Areas or exterior of the Building are necessitated by Tenant's particular use of, and/or Alterations in or to, the Premises, Tenant shall reimburse Landlord the cost of performing such alterations, additions, improvements or other changes within ten (10) days after Tenant's receipt of an invoice therefor.

7.05. All Alterations to the Premises or the Property made by either party shall immediately become the property of Landlord and shall remain upon and be surrendered with the Premises as a part thereof at the termination of the Lease, unless Landlord otherwise designates in writing that any such Alterations shall be removed. Tenant shall have the right to remove at any time all of its personal property, inventory and movable furniture, furnishings, trade fixtures and equipment, as well as Tenant's signs and identification marks, installed, solely at the expense of Tenant, in or on the Premises (collectively, "**Tenant's Personal Property**"), which shall in no event include, without limitation, plumbing fixtures, the HVAC and ceiling light fixtures. Tenant shall be responsible for all damage and injury to the Premises or the Property caused by any such removal. Tenant shall, prior to Lease termination, at Tenant's sole cost and expense, remove from the Premises all of Tenant's Personal Property. At no time may Tenant remove Landlord's Personal Property from the premises, except to make permitted replacements or with Landlord's prior written approval. If Tenant fails to remove any of Tenant's Personal Property or any other items required to be removed by Tenant hereunder by the date of Lease termination or the date that Tenant abandons, vacates, or surrenders the Premises or is dispossessed by process of law, or otherwise, then such Tenant's Personal Property and any other items shall be deemed abandoned by Tenant and, at the option of Landlord and without notice to Tenant or any other person (and without any obligation to account for them), shall become the property of Landlord, or may be removed by Landlord at Tenant's risk and expense, or may be placed in storage at Tenant's risk and expense, or may be sold or otherwise disposed of, in which event, subject to the next sentence of this Section, the proceeds of such sale or other disposition shall belong to Landlord. Landlord may sell the Tenant's Personal Property at private sale and without legal process, for such price as Landlord may obtain, and apply the proceeds of such sale against any amounts due under this Lease from Tenant to Landlord and against any and all expenses incident to the removal, repair of any damage to the Premises resulting or caused by such removal, storage and sale of such Personal Property. If Tenant

does not make any repairs as required by this Section, Tenant shall be liable for, and agrees to pay, Landlord's costs and expenses incurred in connection therewith.

7.06. Tenant covenants and agrees to preserve, repair, and maintain in good working order all items of Landlord's Personal Property during the Term of this Lease. In the event any item(s) of Landlord's Personal Property become damaged, worn out, or otherwise inoperable, unusable, or unsuitable for their intended use, Tenant will repair or replace such item(s) at Tenant's sole cost and expense. Provided, however, that if there is applicable warranty coverage for such item(s), Landlord will reasonably cooperate with Tenant to pursue remedies available from the manufacturer, distributor, or retailer of such item(s). Title to all items of Landlord's Personal Property shall remain vested at all times in Landlord, and any replacements of such items shall belong to Landlord and constitute part of Landlord's Personal Property. Landlord does not represent or warrant that any item of Landlord's Personal Property is suitable for any particular use by Tenant, and Landlord expressly disclaims all warranties related to Landlord's Personal Property. Tenant assumes all risk of using the items of Landlord's Personal Property. In addition to any other rights and remedies available to Landlord under this Lease or applicable law, Tenant agrees to defend, indemnify, and hold harmless Landlord and Landlord's Indemnitees from and against any and all claims, demands, damages, causes of action, injury, or loss of any nature whatsoever arising out of or relating in any way to Landlord's Personal Property, including without limitation use thereof by Tenant or the Tenant Parties.

7.07. Tenant, upon Lease termination, shall peaceably surrender to Landlord the Premises and the Landlord's Personal Property broom-clean and in good repair and condition in accordance with the requirements of this Lease, and shall deliver to Landlord any and all keys (including, without limitation, access cards) furnished to, or otherwise procured by, Tenant relating in any way to the Premises. Tenant's obligations and covenants under this Section shall survive the termination of this Lease. Tenant hereby assigns to Landlord any assignable warranties with respect to any of the foregoing construction, installations, fixtures, equipment, and personal property constituting part of Landlord's Personal Property, to the extent any such warranties are provided to Tenant by any contractors, manufacturers, distributors, retailers, or suppliers thereof.

7.08. Nothing contained in this Lease shall be construed as consent on the part of Landlord to subject Landlord's estate in the Premises or interest in Landlord's Personal Property to any lien or liability under any applicable laws relating to liens. No work which Landlord permits Tenant to do shall be deemed to be for the immediate use and benefit of Landlord and no mechanics' lien or other claim, lien or other charge shall be allowed against the estate, rights, title or interests of Landlord by reason of any consent given by Landlord to Tenant to do work in or about the Premises or provide materials therefor. Tenant shall not suffer, permit or give cause for the filing of a lien against the Premises or the Landlord's Personal Property. If any mechanic's or materialman's lien or notice of lien shall at any time be filed against the Premises or the Landlord's Personal Property by reason of work, labor, services, materials, or goods performed or furnished to Tenant or to anyone holding the Premises through or under Tenant, Tenant shall immediately cause the same to be bonded or discharged of record. If Tenant shall fail to cause such lien or notice of lien to be discharged or bonded within ten (10) days after the filing thereof, then the same shall constitute a breach or default of this Lease and, in addition to any other rights and remedies available to Landlord at law, or in equity or under this Lease, Landlord may, but shall not be obligated to, discharge or bond off the same without further notice to Tenant, by paying the amount claimed to be due or posting a bond, and the amounts so paid by Landlord and all costs and expenses, including reasonable attorneys' fees and court costs, incurred by Landlord in paying, bonding off, procuring the discharge of such lien or notice of lien, or defending Landlord in any suit brought against

Landlord, shall be due and payable by Tenant to Landlord as additional rent within ten (10) business days of Landlord's demand therefor.

ARTICLE 8 - SIGNS

8.01. No sign, emblem, advertisement, or notice referring to Tenant or any Tenant Parties shall be inscribed, painted, affixed or otherwise displayed on any part of the exterior or the interior of the Property (including Tenant's windows and doors) without the prior written approval of Landlord. Tenant shall at no time utilize any hand-drawn signs, scotch plaid decal strips or flashing or neon signs or lights in or on the Premises, and the bulbs of all Tenant's permitted signs and lights shall be replaced as soon as they become defective or lose their intensity. If any sign, advertisement or notice that has not been approved by Landlord is exhibited or installed by Tenant, Landlord shall have the right to remove the same, without notice, at Tenant's expense. All of Tenant's signs shall be: (a) installed after Tenant has obtained, at Tenant's sole cost and expense, all permits and licenses required therefor, and delivered copies thereof to Landlord; and (b) at Tenant's sole cost and expense, installed, maintained, repaired and replaced in accordance with all applicable Laws and the requirements of any Governmental Authorities and otherwise in a first class manner, which includes, but is not limited to, the requirement for Tenant, at Tenant's sole cost and expense, to replace any of Tenant's signs if the sign face becomes faded, discolored or begins to peel, subject to receipt of Landlord's prior written approval of such replacement sign. Tenant shall repair any signs that have been damaged within five (5) days after such damage occurs. If Tenant fails to repair or replace any of its signs as specified above, and such failure continues for a period of three (3) business days following receipt of notice from Landlord, Landlord shall have the right to make such repairs or replacement at Tenant's sole cost and expense.

8.02. Landlord reserves the right to affix, install and display signs, advertisements and notices on any part of the exterior or interior of the Property.

ARTICLE 9 – INSURANCE

9.01. On or before the Delivery Date and thereafter throughout the Lease Term, Tenant shall obtain and maintain insurance policies with the following coverages:

(A) Commercial general liability insurance (written on an occurrence basis and including personal injury liability), including, premises and operations liability, and contractual liability coverage, damages to Premises, employer's liability insurance, and business automobile liability insurance (covering automobiles owned by Tenant, and non-owned automobiles, which are leased, hired or operated by Tenant). Such commercial general liability insurance policy shall protect its insured against any liability which arises from any occurrence on or about the Premises or which arises from any matter against which Tenant is required to indemnify Landlord pursuant to this Lease. Such policies shall be in minimum amounts approved by Landlord from time to time, and shall name Landlord as an additional insured. As of the date hereof, such insurance shall be in the minimum amount of One Million and 00/100 Dollars (\$1,000,000.00) combined single limit per occurrence, Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate;

(B) Excess liability insurance on an occurrence basis that is in excess of the underlying commercial general liability, damage to Premises, business automobile liability, and employer's liability insurance, with limits of not less than Four Million and 00/100 Dollars (\$4,000,000.00) each occurrence. Such policy shall name the Landlord as an additional insured thereunder;

(C) Property insurance covering the Premises and all machinery, equipment, furniture and fixtures, goods, wares and merchandise, improvements and betterments therein (including Landlord's Personal Property) in an amount equal to Landlord's good faith estimate of the full "replacement cost" thereof on an "All Risk" policy of property loss insurance, excluding only the standard perils customarily excluded from such form of policy. Landlord in its commercially reasonable discretion shall determine the coverages, endorsements, supplements and deductible amounts to such property loss insurance policies;

(D) Plate glass insurance, naming the Landlord as loss payee and insuring against all risks, the full cost of repairing and/or restoring all of the plate glass in, at or about the Premises;

(E) Workers' compensation insurance for Tenant's employees, with a minimum limit as defined by the applicable Laws of the State of Kansas, and if such Laws do not require a minimum limit, in an amount that a prudent operator of the Permitted Use (or a substantially similar use) would carry, and employer's liability insurance for Tenant's employees, with a minimum liability limit of not less than One Million and 00/100 Dollars (\$1,000,000.00), and such workers' compensation and employer's liability insurance shall both, pursuant to Section 9.04 below, include a waiver of subrogation endorsement in favor of the Landlord;

(F) If Tenant uses or stores any flammable or toxic chemicals in the course of its business or if otherwise requested by Landlord, Tenant shall purchase and maintain Environmental Legal Liability insurance, including coverage for pollution clean-up with a limit of not less than One Million and 00/100 Dollars (\$1,000,000.00); and

(G) Such other insurance coverage against other insurable hazards as are from time to time reasonably requested by Landlord. Additionally, the coverages and minimum limits of coverage as set forth in this Article 9 may from time to time, at Landlord's sole discretion, be reasonably increased in a manner consistent with industry standards in the market where the Property is located; provided, however, Landlord shall not request an increase more than once in a three (3) calendar year period. Within thirty (30) days after Landlord's written notice of such additional or increased insurance requirements, Tenant shall provide Landlord with any evidence required by Landlord of the insurance required hereunder evidencing such change(s).

9.02. Each such policy shall: (i) be issued by a company, which is authorized to do business in Kansas and which is rated "A-" or better (and is in a Financial Size Category of Class VII or higher) by A.M. Best Company and which shall otherwise be acceptable to Landlord in its reasonable judgment; (ii) contain an endorsement that such policy shall remain in full force and effect notwithstanding that the insured may have waived its right of action against any party prior to the occurrence of a loss, and shall provide that the insurer thereunder waives all right of recovery by way of subrogation against Landlord, its elected officials, agents, employees, and representatives, in connection with any loss or damage covered by such policy; (iii) be acceptable in form and content to Landlord; (iv) be primary; (v) initially be for a term of not less than one (1) year and contain an endorsement prohibiting cancellation, failure to renew, reduction of amount of insurance or change in coverage without the insurer's first giving Landlord at least thirty (30) days' (which 30-day period shall be reduced to ten (10) days' for nonpayment of premium) prior written notice of such proposed action; (vi) provide that an act or omission of one of the insureds, additional insureds, or loss payees thereunder which would void or otherwise reduce coverage, shall not void or reduce coverage as to the other insureds, additional insureds or loss payees,

and (vii) contain cross-liability coverage or a severability of interest clause in a commercially reasonable form. No such policy shall contain any deductible or self-insurance provision except as otherwise approved in writing by Landlord. Tenant shall deliver a certificate of such insurance (and, upon request, copies of all required insurance policies, including endorsements and declarations) to Landlord on or before the Delivery Date and at least annually thereafter. Neither the issuance of any insurance policy required under, nor the minimum limits of liability specified in, this Lease shall be construed to limit or restrict in any way Tenant's indemnity obligations in this Lease or other liability hereunder. On insurance policies where Landlord is named as an additional insured or loss payee, the Landlord shall be an additional insured or loss payee, as applicable, to the full limits of liability purchased by Tenant even if those limits of liability are in excess of those required in this Lease.

9.03. If any evidence required by Landlord of the insurance policies required pursuant to this Article 9 is not received by Landlord on or before the date Landlord is prepared to tender possession of the Premises to Tenant, then until such evidence is received by Landlord: (i) Tenant shall not be permitted to perform any Alterations on the Premises or otherwise use or occupy the Premises, and (ii) Landlord shall have no obligation to deliver the keys to, or tender possession of, the Premises to Tenant. In addition, if Tenant fails to timely provide any evidence required by Landlord of the insurance policies required under this Article 9, or otherwise fails to maintain such insurance policies, Landlord shall have the right, (but not the obligation) without notice to Tenant and at any time and from time to time, to acquire such insurance, and Tenant shall be obligated to pay Landlord, as additional rent, the amount of the premium and all sums incurred by Landlord applicable thereto within five (5) days following notice from Landlord.

9.04. Notwithstanding anything in this Lease to the contrary, to the extent permitted by applicable law, Tenant and Landlord hereby waive and release any and all rights of subrogation or recovery, whether arising in contract or tort, against the other, including their employees and agents, arising during the Lease Term, for any and all loss or damage (i) to the Premises, to any property located therein, or to the Landlord's Personal Property, which loss or damage arises from the perils that could be insured against under a standard all-risk or Special Form - Causes of Loss policy, (ii) that could be insured under time element insurance (e.g., business interruption insurance), including without limitation loss of earnings or rents resulting from loss or damage caused by such a peril, and (iii) to the extent permitted by law, arising from a worker's compensation insurance claim, in all of the foregoing cases, whether or not the party suffering the loss or damage actually carries such insurance, recovers under such insurance, or self-insures the loss or damage. Deductibles and self-insured retentions shall be deemed insurance for all purposes hereunder. This mutual waiver is in addition to any other waiver or release contained in this Lease. If there is a conflict between this Section 9.04 and any other provision of this Lease, this Section 9.04 shall control. Tenant shall cause each of the following insurance policies carried by Tenant: (i) any worker's compensation, if any, and (ii) property insurance insuring the Premises, the contents thereof, or the Landlord's Insured Property, to provide that the insurer waives all rights of recovery by way of subrogation or otherwise against the other party hereto in connection with any loss or damage which is covered by such policy or that such policy shall otherwise permit, and shall not be voided by the releases provided for above. In the event of a permitted sublease or other occupancy agreement with respect to the Premises, the subtenant or occupant shall expressly agree in writing to be bound by the provisions of this Section 9.04 (as if such subtenant or occupant were Tenant hereunder) for the benefit of Landlord.

9.05. Neither Tenant's obligations under this Lease nor Tenant's underlying liability shall be deemed limited in any way by the insurance requirements set forth in this Lease or Landlord's review

and approval of any insurer or insurance policy. The insurance requirements set forth in this Lease merely prescribe the minimum amounts and forms of insurance coverage that Tenant and/or its contractors are required to carry.

ARTICLE 10 – LIABILITY OF LANDLORD

10.01. Neither Landlord nor any of Landlord's Indemnitees shall be liable to Tenant or the Tenant Parties, or to any other person or entity whatsoever for any damage (including indirect and consequential damages and lost profits), injury, loss, or claim (including claims for the interruption of or loss to the business being conducted in the Premises) based on or arising out of any cause whatsoever (except as otherwise provided in this Section 10.01), including but not limited to the following: repair to any portion of the Premises or the Landlord's Personal Property; interruption in the use of the Premises or any equipment therein; any accident or damage resulting from the use or operation (by Landlord, Landlord's Indemnitees, Tenant or any other person or entity) of the heating, cooling, electrical, sewerage, or plumbing equipment or apparatus; termination of this Lease by reason of the destruction of the Premises; any fire, robbery, theft, vandalism, mysterious disappearance and/or any other casualty; actions of any other person or entity; and leakage in any part of the Premises from water, rain, ice or snow that may leak into, or flow from, any part of the Premises, or from drains, pipes or plumbing fixtures in the Premises or the Property. Any failure or inability to furnish any service required hereunder shall not be considered an eviction, actual or constructive, of Tenant from the Premises and shall not entitle Tenant to terminate this Lease or to an abatement of any rent payable hereunder. Any Personal Property placed by Tenant or any Tenant Parties in or about the Premises or the Property shall be at the sole risk of Tenant, and Tenant hereby waives any and every right or cause of action against Landlord and Landlord's Indemnitees for any and all loss of, or damage to, any of such Personal Property (whether or not such loss or damage is caused by the fault or negligence of Landlord, Landlord's Indemnitees or anyone for whom Landlord and Landlord's Indemnitees may be responsible). Notwithstanding the foregoing provisions of this Section 10.01, Landlord shall not be released from liability to Tenant for any physical injury to any natural person or damage to Tenant's Personal Property caused by the gross negligence or willful misconduct of Landlord or its employees to the extent such injury or damage is not covered by insurance (a) carried by Tenant or such person, or (b) required by this Lease to be carried by Tenant; provided, however, that Landlord shall never have any liability with respect to claims for the interruption of or loss to the business being conducted in the Premises. Landlord does not waive, and expressly reserves, all protections and immunities afforded to municipal entities and officials under applicable Laws.

10.02. To the fullest extent permitted by Laws, Tenant shall reimburse Landlord and Landlord's Indemnitees for, and shall indemnify, defend upon request and hold harmless Landlord and Landlord's Indemnitees from and against all costs, damages, claims, liabilities and expenses (including, without limitation, attorneys' fees), losses and court costs suffered by or claimed against Landlord and Landlord's Indemnitees, directly or indirectly, based on or arising out of, in whole or in part, (i) use and occupancy of the Premises or the business conducted therein, (ii) any act or omission by Tenant or any Tenant Parties, (iii) any breach or default in the performance or observance of Tenant's covenants or obligations under this Lease, or (iv) injury or death to individuals or damage to property within the Premises. The parties acknowledge that the foregoing provisions and waivers in this Section 10.02 have been specifically negotiated.

10.03. If Landlord transfers the Property or Landlord's interest therein, Landlord shall not be liable to Tenant for any obligations or liabilities based on or arising out of events or conditions occurring

on or after the date of such transfer. Within five (5) days after request, Tenant shall attorn to such transferee. For the sake of clarification, this Section shall not serve to reduce the liability of the transferee Landlord.

10.04. Tenant shall not have the right to set off or deduct any amount allegedly owed to Tenant pursuant to any claim against Landlord from any rent or other sums payable to Landlord. Tenant's sole remedy for recovering upon such claim shall be to institute an independent action against Landlord. If Tenant or any of the Tenant Parties is awarded a money judgment against Landlord, then recourse for satisfaction of such judgment shall be limited to execution against the estate and interest of Landlord in the Property. No other asset of Landlord or any Landlord's Indemnitees shall be available to satisfy or subject to such judgment, nor shall Landlord or any Landlord's Indemnitee have personal liability for satisfaction of any claim or judgment against Landlord or any Landlord's Indemnitee. In furtherance of the foregoing and in consideration of the benefits accruing hereunder, Tenant and all successors and assigns covenant and agree that, in the event of any actual or alleged failure, breach or default hereunder by Landlord or any Landlord's Indemnitee: (a) the sole and exclusive remedy shall be against Landlord's interest in the Property, as aforesaid; (b) no Landlord's Indemnitee shall be sued or named as a party in any suit or action (except as may be necessary to secure jurisdiction over Landlord); (c) no service or process shall be made against any Landlord's Indemnitee (except as may be necessary to secure jurisdiction over Landlord); (d) no official, officer, agent or employee of Landlord shall be required to answer or otherwise plead to any service of process; (e) no judgment will be taken against any Landlord's Indemnitee; (f) any judgment taken against any Landlord's Indemnitee may be vacated and set aside at any time nunc pro tunc; (g) no writ of execution will ever be levied against the assets of any Landlord's Indemnitee; and (h) these covenants and agreements are enforceable both by Landlord and also by any Landlord's Indemnitee. Notwithstanding anything in this Lease to the contrary, in no event shall Landlord or any Landlord's Indemnitee ever be liable for loss of business, consequential, special, speculative or punitive damages, or lost profits.

ARTICLE 11 - WAIVER OF CLAIMS

11.01. Tenant agrees that Landlord, its elected officials, administrators, agents, employees, directors, and officers shall not be liable to Tenant, and Tenant waives all claims for injury to persons or damage to property sustained by Tenant or any other person or entity occurring in or about the Premises, resulting directly or indirectly from any existing or future condition, defect, matter, or thing in the Premises or the Landlord's Personal Property, any part thereof, or from equipment or appurtenances becoming out of repair or from any occurrence or act or omission of any Tenant or occupant of the Premises. This Sub-article shall apply especially, but not exclusively, to damage caused as aforesaid or by the flooding of basements or other subsurface areas or by refrigeration devices, sprinkling devices, air conditioning apparatus, water, snow, frost, steam, excessive heat or cold, falling plaster, broken glass, sewage gas, odors, noise, or the bursting or leaking of pipes or plumbing fixtures, and shall apply equally whether the damage results from the act or omission of other occupants in the Premises and whether such damage be caused by or results from anything or circumstance whether of a like or wholly different nature.

11.02. If any damage to the Premises or the Landlord's Personal Property or any part thereof results from any act or omission of Tenant, its agents, subtenants, licensees, vendors, concessionaires, officers, employees, partners, members, joint-venturers, consumers, customers, patients, or invitees, Landlord may, at its option, repair such damage, and Tenant shall, within thirty (30) days after Landlord's request, reimburse Landlord forthwith for all costs of making such repairs, except repairs

resulting from ordinary wear and tear. All property in the Building or on the Premises belonging to Tenant, its agents, employees, or invitees or to any occupant of the Leased Premises, except as specifically provided in Sub-article 11.01 above, shall be at the risk of Tenant or such other person only, and Landlord shall not be liable for damage thereto or theft, misappropriation or loss thereof except that primarily caused by gross negligence of Landlord.

ARTICLE 12 - INDEMNIFICATION

12.01. Except to the extent arising from the intentional misconduct or grossly negligent acts of Landlord or Landlord's agents or employees or prohibited by Law, Tenant shall indemnify, hold harmless, and defend Landlord from and against any and all costs, expenses (including reasonable attorney fees), liabilities, losses, damages, suits, actions, fines, penalties, claims, or demands of any kind and asserted by or on behalf of any person (other than Landlord) or Governmental Authority arising out of or in any connected with Tenant's use or occupancy of the Premises for:

(A) any failure by Tenant to perform any of the agreements, terms, covenants, or conditions of this lease required to be performed by Tenant;

(B) any failure by Tenant to comply with any statutes, ordinances, regulations, or orders of any governmental authority; or

(C) any accident, death, or personal injury or damage to or loss or theft of property which shall occur in the Premises, except as the same may be caused primarily by the gross negligence of Landlord, its agents, employees, directors or officers. Landlord does not waive, and expressly reserves, all immunities and protections afforded to municipal entities and officials pursuant to applicable Laws.

ARTICLE 13 - DAMAGE OR DESTRUCTION

13.01. Tenant shall give immediate written notice to Landlord of any damage caused to the Premises or Property by fire or other casualty ("**Casualty**").

13.02. If the Premises are totally or partially damaged or destroyed by Casualty thereby rendering the Premises totally or partially inaccessible or unusable, Landlord shall diligently restore and repair the Premises to substantially the same condition as on the Delivery Date and shall restore the Property to again render the Premises accessible (collectively, "**Landlord's Restoration Work**"). Notwithstanding the foregoing and/or anything to the contrary set forth in this Lease, if: (i) in Landlord's sole judgment, Landlord's Restoration Work cannot be completed within ninety (90) days after the occurrence of such Casualty (after taking into account the time needed for effecting a satisfactory settlement with any insurance company involved, removal of debris, preparation of plans and issuance of all required governmental permits); or (ii) Landlord's or Tenant's insurance is insufficient to pay the full cost of Landlord's Restoration Work and/or any other repairs and restoration Landlord elects to perform; or (iii) zoning or other applicable Laws or regulations do not permit Landlord's Restoration Work and/or any other repairs and restoration Landlord elects to perform; or (iv) there is a Casualty to the Premises that exceeds twenty five percent (25%) of the replacement value of the Premises whether or not the Premises are damaged or destroyed, which replacement value shall be determined by the company(ies) insuring Landlord against the damage or destruction, or, if there is no such determination,

by a qualified party reasonably selected by Landlord to determine the replacement value; then, in any of the aforementioned events, Landlord shall have the right, at its sole option, to terminate this Lease by giving written notice of termination to Tenant within forty five (45) days after the occurrence of such Casualty. If this Lease is terminated pursuant to the preceding sentence, then rent shall be apportioned and paid to the date of termination. If this Lease is not terminated as a result of such Casualty, then until Landlord's Restoration Work to the Premises is substantially complete, Tenant shall be required to pay rent only for those portions of the Premises that Tenant is able to use while Landlord's Restoration Work is being performed; provided, however, that if such Casualty was caused by the act or omission of Tenant or any of the Tenant Parties, then Tenant shall not be entitled to any such reduction of rent. If this Lease is not terminated as a result of such Casualty, then except as otherwise specified in Section 13.03, Landlord shall bear the costs and expenses of Landlord's Restoration Work and any other repairs and restoration Landlord elects to perform; provided, however, that if such Casualty was caused by the act or omission of Tenant or any of the Tenant Parties, then Tenant shall pay to Landlord the amount by which such costs and expenses exceed the insurance proceeds, if any, actually received by Landlord on account of such Casualty.

13.03. Notwithstanding anything above to the contrary, if Landlord performs Landlord's Restoration Work, as provided in Section 13.02, Landlord's obligations shall be limited to the extent of insurance proceeds made available to Landlord and Landlord's ability to obtain the necessary permits. Landlord's Restoration Work shall in no event include, and Landlord shall not be required to repair, restore or replace, any decorations, Alterations or improvements to the Premises previously made by Tenant or any of Tenant's Personal Property. It shall be Tenant's sole responsibility to repair, restore or replace all such items to substantially their same condition prior to such Casualty and Tenant shall promptly commence, and diligently pursue to completion, such repairs, restoration and replacement to a substantially similar conditions as existed prior to such Casualty. Tenant shall reopen for business to the public for the Permitted Use at the Premises as soon as is practicable, but in any event within sixty (60) days after substantial completion of Landlord's Restoration Work.

13.04. The rights contained in this Article 13 shall be Tenant's sole and exclusive remedies in the event of any Casualty and Tenant hereby waives any statutory or common law right of termination which may arise by reason of any Casualty.

ARTICLE 14 – DEFAULT

14.01. Each of the following shall be deemed to be an “**Event of Default**” by Tenant under this Lease:

(A) Tenant's failure to make when due any payment of rent, which failure continues for a period of five (5) business days after written notice thereof to Tenant; provided, however, if Landlord provides Tenant with written notice of failure to timely pay any rent on two (2) occasions during any twelve (12)-month period, then during the twelve (12)-month period following such second (2nd) notice, Landlord shall not be required to give Tenant notice of any late payment of rent and Tenant's failure to pay any installment of rent on or prior to the due date shall constitute an Event of Default under this Lease;

(B) Tenant's failure to perform or observe any covenant or condition of this Lease, which failure continues for a period of thirty (30) days after written notice thereof to Tenant, unless such condition cannot reasonably be cured within such 30-day period, in which case

Tenant must commence such cure within such 30-day period and diligently pursue said cure to completion within forty (40) days after Tenant has notice thereof (provided, however, that if such breach or failure creates a hazard, public nuisance or dangerous situation, said 30-day grace period shall be reduced to forty-eight (48) hours after Tenant's receipt of notice);

(C) Tenant abandons, deserts or vacates the Premises (or any substantial portion thereof) or removes, without the prior written consent of Landlord, all or a substantial amount of the Landlord's Personal Property therefrom;

(D) An Event of Bankruptcy as specified in Article 15;

(E) A dissolution or liquidation of Tenant;

(F) The Operating Agreement is terminated, not renewed, or otherwise is no longer in effect;

(G) Tenant loses certification or licensure as a Certified Community Behavioral Health Clinic ("CCBHC") and remains without such certification or licensure for a period of ten (10) consecutive days, or thirty (30) days in the aggregate, within any calendar year;

(H) Tenant is unable to obtain licensure as a Crisis Intervention Center ("CIC") or Private Psychiatric Hospital ("PPH") as of the Delivery Date, unless such period is expressly extended by Landlord in writing;

(I) After obtaining licensure as a CIC or PPH, as the case may be, Tenant loses such licensure;

(J) Tenant loses Commission on Accreditation of Rehabilitation Facilities ("CARF") accreditation for the Premises and remains without such certification for a period of thirty (30) consecutive days;

(K) Tenant materially breaches the Operating Agreement;

(L) The occurrence of any event that is deemed an Event of Default elsewhere in this Lease.

(M) Tenant receives five (5) notices of any default or breach of this Lease within any twelve (12)-month period, notwithstanding any subsequent cure of any said default.

14.02. If there shall be an Event of Default, then the provisions of this Article shall apply, and Landlord shall have the right, at its sole option, to exercise any or all of the following remedies: (i) terminate this Lease and/or any services provided to Tenant under this Lease by giving notice of such termination to Tenant specifying the date of such termination, whereupon this Lease shall automatically cease and terminate, and Tenant shall be obligated to immediately quit the Premises; (ii) with or without terminating this Lease, terminate Tenant's right of possession and take possession of the Premises; and/or (iii) pursue all rights and remedies available to Landlord at law or in equity (including, without limitation, an injunction or specific performance against Tenant). Upon termination of this Lease for any reason, each party shall have the right to terminate immediately without cause that certain Operating Agreement

between the parties dated on or about the date hereof. In addition to any other early termination provisions provided for herein, each party shall have the right to terminate this Lease immediately without cause upon the termination of that certain Operating Agreement.

14.03. The provisions of this Article 14 shall operate as a notice to quit, any other notice to quit, or of Landlord's intention to re-enter the Premises being hereby expressly waived. If necessary, Landlord may proceed to recover possession of the Premises under applicable Laws, or by such other proceedings, including re-entry and possession, as may be applicable, and using such force as may be reasonably necessary to the extent allowed by law, without being deemed guilty in any manner of trespass, eviction or forcible entry and detainer and without relinquishing Landlord's right to rent or any other right given to Landlord hereunder or by operation of law. If Landlord elects to terminate this Lease and/or elects to terminate Tenant's right of possession, everything in this Lease to be done and performed by Landlord shall cease without prejudice, and Tenant shall remain liable for all rent and other sums accrued through the later of termination of this Lease or Landlord's recovery of possession. Landlord may relet the Premises or any part thereof, for such term(s) (which may extend beyond the date on which the Lease Term would have expired but for Tenant's default) and on such terms and conditions (which may include concessions or free rent and alterations of the Premises) as Landlord, in its sole discretion, may determine, but Landlord shall not be liable for, nor shall Tenant's obligations hereunder be diminished by reason of, any failure by Landlord to relet or attempt to relet all or any portion of the Premises or any failure by Landlord to collect any rent due upon such reletting. In no event shall Tenant be entitled to any excess of any rental obtained by re-letting over and above the rental herein reserved.

14.04. Whether or not this Lease is terminated, Tenant nevertheless shall remain liable for any rent or damages, which may be due or sustained prior to such default (or if the Lease is terminated, prior to such termination), and all costs, fees and expenses including, but not limited to, attorneys' fees, costs to recover the Premises, brokerage fees and commissions, and any costs and expenses incurred in placing the Premises in rentable condition similar to the condition of the condition of the Premises on the Delivery Date, incurred by Landlord in pursuit of its remedies hereunder and in renting the Premises to others from time to time. Tenant also shall be liable for additional damages which, at Landlord's election, shall be either one or any combination of the following:

(A) an amount equal to all rent which would have become due during the remainder of the Lease Term (or what would have been the end of the Lease Term but for any termination thereof), less the amount of rental, if any, which Landlord receives during such period from others to whom Landlord may (but is not required to) rent the Premises (other than any additional rent received by Landlord as a result of any failure of such other Person to perform any of its obligations to Landlord) which shall be computed and payable in monthly installments, in advance, on the first (1st) day of each calendar month following Tenant's default and continuing until the date on which the Lease Term would have expired but for Tenant's default. It is further understood and agreed that if Landlord elects to bring suits from time to time prior to reletting the Premises, Landlord shall be entitled to its full damages through the date of the award of damages without regard to rent and other sums that are or may be projected to be received by Landlord upon reletting of the Premises; or

(B) an amount equal to the present value (as of the date of Tenant's Event of Default) of the rent which would have become due under this Lease through the end of the Lease Term (or what would have been the end of the Lease Term but for any termination thereof), which liquidated and agreed final damages shall be payable to Landlord in one lump sum on demand.

Tenant shall pay all expenses (including, without limitation, court costs and reasonable attorneys' fees) incurred by Landlord in connection with any Event of Default whether or not a suit is instituted. The provisions contained in this Section 14.04 shall be in addition to, and shall not prevent the enforcement of, any claim Landlord may have against Tenant for anticipatory breach of this Lease. Nothing herein shall be construed to affect or prejudice Landlord's right to prove, and claim in full, unpaid rent accrued prior to any termination of this Lease.

14.05. All rights and remedies of Landlord set forth in this Lease are cumulative and in addition to all other rights and remedies available to Landlord at law or in equity (including, without limitation, specific performance of Tenant's obligations hereunder). The exercise by Landlord of any such right or remedy shall not prevent the concurrent or subsequent exercise of any other right or remedy. No delay or failure by Landlord to exercise or enforce any of Landlord's rights or remedies or Tenant's obligations shall constitute a waiver of any such rights, remedies or obligations. Landlord shall not be deemed to have waived any default by Tenant unless such waiver expressly is set forth in a written instrument signed by Landlord. If Landlord waives in writing any default by Tenant, such waiver shall not be construed as a waiver of any covenant, condition or agreement set forth in this Lease except as to the specific circumstances described in such written waiver. The acceptance of rent by Landlord shall not be deemed a waiver of Landlord's right to enforce any term or provision hereof.

14.06. If Landlord shall institute proceedings against Tenant and a compromise or settlement thereof shall be made, unless the same is expressly accepted by Landlord and Tenant as an accord and satisfaction (in writing), then the same shall not constitute a waiver of the same or of any other covenant, condition or agreement set forth herein, nor of any of Landlord's rights hereunder. Neither the payment by Tenant of a lesser amount than the monthly installment of rent due hereunder nor any endorsement or statement on any check or letter accompanying a check for payment of rent or other sums payable hereunder shall be deemed an accord and satisfaction. Landlord may accept the same without prejudice to Landlord's right to recover the balance of such rent or other sums or to pursue any other remedy. Notwithstanding any request or designation by Tenant, Landlord may apply any payment received from Tenant to any payment then due. Further, any payment by Tenant of less than the total rent due shall be treated as a payment on account. No re-entry by Landlord, and no acceptance by Landlord of keys from Tenant, shall be considered an acceptance of a surrender of this Lease.

14.07. If Tenant fails to make any payment to any third party or to do any act herein required to be made or done by Tenant, then Landlord may, but shall not be required to, make such payment or do such act. The taking of such action by Landlord shall not be considered a cure of such default by Tenant or prevent Landlord from pursuing any remedy it is otherwise entitled to in connection with such default. If Landlord elects to make such payment or do such act, then all expenses incurred by Landlord, plus interest thereon at a rate ("**Default Rate**") equal to ten percent (10%) per annum, from the date incurred by Landlord to the date of payment thereof by Tenant, shall constitute additional rent due hereunder; provided, however, that nothing contained herein shall be construed as permitting Landlord to charge or receive interest in excess of the maximum rate then allowed by applicable Laws. In performing any obligations of Tenant, Landlord shall not incur any liability for any loss or damage that may accrue to Tenant, the Premises or the Personal Property by reason thereof.

14.08. If Tenant fails to make any payment of rent, or any additional rent on or before the date such payment is due and payable, then Tenant shall pay to Landlord a late charge of five percent (5%) of the amount of such payment. Notwithstanding the foregoing, no late charge shall be assessed on the first occasion during any calendar year that payment is late unless and until Landlord shall give Tenant

notice of such late payment and Tenant shall have failed to make such payment within thirty (30) days after such notice; it being agreed that no such notice need be given for any subsequent late payment during such calendar year as a predicate for assessing a late charge. In addition, if Tenant fails to make any payment of rent, or any other additional rent on or before such payment is due and payable and such failure continues for ten (10) days after written notice from Landlord, then Tenant shall pay, upon demand, interest at the Default Rate after the date such payment or late fee, respectively, became due to the date of payment thereof by Tenant; provided, however, that nothing contained herein shall be construed as permitting Landlord to charge or receive interest in excess of the maximum rate then allowed by applicable Laws. Such late charge and interest shall constitute additional rent due hereunder but payment thereof shall not excuse or waive the late payment of rent or any default. Tenant agrees that such late charge and interest are a reasonable estimate of the damages as a result of Tenant's violation of the applicable terms and conditions of this Lease and that it would be impracticable or extremely difficult to determine Landlord's actual damages.

14.09. Tenant hereby expressly waives, for itself and all persons claiming by, through, or under it, any right of redemption or for the restoration of the operation of this Lease under any present or future applicable Laws, including, without limitation, any such right which Tenant would otherwise have in case Tenant shall be dispossessed for any cause, or in case Landlord shall obtain possession of the Premises as herein provided.

14.10. If Tenant shall be a partnership or other legal entity, the partners or members of which are, by virtue of any applicable Laws, subject to personal liability, then the liability of each such partner or member under this Lease shall be joint and several and each such partner or member shall be fully obligated hereunder and bound hereby as if each such partner or member had personally signed this Lease.

14.11. The obligations of Tenant under this Article 14 shall survive the Expiration Date.

14.12. Excluding Landlord's failure to perform its maintenance and repair obligations, which failure and Tenant's remedies therefor are set forth and governed by Sections 6.05 and 6.06 of this Lease, should Landlord fail to perform any other covenant, provision, or condition contained in this Lease on its part to be performed within twenty (20) days after written notice of default (or if more than twenty (20) days is required because of the nature of the default, if Landlord fails to initiate action to cure the failure within the initial twenty (20) day period and thereafter diligently prosecute the cure to completion) (or if Landlord's failure causes an emergency, health or safety situation and such failure is not cured within forty-eight (48) hours following receipt of notice from Tenant specifying such failure, or if such failure could reasonably take more than forty-eight (48) hours to cure, but Landlord has failed to commence to cure the same within the forty-eight (48) hour period), then Tenant shall have the right to (a) pursue the remedy of specific performance, and/or (b) seek any and all other remedies available to Tenant under this Lease and applicable Laws.

14.13. Except as expressly set forth in this Lease, no abatement, diminution, or reduction of Rent, charges, or other compensation shall be claimed by, or allowed to, Tenant, or any persons claiming under Tenant, from Landlord under any circumstances, whether for inconvenience, discomfort, interruption of business, from the making of alterations, changes, additions, improvements, or repairs to the Premises, from any present or future governmental laws, ordinances, requirements, orders, directions, rules, or regulations or the effects thereof, or for any other cause or reason.

ARTICLE 15 - BANKRUPTCY

15.01. An Event of Bankruptcy shall mean and include: (a) Tenant, a guarantor or any general partner (a “**General Partner**”) of Tenant becoming insolvent, as that term is defined in Title 11 of the United States Code (“**Bankruptcy Code**”), or under the insolvency laws of any state (“**Insolvency Laws**”); (b) appointment of a receiver or custodian for any property of Tenant, a guarantor or a General Partner, or the institution of a foreclosure or attachment action upon any property of Tenant, a guarantor or a General Partner; (c) filing of a voluntary petition by Tenant, a guarantor or a General Partner under the provisions of the Bankruptcy Code or Insolvency Laws; (d) filing of an involuntary petition against Tenant, a guarantor or a General Partner as the subject debtor under the Bankruptcy Code or Insolvency Laws, which either (1) is not dismissed within thirty (30) days after filing, or (2) results in the issuance of an order for relief against the debtor; or (e) Tenant's, a guarantor's or a General Partner's making or consenting to an assignment for the benefit of creditors or a composition of creditors.

15.02. Upon occurrence of an Event of Bankruptcy, Landlord shall have all rights and remedies available pursuant to Article 14; provided, however, that while a case (“**Case**”) in which Tenant is the subject debtor under the Bankruptcy Code is pending, Landlord's right to terminate this Lease shall be subject, to the extent required by the Bankruptcy Code, to any rights of Tenant or its trustee in bankruptcy (collectively, “**Trustee**”) to assume or assign this Lease pursuant to the Bankruptcy Code. Trustee shall not have the right to assume or assign this Lease unless Trustee promptly (a) cures all defaults under this Lease, (b) compensates Landlord for damages incurred as a result of such defaults, (c) provides adequate assurance of future performance on the part of Tenant as debtor in possession or Tenant's assignee, and (d) complies with all other requirements of the Bankruptcy Code. If Trustee fails to assume or assign this Lease in accordance with the requirements of the Bankruptcy Code within sixty (60) days after the initiation of the Case, then Trustee shall be deemed to have rejected this Lease. Adequate assurance of future performance shall require that the following minimum criteria be met: (1) Trustee must pay its estimated pro rata share of the cost of all services performed or provided by Landlord in advance of the performance or provision of such services; (2) Trustee must agree that Tenant's business shall be conducted in a first class manner, and that no liquidating sale, auction or other non-first class business operation shall be conducted in the Premises; (3) Trustee must agree that the use of the Premises as stated in this Lease shall remain unchanged and that no prohibited use shall be permitted; (4) Trustee must pay at the time the next monthly installment of rent is due, in addition to such installment, an amount equal to the monthly installments of rent due for the next six (6) months thereafter, such amount to be held as a security deposit; (5) all assurances of future performance specified in the Bankruptcy Code must be provided.

ARTICLE 16 - HOLDING OVER

16.01. If Tenant (or anyone claiming under Tenant) shall not immediately surrender the Premises (or any portion thereof) on the Expiration Date, then (i) the tenancy of Tenant shall automatically be deemed a tenancy at sufferance and said tenancy shall not constitute a renewal hereof or an extension for further term, and shall be subject to all of the conditions and covenants of this Lease insofar as such covenants and conditions are applicable, (ii) Tenant shall pay Landlord for each day Tenant retains possession of the Premises or any part thereof after the Expiration Date, an amount which is the greater of (a) the daily rate of fair market rent for the Premises as determined by Landlord, or (b) one hundred twenty-five percent (125%) of the daily rate of rent and other sums payable by Tenant under this Lease, including any increases in rent provided for herein calculated as if the holdover period during which Tenant's possession continues were originally included within the Lease Term, and (iii) Tenant

shall pay all direct and consequential damages sustained by Landlord as a result of such holdover (Tenant hereby acknowledging that any holding over without Landlord's express written consent may compromise or affect Landlord's ability to enter into new leases with prospective tenants regarding the Premises and/or otherwise cause Landlord to incur damages). This in no way, however, shall be construed as permitting Tenant to holdover or as a waiver of Landlord's rights to recover possession of the Premises immediately upon the Expiration Date. Landlord's acceptance of such rent from Tenant shall not in any manner impair or adversely affect Landlord's other rights and remedies hereunder, including, but not limited to, (a) Landlord's right to evict Tenant from the Premises, and (b) Landlord's right to recover damages pursuant to this Lease and such other damages as are available to Landlord at law or in equity. Despite Landlord's acceptance of any such rent, Tenant hereby waives any requirement of a thirty (30) days' notice to quit the Premises and any and all other notices to quit.

16.02. If Tenant holds over beyond the Lease Term, any guarantor's obligations shall extend to such hold over period and apply with respect to the full and faithful performance and observance of all of the covenants, terms, and conditions of this Lease and of any modification thereof. The provisions of this Article 16 shall not be deemed to constitute a waiver of any other rights or remedies of Landlord provided herein or at law.

ARTICLE 17 - GENERAL PROVISIONS

17.01. Tenant acknowledges that neither Landlord nor any official, administrator, attorney, broker, agent or employee of Landlord has made any representations or promises with respect to the Premises or the Landlord's Personal Property except as herein expressly set forth, and no rights, privileges, easements or licenses are being acquired by Tenant. This Lease contains and embodies the entire agreement of the parties hereto with respect to Tenant's use and occupancy of the Premises and the Landlord's Personal Property and supersedes all prior agreements, negotiations, letters of intent, proposals, representations, warranties, understandings and discussions between the parties hereto, whether written or oral, with respect to the subject matter hereof. Provided, however, that the parties have entered into that certain Operating Agreement]] whereby Tenant will deliver certain services at the Premises and Landlord will provide specified funding to Tenant associated with said services, which agreement is independent of, and not superseded or supplanted by this Lease. Provided, further, that Landlord may, from time to time, enter into agreements with Tenant to provide funding to Tenant, in its capacity as the Douglas County Community Mental Health Center, for activities unrelated to this Lease or Tenant's operations at the Premises, which agreements are independent of, and not superseded or supplanted by this Lease. Any representation, inducement, warranty, understanding or agreement that is not contained in this Lease, whether written or oral, shall not be of any force or effect. This Lease may not be modified or changed in whole or in part in any manner other than by an instrument in writing duly signed by both parties hereto.

17.02. Nothing contained in this Lease shall be construed as creating any relationship between Landlord and Tenant other than that of landlord and tenant.

17.03. All notices or other communications required hereunder shall be in writing and shall be deemed duly given when delivered in person (with receipt therefor), or when sent by certified or registered mail, return receipt requested, postage prepaid or by overnight courier, provided that after the Delivery Date, all notices to Tenant may, at Landlord's option, be sent to the Premises. All notices from Landlord or Tenant may be given by Landlord or Tenant or any authorized agent of Landlord or Tenant. Either party may change its address for the giving of notices by notice given in accordance with this

Section 17.03. The date of service of notice shall be (i) the date of delivery (or refusal) when delivered in person, (ii) three (3) business days after mailing the notice in the case of certified or registered mail, and (iii) the next business day after notice was sent in the case of delivery by overnight courier. Tenant and Landlord also agree that any notice provided for under this Lease from Landlord to Tenant may be given by such party's counsel.

17.04. Each provision of this Lease shall be valid and enforced to the fullest extent permitted by applicable Laws. If any provision of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, then such provision shall be deemed to be replaced by the valid and enforceable provision most substantively similar to such invalid or unenforceable provision, and the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby. This Lease shall not be construed against any party solely by virtue of the fact that such party or its counsel was primarily responsible for its preparation.

17.05. Feminine, masculine or neuter pronouns shall be substituted for those of another form, and the plural shall be substituted for another number, in any place in which the context may require. The word "person" shall be deemed to include entities, including but not limited to corporations, partnerships, joint ventures, and Governmental Authorities.

17.06. The provisions of this Lease shall be binding upon, and shall inure to the benefit of, the parties hereto and each of their respective representatives, successors and assigns, subject to the provisions hereof restricting assignment or subletting by Tenant.

17.07. This Lease shall be governed by, and construed in accordance with, the laws of the State of Kansas, without reference to conflict of laws principles. The venue for any dispute arising under this Lease shall be the District Courts of Douglas County, Kansas or if applicable, the most convenient federal court for the Parties.

17.08. The Section headings contained in this Lease are used for convenience only and shall not enlarge or limit the scope or meaning of the various and several Sections hereof or otherwise be considered when construing this Lease.

17.09. Time is of the essence with respect to each party's obligations under this Lease.

17.10. This Lease may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document. The parties may transact this Lease using electronic signatures and delivery, including e-signature programs and/or transmittal by electronic mail PDF format, which instruments shall be deemed to constitute originals and may be relied upon, for all purposes, as authentic, binding and enforceable.

17.11. Any liability of Tenant to Landlord existing hereunder as of the Expiration Date shall survive the Expiration Date. All indemnity obligations under this Lease shall likewise survive the Expiration Date.

17.12. If either party hereto shall be delayed or hindered in or prevented from the performance of any non-monetary act by Force Majeure (as defined below), then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended

for a period equivalent to the period of such delay. The provisions of this Section 17.12 shall not operate to excuse Tenant from the prompt payment of rent or any other payments required by the terms of this Lease and shall not operate to delay or extend the Lease Term. **“Force Majeure”** means a material delay beyond the reasonable control of the delayed party caused by labor strikes, lock-outs, industry-wide inability to procure materials, extraordinary restrictive governmental laws or regulations (such as gas rationing), mass riots, war, military power, terrorist acts, sabotage, material fire or other material casualty, Severe Weather (as defined below), or an extraordinary and material act of God (such as a tornado or earthquake), but excludes inadequacy of insurance proceeds, litigation or other disputes, financial inability, lack of suitable financing, labor market shortages, delays of the delayed party's contractor and failure to obtain approvals or permits unless otherwise caused by an event of Force Majeure. Strikes, walkouts or other labor troubles by Tenant and/or any of the Tenant Parties shall not constitute an event of Tenant Force Majeure. **“Severe Weather”** means weather that a reasonable person would find unusual and unanticipated at the time of the scheduling of the activity based on recent weather patterns for the period in question in the vicinity of the Premises, provided that the delayed party delivers to the other party, upon request, reasonable documentation from an unbiased weather authority substantiating such claim.

17.13 If, in the judgment of the Douglas County Administrator, sufficient funds are not appropriated for the Landlord's responsibilities described in this Agreement, Landlord may terminate this Lease at the end of its current fiscal year. Landlord agrees to give written notice of any termination due to lack of funding appropriation to Tenant at least 30 days prior to the end of County's current fiscal year.

17.14 Tenant agrees: to comply with the Kansas Act Against Discrimination, the Kansas Age Discrimination in Employment Act, the Americans With Disabilities Act, as amended, the Genetic Information Nondiscrimination Act, and not to discriminate against any person because of race, religion, color, sex, disability, pregnancy, national origin or ancestry, or age; to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; and to include these provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor.

17.15. The person executing and delivering this Lease on Tenant's behalf warrants that s/he/they is duly authorized to so act. If Tenant is not an individual, the individual(s) executing this Lease on behalf of Tenant hereby covenant(s) and warrant(s) that Tenant is duly formed, validly existing, qualified to do business and in good standing in both the state of Tenant's formation and the state in which the Property is located, and such person(s) is(are) duly authorized by Tenant to execute and deliver this Lease on behalf of Tenant. Tenant shall remain qualified to do business and in good standing in the State of Kansas throughout the Lease Term.

17.16. Except as otherwise expressly set forth in this Lease, any discretionary action or decision or approval or consent requested or required of Landlord under this Lease may be made, granted or denied by Landlord in its sole, absolute and unfettered discretion. Notwithstanding anything to the contrary contained in this Lease, if in this Lease it is provided that Landlord's consent or approval as to any matter will not be unreasonably withheld, conditioned and/or delayed, and it is established by a court or body having final jurisdiction thereover that Landlord has been unreasonable, Tenant's sole and exclusive remedy shall be to obtain equitable relief deeming that Landlord has given its consent or approval to the particular matter and Tenant hereby expressly waives all other remedies, including, without limitation, any claim for money damages incurred by Tenant by reason of Landlord having

withheld its consent. Nothing contained in this paragraph shall be deemed to limit Landlord's right to give or withhold consent unless such limitation is expressly contained in the paragraph to which such consent pertains.

17.17. All notices or demands upon Landlord or the Tenant desired or required to be given under any of the provisions hereof shall be sent to the following addresses:

Tenant:

Bert Nash Community Mental Health Center, Inc.
Maine St., Suite A
Lawrence, Kansas 66044
Attn: CEO

With a copy to:

Husch Blackwell LLP
Noreen Vergara
4801 Main Street, Ste. 1000
Kansas City, Missouri 64112
Email: noreen.vergara@huschblackwell.com

Landlord:

Douglas County, Kansas
1100 Massachusetts Street
Lawrence, Kansas 66044
Attn: County Administrator

With a copy to:

John Bullock
Stevens & Brand LLP
900 Massachusetts St.
Lawrence, Kansas 66044

or at such other address as Tenant or Landlord may theretofore have furnished to the other party by written notice.

17.18. The parties expressly acknowledge that the terms of this Lease, including terms relating to amounts payable hereunder, were reached in arms-length negotiations between the parties, were not determined in a manner that takes into account the volume or value of any referrals to or other business generated between the parties, and are to the parties' best knowledge consistent with fair market value for the lease of the Premises. The parties intend for the terms of this Lease to meet the space rental safe harbor to the federal anti-kickback statute, 42 C.F.R. §§ 1001.952 (b), as amended from time to time (the "Anti-Kickback Law"), and the space rental exception and the indirect compensation arrangement exception to the federal physician self-referral prohibition, 42 U.S.C. 1395nn (e)(1)(A) (commonly

referred to as the “Stark Law”), as amended from time to time. Landlord and Tenant have entered into this Lease with the intent of conducting their relationship and implementing the agreements contained herein in full compliance with the Anti-Kickback Law and Stark Law. Notwithstanding any unanticipated effect of any of the provisions of this Lease, neither party will intentionally conduct itself under the terms of this Lease in a manner that would constitute a violation of the Anti-Kickback Law or the Stark Law. If at any time either party determines in good faith, based upon an opinion of legal counsel satisfactory to both parties, that there is a significant risk that any of the terms or conditions of this Lease violates such laws, regulations, or policies, then at such party’s request, the parties shall negotiate in good faith to amend this Lease in order to comply with applicable law. If the parties are unable to reach agreement on amending the Lease within thirty (30) days of the start of such negotiations, either party may terminate this Lease by providing written notice to the other party of such termination (provided that nothing herein shall be construed to relieve Tenant of liability for Rent or any other obligations of Tenant accruing prior to the date of termination specified in said notice).

17.19. Each party hereby represents and warrants to the other party that it: (a) has not been excluded from participation in the Medicare, Medicaid or any other federal healthcare program; (b) has not been convicted of any violation of health care law; and (c) is not subject to any order or settlement agreement with any governmental authority. Each party agrees it shall not employ or contract with any individual or entity who is excluded from participation in Medicare or any federal or state health care program under section 1128 and 1128A of the Social Security Act or as defined at 42 U.S.C. section 1320a-7b(f). Each party shall notify the other party immediately if such party is excluded from participating under Medicare or any other federal or state health care program.

17.20. To the extent required by Section 1861 (v)(1)(I) of the Social Security Act, as amended, and its implementing regulations, each party agrees that for a period of four (4) years following the termination or expiration of this Lease, each party shall make available upon written request from the Secretary of the Department of Health and Human Services or upon written request from the Comptroller General of the United States, or any of their duly authorized representatives, this Lease and all books, documents and records that are necessary to verify the nature and extent of such costs of the Premises leased hereunder.

17.21. The Parties acknowledge that the Parties are subject to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), which regulates the use and disclosure of Protected Health Information (“PHI”) held by “covered entities,” and Chapter 42 of the Code of Federal Regulations (CFR) Part 2 (“Part 2”), which applies to certain substance use disorder treatment facilities. The Parties agree to comply with HIPAA and Part 2 at all times and to advise the other concerning procedures and protocols to maintain compliance with HIPAA and Part 2 at all times including adherence by visitors on behalf of the Landlord to procedures and protocols for visitation to protect patient privacy.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties hereunto subscribed their names and have executed this Agreement effective as of the date first written above.

Dated: _____, 2023

LANDLORD:

Board of County Commissioners of
Douglas County, Kansas

By: _____
Patrick Kelly, Chair

Date: _____

Attest:

Jameson D. Shew, County Clerk

Date: _____, 2023

TENANT:

The Bert Nash Community Mental Health Center, Inc.

By: _____

Printed Name: Patrick J. Schmitz

Title: President / Chief Executive Officer

Date: _____

Exhibit A

List of Landlord's Personal Property

Insert inventory of Landlord's Personal Property