

DOWNTOWN ARTS DISTRICT LEASE

THIS DOWNTOWN ARTS DISTRICT LEASE (the “Lease”) has been executed to become effective as of the ____ day of _____, 2018, by and between the **CITY OF ORLANDO, FLORIDA**, a Florida municipal corporation, whose mailing address is 400 South Orange Avenue, Orlando, FL 32801 (the “Landlord” also sometimes herein referred to as the “City”), and the **DOWNTOWN ARTS DISTRICT, INC.**, a Florida corporation not for profit, whose mailing address is 37 & 39 S. Magnolia Ave, Orlando, FL 32801 (“Tenant”).

RECITALS

A. Landlord owns the land and improvements thereon (“Center”) located at 37 & 39 S. Magnolia Ave., Orlando, Florida 32801, formerly known as the “Rogers Building” now known as the “Rogers Kiene Building”.

B. On January 22, 2018, City Council approved a donation agreement for the Rogers Kiene Building, which requires that the City maintain the property as a cultural arts facility for a period of twenty (20) years following the recording of the deed. The deed will be recorded on or about June 30, 2018.

C. Tenant is in need of a facility within which to operate a multi-use cultural arts facility that will serve and benefit citizens and visitors of the city of Orlando. Tenant may provide gallery space, artist-in-residence programs and studios, meeting space, administrative offices, a café, a theatre for films and live performances, within the Center, and may also other arts-related use and events such as Third Thursday, luncheon events, juried art shows and outreach to schools for the benefit of the residents and visitors of the City of Orlando.

D. For such purposes, Tenant has requested Landlord to lease to Tenant the real property specifically described in **Exhibit “A”** and all personal property located in/on the Premises, including but not limited to those items described in **Exhibit “B”**, attached hereto and made a part hereof.

E. Landlord is willing to lease the Center to Tenant at a nominal charge so long as Tenant provides on a constant and continuing basis the benefits to the City of Orlando as outlined herein.

NOW, THEREFORE, in consideration of the covenants herein made and the acts to be performed by the parties and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party to the other, Landlord leases to Tenant and Tenant leases from Landlord the Center on the following terms and conditions:

ARTICLE 1. DEFINITIONS

The terms defined in this **Article 1** shall have the following meanings in this Lease:

“Ancillary Use” means any of those ancillary uses authorized by Landlord for Tenant’s use of the Center that are not within the Intended Use described in **Section 6.06**.

“Center” means the Premises and Facility.

“CRA” means the City of Orlando, Florida, Community Redevelopment Agency, a body politic and corporate of the State of Florida and a community development agency created pursuant to Ch. 163, Part III, Florida Statutes.

“Exhibits” means those agreements, diagrams, drawings, specifications, instruments, forms of instruments, and other documents attached hereto and designated as exhibits to, and incorporated in and made a part of, this Lease.

“Facility” means the building and other improvements located on the Premises used to engage in the Intended Use.

“Force Majeure” means a cause beyond the reasonable control of a party, which makes it impossible for that party to timely perform its obligations under this Lease, including but not be limited to Acts of God and as further described in **Section 17.02**.

“Hazardous Substance” means any hazardous or toxic substance, material, or waste which is or becomes regulated by any governmental authority as more particularly described in **Section 8.05**.

“Intended Use” means the use for which Tenant is authorized to engage in at the Center as specifically defined in **Section 6.01**.

“Landlord Event of Default” means any of those events described in **Section 11.03** hereof, whereby Landlord has failed to honor the requirements of the Lease, after any applicable notice from Tenant and opportunity to cure, which remains uncorrected.

“Landlord’s Termination Date” means the date the Lease will terminate, as a result of Landlord’s election due to a Tenant Event of Default, as provided in **Section 11.02**.

“Lease” means this agreement conveying to Tenant possession of the Center for a term of years under the terms and conditions set forth herein.

“Lease Commencement Date” means the date on which the Term commences, as described in **Section 2.01** hereof.

“Lease Expiration Date” means the date on which the Term expires as described in **Section 2.01** hereof.

“Minimum Performance Requirements” means, assuming no other defaults under this Lease, the responsibilities and obligations Tenant is required to fulfill in order to be entitled to continue in possession and use of the Center, as listed in **Section 6.02**.

“Option Exercise Period” means the time period described in **Section 3.02** within which Tenant may exercise its Options to Renew.

“Options to Renew” means Tenant’s options to renew this Lease as provided in **Article 3**.

“Plans and Specifications” mean, collectively, the Plans and Specifications for any alterations and/or renovations of the Center, which must be completed in accordance with the Intended Use restrictions of the Lease, as further described in part in **Section 8.03 (c)** hereof.

“Premises” means the real property owned by Landlord as more specifically described in **Exhibit “A”** hereto.

“Personal Property” means the property owned by Landlord as more specifically described in **Exhibit “B”** hereto.

“Rent” means the payments to be made by Tenant to Landlord pursuant to **Article 4** hereof, as well as all other payments to be made by Tenant pursuant to Tenant’s net lease obligations, as more specifically described therein.

“Restoration” as used in **Article XIV** hereof means the restoration, repair, replacement, rebuilding or alteration of the Facility following a casualty or a partial taking (including, without limitation, the cost of all temporary repairs for the protection of the Facility pending the completion of permanent restoration, repair, replacement, rebuilding or alteration), to a complete architectural unit of as nearly as possible the same value, condition and character that existed immediately prior to such casualty or taking, to the extent permissible under applicable law, including without limitation, all zoning and use requirements and regulations.

“Taxes” means all ad valorem, leasehold, sales and personal property taxes, assessments and other governmental charges related to the Center and that otherwise arise or are incurred for or during the Term, as further described in **Section 5.02** hereof

“Tenant Event of Default” means any of those events described in **Section 11.01** hereof, whereby Tenant has failed to honor the requirements of the Lease, after any applicable notice from Landlord and opportunity to cure, which remains uncorrected.

“Tenant Termination Date” means the date the Lease will terminate, as a result of Tenant’s election due to a Landlord Event of Default, as provided in **Section 11.04**.

“Term” means the period of time beginning on the Lease Commencement Date and ending on the Lease Expiration Date or earlier termination as a result of actions taken as authorized herein, or as may be extended pursuant to the Options to Renew.

“Unsuitable for its Intended Use” means with regard to any casualty loss or condemnation of the Center, a state or condition of the Premises and Facility such that, in the good faith judgment of Tenant, reasonably exercised and evidenced by the resolution of the board of directors or other governing body of Tenant, due to casualty damage or loss through condemnation, the Premises and Facility cannot function as an integrated unit for the Intended

Use consistent with standards applicable to a well maintained and operated multi-use cultural arts facility, as further referenced in **Section 14.04** hereof.

ARTICLE 2. CONVEYANCE & POSSESSION

Section 2.01 Conveyance and Term. Subject to the termination provisions set forth in this Lease, in consideration of Tenant's agreement to provide the services to the City of Orlando as described in part in the Intended Use provisions of this Lease, the payment of nominal Rent and Tenant's other promises and covenants set forth in this Lease, Landlord hereby leases to Tenant and Tenant accepts and leases from Landlord, the Center and all personal property on the Premises, subject to any and all encumbrances, conditions, covenants, easements, restrictions, right-of-ways, and all other matters of any nature affecting the Center (in each case whether or not of record), such matters as may be disclosed by an inspection or survey, and all zoning, land use, subdivision, and other laws, rules, regulations and judicial or administrative orders now or hereafter applicable to the Center or any part thereof or any use or occupancy thereof (herein collectively called "Restrictions"). The term of this Lease shall be for five (5) years (the "Term"), unless sooner terminated in accordance with other provisions of this Lease, commencing at 12:01 a.m. on July 1, 2018 (the "Lease Commencement Date") and ending at 11:59 p.m. on June 30, 2023 (the "Lease Expiration Date"). The Lease may possibly be renewed under the conditions and restrictions provided in the Option to Renew set forth in **Article 3** hereof.

Section 2.02 Termination for Convenience. Notwithstanding anything to the contrary otherwise stated in this Lease, either party, at its convenience, and for any or no reason, in its sole and absolute discretion, may upon ninety (90) calendar days' prior written notice to the other, terminate this Lease. The legal effect of such a termination shall be that the date upon which the termination for convenience shall occur shall be treated for all purposes the same as if that date were the Lease Expiration Date expressly stated in this Lease.

Section 2.03 Tenant Parking. There is very limited onsite parking available for Tenant's use pursuant to this Lease. No offsite parking is available; therefore, Tenant shall take such steps as necessary to provide parking for its employees, guests, patrons and others using the Premises.

Section 2.04 Possession and Right of Entry. Commencing on the Lease Commencement Date and subject to Tenant's faithful performance of Tenant's covenants and conditions herein contained, Landlord has delivered to Tenant possession of the Center subject to the restrictions on the Premises in effect on the Lease Commencement Date. As often as Landlord may desire, upon at least ten (10) days written notice, Landlord shall have the right, but not the obligation at any time and from time to time to inspect the Center to verify Tenant's compliance with the terms and conditions of this Lease.

Section 2.05 Ownership of Center and Peaceful Enjoyment. Landlord represents and warrants that it has full right, authority and power to lease the Center to Tenant for the Term. So long as Tenant shall abide by the terms of the Lease, Tenant shall be entitled to quiet, undisturbed and continued possession of the Center free and clear of any claims against Landlord and all persons claiming through Landlord for the Term, except to the extent as may otherwise be provided herein.

Section 2.06 “As Is” Condition of Center. Tenant acknowledges receipt and delivery of possession of the Center. Tenant has examined and otherwise has full and complete knowledge of the condition of the Center and has found the same to be satisfactory for its purposes. Tenant acknowledges that the Facility is in pristine historically renovated condition and is leasing the Center “AS IS” in its present condition. Tenant waives any and all claims or actions it may have now or in the future against Landlord in respect of the condition of the Center. LANDLORD MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, IN RESPECT OF THE CENTER, OR ANY PART THEREOF, EITHER AS TO ITS FITNESS FOR USE, DESIGN OR CONDITION FOR ANY PARTICULAR USE OR PURPOSE OR OTHERWISE, AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP THEREIN, LATENT OR PATENT, IT BEING AGREED THAT ALL SUCH RISKS ARE TO BE BORNE BY TENANT. TENANT ACKNOWLEDGES THAT IT HAS INSPECTED THE CENTER AND IS SATISFACTORY TO TENANT IN ALL RESPECTS.

Without limiting the foregoing, Tenant acknowledges and agrees that neither Landlord, nor any brokers, agents, employees or representatives of Landlord have made any representations or warranties on which Tenant is relying as to matters concerning either the Premises or Facility including, without limitation, the land, improvements, development rights, taxes, bonds, permissible uses, covenants, conditions and restrictions, water or water rights, riparian rights, topography, utilities, zoning, soil, subsoil, the purposes for which either the Premises or Facility are to be used, drainage, environmental or building laws, rules or regulations or any other representations or warranties of any nature whatsoever, and Tenant hereby assumes all risks relating to any of the foregoing and to all matters relating to the use and occupancy of the Premises and Facility, whether known or unknown, or foreseeable or unforeseeable. Landlord, however, expressly warrants that it has full corporate authority to enter into this Lease.

ARTICLE 3. OPTION TO RENEW

Section 3.01 Renewal Option. Tenant shall have one (1) Option to Renew this Lease on the terms and conditions contained in this Article. Should Tenant timely exercise the Option to Renew, the Term of the Lease shall be extended for five (5) years (“Renewal Term”).

Section 3.02 Option Exercise Period. The time period within which Tenant may exercise the Option to Renew this Lease shall begin one (1) year immediately prior to expiration of the Term and end six (6) months prior to the Lease Expiration Date (“Option Exercise Period”). The Option to Renew may be exercised only so long as Tenant is not in default under the Lease and is current in all Lease obligations during the Option Exercise Period. Should Tenant not meet those conditions while the Option Exercise Period is running, the Option Exercise Period shall still expire at the end of that time period. TIME IS OF THE ESSENCE.

Section 3.03 Manner of Exercise of Option. In order to exercise each Option to Renew, Tenant must provide Landlord written notice of its intent to exercise the Option to Renew delivered to Landlord during the Option Exercise Period. A condition precedent to renewal of the Lease shall be that the Facility is in the same condition it was in at the time this Lease was entered into, reasonable wear and tear excepted. Landlord shall have the right to complete an inspection and assessment of the Center to verify its acceptable condition. Tenant

shall provide maintenance logs and supporting documentation evidencing proper, timely and regular maintenance and repair during the initial Term.

Section 3.04 Renewal Option Not Legally Enforceable Obligations. At the time Tenant desires to exercise its Option to Renew, the terms and conditions which will be applicable during the Renewal Term must be acceptable to each party in the sole and absolute discretion of each. The “Option to Renew” merely evidences the current intention of both parties that an extension of the Lease would be appropriate, unless in the future either party no longer desires to extend the Lease. The Option to Renew as described herein shall not be viewed as legally binding renewal option to renew under Florida law.

ARTICLE 4. RENT

Section 4.01 Rent. In consideration of the aforesaid demise and lease of the Center, Tenant agrees to pay Landlord or other third parties as applicable, rent during the Term as provided in this **Article 4**.

Section 4.02 Annual Rent. Tenant shall pay as annual rent the amount of One and No/100 Dollar (\$1.00) in advance for the entire initial term of this Lease, plus any applicable tax, all of which shall be paid on the Lease Commencement Date. Tenant shall pay such additional Rent from time to time as further provided in this Article and **Article 5**.

It is the purpose and intent of Landlord and Tenant and they agree that Rent payable hereunder shall be absolutely net to Landlord so that this Lease shall yield to Landlord the Rent specified, free of any charges, assessments, or impositions of any kind charged, assessed, or imposed on or against the Property, and without abatement, counterclaim, deduction, defense, deferment or set off by the Tenant.

Section 4.03 Form of Payment. All payments of rent and other sums required to be made to Landlord shall be in lawful money of the United States of America and shall be paid to Landlord at City Hall, (currently on the 7th Floor), 400 South Orange Avenue, Orlando, Florida 32801, Attention: Real Estate Manager, or to such other person and/or at such other place as provided in this Lease or as Landlord may designate in writing from time to time.

Section 4.04 Late Payments. In the event Tenant fails to pay an installment of rent or any other sums due Landlord within fifteen (15) days after such installment or payment is due, Tenant shall, upon demand, pay Landlord a late charge of One Hundred and No/100 Dollars (\$100.00) or five percent (5%) of the payment due, whichever is greater. Such late charge is to defray the administrative cost, inconvenience and other expenses, which Landlord will incur on account of such delinquency. Furthermore, any rent or other sum due under this Lease not paid when due shall bear interest at the highest rate allowed by law hereafter until such time as payment thereof is made.

Section 4.05 General. The term “Rent” when used in this Lease shall include the Annual Rent and for purposes of enforcement of this Lease all other sums required to be paid by Tenant under its “net lease” obligations, including but not limited to its obligation to pay all sums as described in **Article 5** and any other provision of this Lease. All Rent due Landlord

shall be paid to Landlord without demand, setoff, or deduction whatsoever, except as specifically provided in this Lease, at Landlord's address listed in **Section 4.03** hereof, or at such other place as called for under the terms of this Lease. In addition, Tenant shall pay directly to third parties all sums of Rent required under **Article 5** from time to time as set forth therein. Tenant's agreement to pay Rent is a covenant independent of Landlord's obligations under this Lease.

ARTICLE 5. PAYMENT OF EXPENSES AND OBLIGATIONS

Section 5.01 General Payment Obligations. Except to the extent otherwise provided in this Lease, Tenant is responsible for paying all expenses and obligations of the Premises and Facility, which come due or are incurred during the Term. Landlord shall not be expected or required to pay any such charge, assessment or imposition, or be under any obligation or liability hereunder except as herein expressly set forth. All costs, expenses and obligations of any kind relating to the maintenance and operation of the Center, including all alterations, repairs and replacements as herein provided, which may arise or become due during the Term shall be paid by Tenant, except to the extent otherwise provided in this Lease. The Landlord shall be indemnified and saved harmless by Tenant from and against such costs, expenses and obligations.

Section 5.02 Payment of Taxes.

(a) In a timely manner, Tenant will pay to all applicable taxing authorities or Landlord as required by law, when due all ad valorem, sales and personal property taxes, assessments and other governmental charges that are related to the Premises or Facility and that otherwise arise or are incurred for or during the Term ("Taxes"). Landlord agrees to reasonably cooperate with Tenant in seeking exemptions from tax obligations in accordance with Tenant's 501(c)(3) tax exempt status. If during the Term the methods of taxation are altered causing any of the taxes or charges to be measured based on the Premises or Facility and to be imposed on Landlord, Tenant shall also pay such taxes in a timely manner.

(b) Tenant shall have the right to contest the validity or the amount of any Taxes by such appellate or other proceedings as may be appropriate in the jurisdiction, and may, if applicable, defer payment of such obligations if payment would operate as a bar to such contest, and, if applicable, pay same under protest, or take such other steps as Tenant may deem appropriate, provided, however, that Tenant indemnifies and holds harmless Landlord from any expense (including reasonable attorney's fees for trial, appellate, bankruptcy and administrative proceedings) or liability arising out of such contest and pursues such contest in good faith with due diligence, posting any bond or security required by law in connection with such contest, giving Landlord written notice of its intention to contest, and taking no action which shall cause or allow the institution of any foreclosure proceedings or similar action against the Premises. Landlord shall cooperate in the institution and prosecution of any such proceedings initiated by Tenant and shall execute any documents which Landlord may reasonably be required to execute and shall make any appearances, which Landlord may reasonably be required to make in connection with such proceedings. Tenant shall be entitled to receive all refunds by the taxing authorities attributable to the Premises and Facility for any period for which Tenant has paid Taxes after deducting payment of all of Landlord's and Tenant's expenses incurred in any such proceeding in which a refund is paid. If no refund shall be secured in any such proceeding, the

party instituting the proceeding shall bear the entire cost, or if Landlord institutes the proceeding at Tenant's request, Tenant shall bear the entire cost.

(c) In the future during the Term should a new or otherwise modified tax be imposed on, or for the use of or otherwise related to the Premises or Facility, Tenant shall also pay such taxes when due to either the appropriate taxing authority or Landlord as required by law.

(d) Tenant shall pay and discharge, when due, all taxes assessed during the Term against any leasehold interest or personal property of any kind owned by or placed on the Premises by Tenant.

(e) Except for Taxes, nothing shall require Tenant to pay or reimburse Landlord for the payment of (i) any tax imposed upon the sale of all or a part of the Center by Landlord or (ii) any tax, assessment, charge or levy imposed or levied upon or assessed against any property of Landlord other than the Center or any income to, or business activity of, Landlord not in connection with the Center. Nothing herein shall require Tenant to pay or reimburse Landlord for the payment of any tax if Tenant's payment of such tax or reimbursement of Landlord for the payment of such tax would violate any applicable law.

(f) Tenant shall deliver to Landlord official receipts that show payment of all taxes and any other charges required in this **Article 5** or notice that Tenant is contesting such tax or is exempt from such taxes to the same address where notices are to be delivered in accordance with this Lease. Tenant shall pay every tax or other charge required under this Article and deliver receipts for payments thereof to Landlord or notice of contest or exemption at least thirty (30) days prior to the date they would otherwise become delinquent.

(g) Should Tenant fail, refuse or neglect to pay any tax or other charges under this Article, Landlord may pay them unless Tenant has provided notice it is contesting such tax or is exempt from such tax. On Landlord's demand, Tenant will repay Landlord all amounts Landlord has paid, plus expenses and attorneys' fees reasonably incurred in connection with such payments, plus interest on all amounts at the highest rate allowed by law. On the day Landlord demands repayment or reimbursement from Tenant, Landlord is entitled to collect or enforce these payments in the same manner as a payment of Rent. Landlord's election to pay the taxes will not act as a waiver of Tenant's default.

Section 5.03 Utilities and Other Related Fees. Tenant shall be liable for and pay directly all charges, rents and fees (together with any applicable taxes or assessments thereon) when due for water, gas, electricity, air conditioning, heat, sewer, refuse collection, stormwater fees, telephone, satellite and cable television and any other utility charges or similar items in connection with the use or occupancy of the Premises and Facility during the Term (collectively, the "Utility Charges"). Tenant shall be responsible for one hundred percent (100%) of the Utility Charges for the Center. Landlord shall not be responsible or liable in any way whatsoever for the impairment, interruption, stoppage, or other interference with any utility services to the Center. In any event no interruption, termination or cessation of utility services to the Center shall relieve Tenant of its duties and obligations pursuant to this Lease, including, without limitation, its obligation to pay all Rent as and when the same shall be due.

Section 5.04 Other Charges, Costs or Expenses. If in the future any other type, kind or the extent of any other charges, costs or expenses of any kind or nature should arise related to the use and occupancy of the Premises or Facility, Tenant shall be solely responsible for payment thereof, it being the express intent of the parties that Tenant shall be responsible for all such items except to the extent specifically limited in this Article, the same as if Tenant were the sole owner of the Premises.

ARTICLE 6. USE OF CENTER

Section 6.01 Intended Use of Center. Tenant shall use the Center for the operation of a multi-use cultural arts facility that will serve citizens and visitors. Tenant may provide gallery space, artist-in-residence programs and studios, meeting space, administrative offices, a café, a theatre for films and live performances and other arts-related use and events such as Third Thursdays, lunchtime events, juried art shows and outreach to schools. It is anticipated that Tenant will continue to brand its use of the Center as “The City Arts Factory.”

Section 6.02 Minimum Performance Requirements. Landlord has agreed to lease the Center to Tenant without an expectation that Tenant pay “market-based rent” so long as Tenant fulfills the Intended Use and Minimum Performance Requirements set out herein. Tenant shall fulfill continuously throughout the Term of this Lease and any extensions thereof, the following Minimum Performance Requirements:

- (a) Tenant shall operate the Facility a minimum of five (5) days a week, eight (8) hours per day, or during such other times as approved by the CRA.
- (b) Tenant shall have exclusive control of programming, which must include at least the following:
 - 1. Twelve (12) art exhibit opening receptions and changing exhibits per year.
 - 2. One hundred (100) cultural events or live performances per year (including any tenant performances within the Facility)
 - 3. On an annual basis, Tenant shall schedule at least four (4) work-week lunchtime programs or performances either in the Facility or outside in public plazas or the rights-of-way (after obtaining appropriate permits for right-of-way use as required by City Code).
 - 4. Continue its “Third Thursday” events on a monthly basis. Tenant shall attempt to grow the events to include participation from more downtown businesses and shall increase its marketing of the events to add more participants.

5. For up to twelve (12) times in any twelve (12)-monthly period, at the request of the City or CRA, Tenant shall make space available within the Facility at no charge to the City or CRA for meetings associate with City or CRA work or programs.

6. Provide quarterly outreach programs to schools within or near the Orlando area. Tenant shall also work with Orange County arts teachers to host an annual exhibit of the works of art students and teachers.

7. Partner with arts groups and bring new events to the City such as Orlando Story Club, In-Between Series and the Filmless Festival.

8. Host a minimum of six (6) juried art shows each year within the Facility or the CRA Area.

9. In each year, Tenant shall provide or operate at least two (2) community arts projects to create interest in the arts community wide and to highlight art within the surrounding area. Examples of such projects are Art in Odd Places, Dia de los Muertos, and Monster Factory.

10. Collaborate with Mad Cow Theatre and the Dr. Phillips Center for the Performing Arts to increase the free arts events available to the public in surrounding areas.

- (c) Maintain its status as a properly incorporated 501 (c) 3. not for profit corporation holding a valid City business tax receipt throughout the term of the Lease.

Section 6.03 Annual Program Plan Requirements. The parties acknowledge and agree that an essential requirement for the continuation of this Lease is that Tenant must be and remain a substantial contributor to the betterment of the City of Orlando throughout the entire Term. Each year Tenant shall meet with the Real Estate Division Manager of the City or her designee for the purpose of outlining the program Tenant shall adhere to during the following year ("Annual Plan"). The Annual Plan shall contain Tenant's specific goals, performances, classes and other activities to be held at the Center and otherwise in the City, all in compliance with the Intended Use. Upon City's approval of the Annual Plan, which shall not be unreasonably withheld, Tenant agrees to abide by and fulfill all requirements contained therein in a timely manner, unless otherwise consented to in writing by the Real Estate Division Manager. Final approval of the Annual Plan will be granted upon verification that it fulfills all of the requirements of **Sections 6.01 & 6.02** hereof.

Section 6.04 Intended Use Reporting Requirements. On a biannual basis or as otherwise required by Landlord, Tenant shall provide written reports to Landlord documenting Tenant's and all third-party activities conducted at the Center. The reports shall include but not necessarily be limited to (i) a schedule of all regular and special events, and exhibits held on the

Premises, (ii) the number of visitors to the Center and (iii) number of classes and number of students in each class also listing the number of City residents. The reports shall also evidence that with regard to all special and community outreach classes, preference has been given to residents of the City wherever possible.

Section 6.05 Additional Center Use Requirements. Tenant shall fulfill the following additional obligations under this Lease:

(a) Include in the entrance area to the Facility recognition of the City for its contribution to the programs of the Downtown Arts District, in form and content approved by Landlord.

(b) Provide for display of the history of the Facility and of its cultural and historical significance within the City, including recognition of Ford W. Kiene's restoration of the Facility and donation of the Center to the City.

(c) To the extent allowed by, and not in conflict with, all governmental regulations governing the preservation of the Center's historic appearance, install on the exterior of the Facility at the entry a plaque in recognition of the City's contribution to the programs in form and content approved by Landlord. All signage shall conform to applicable City Code sections as it relates to signage in general.

(d) Provide recognition of the City for its contribution to the Tenant's programs in its written programs and at the time of any oral presentations at the Facility.

Section 6.06 Authorized Ancillary Uses. While not within the Intended Use of the Center, without further consent from Landlord, Tenant may use or allow third parties to use the Center for a fee pursuant to a written agreement for the following purposes: business meetings, seminars, meetings of nonprofit 501 (c) (3) organizations, speaking engagements, award ceremonies, weddings, fundraising events, cocktail receptions, dinner meetings or parties, and events of similar scope and impact. Tenant shall require all third-party users of the Center to have liability insurance covering their events, which names the City as an additional insured. Tenant shall maintain on file copies of the certificates of insurance meeting these requirements and provide copies to the City upon request. In no event shall there be any political campaigns or similar activities allowed at the Center.

Section 6.07 Other Property Use Covenants and Restrictions. Tenant shall use the Center in compliance with the following additional use restrictions:

(a) Tenant shall, at its sole cost, comply with all of the requirements, pertaining to the Center, of any insurance board, association, organization or company necessary for the maintenance of insurance, as herein provided, covering the Center, fixtures, equipment and all personal property of Tenant used on the Premises for conducting business therein. Tenant shall not commit or suffer to be committed any waste of the Center nor shall Tenant cause or permit any nuisance thereon or therein.

(b) Tenant shall procure and maintain all permits, licenses and approvals, and pay all Taxes, fees and other charges required for the transaction of its business on the Premises, and otherwise use the Premises and Facility in compliance with all applicable laws, rules and regulations of federal, state, county, municipal and all other regulatory authorities.

(c) Tenant will not suffer any act to be done or condition to exist on the Premises, or any part thereof, or any article to be brought thereon which may be dangerous unless safeguarded as required by law, or which may, in law, constitute a nuisance, public or private. Tenant shall take reasonable actions to minimize labor disputes relating to its actions and to prevent any work stoppage, picketing, labor disruption or dispute, or any interference with the business of Landlord. Tenant agrees not to permit the accumulation or burning of any rubbish or garbage in, on or about any part of the Premises and to keep it free from insects, rodents and other pests and vermin. All garbage shall be maintained in a manner so that canisters are not visible from adjacent parcels or roads. Tenant shall cause and pay for all garbage or rubbish to be collected or disposed of from the Premises. Tenant shall not use sidewalks, parking lots, or any other space on or off the Premises for display, sale, storage or any other similar undertaking without the prior consent of Landlord in each instance, which shall not be unreasonably withheld. Tenant shall not use for any purpose all or any portion of the roof or exterior walls of the Facility unless specifically authorized in this Lease and in any event, no such equipment shall be visible from street level. Other than Tenant's ticket sales, gift shop sales, donor events, donor solicitation and fundraising events, Tenant shall not permit solicitation of business at the Center.

(d) Tenant agrees not to place any signs or other structures or obstructions on the roof of the Facility and shall not operate any outdoor loudspeaker or other device which can be heard from adjacent parcels or roads, except after obtaining all necessary permits.

(e) Tenant will be responsible for procuring and maintaining all of its signage at the Center identifying the Center as the location of the Downtown Arts District including name and phone number of someone to contact in the event of emergency. All signs and graphics must conform to applicable City Code sections. Since the Center is public property owned by Landlord, political campaign signs are prohibited on the Premises pursuant to Section 64.252, City Code.

(f) Tenant shall obey and observe (and compel its officers, employees, contractors, licensees, invitees, and all others doing business with it, to obey and observe) all reasonable rules and regulations established by Landlord from time to time.

(g) Tenant shall take sole responsibility for protecting the Center and all property and persons located on the Premises from theft and robbery, and shall

keep all doors, windows and transoms securely fastened when not in use.

(h) Tenant may serve alcoholic beverages, subject to compliance with applicable state beverage laws and local zoning regulations, and provided that the sale of such alcoholic beverages is ancillary to the main use of the Center. The sale of alcoholic beverages, package or otherwise, for off-Premises consumption is strictly prohibited. Tenant shall take such steps as necessary to prohibit its customers from removing alcoholic beverages Tenant has sold at the Center and agrees to report any violations of this requirement to police officials as soon as Tenant becomes aware that any customers have left the Center with alcohol purchased on the Premises. Tenant shall require that all staff including management involved in the service of alcoholic beverages complete an Alcohol Awareness Training Program that complies with State of Florida guidelines.

Tenant shall hold harmless and indemnify Landlord from and against any claim, penalty, loss, damage, charge, liability or expense (including, without limitation, reasonable attorneys' fees) threatened, incurred or imposed for any act or omission in violation of Tenant's covenants and obligations under this **Article 6** or by reason of any action or proceeding which may be brought against Landlord or the Premises in connection with the foregoing.

Section 6.08 City Event Programs. Up to twelve (12) times per year, throughout the Term Landlord shall have exclusive use of the Center at such times as Landlord may determine, not in conflict with any previously Tenant-scheduled activities at the Center, at no cost to Landlord except that Landlord shall pay for all food and beverages consumed at such events. The events shall be determined by Landlord upon reasonable notice to Tenant.

Section 6.09 Expressly Prohibited Uses of Center. No use shall be made or permitted to be made of the Center, nor shall Tenant sell or permit to be kept, used or sold in or about the Center any article which may be prohibited by law or fire underwriter's regulations. Tenant shall neither suffer nor permit the Center or any portion thereof to be used in such a manner as: (1) might reasonably tend to impair Landlord's (or Tenant's, as the case may be) title to the Premises and Facility or to any portion thereof; (2) may reasonably make possible a claim or claims of adverse usage or adverse possession by the public, as such, or of implied dedication of the Premises and Facility or any portion thereof, except as necessary in the ordinary and prudent operation of the Facility on the Premises; or (3) would constitute anything in the nature of political campaigns, political activities or the like.

EXCEPT TO THE EXTENT EXPRESSLY PROVIDED IN THIS LEASE, TENANT SHALL NOT USE THE PREMISES FOR ANY OTHER BUSINESS OR PURPOSE WHATSOEVER WITHOUT THE PRIOR WRITTEN CONSENT OF THE LANDLORD, WHICH MAY BE WITHHELD IN ITS SOLE AND ABSOLUTE DISCRETION FOR ANY OR NO REASON.

ARTICLE 7. TENANT MISSION & COVENANTS

Tenant makes the following representations, warranties and covenants with Landlord at all times while this Lease is in effect:

- (a) To keep its primary mission and focus dedicated to the advancement of cultural arts and arts related uses.
- (b) To provide in writing on an annual basis the names and contact information for the Board Chair, and the names of all members of the board of directors.
- (c) To maintain its status as a nonprofit entity recognized by the U.S. Internal Revenue Service as a 501 (c) 3 entity.
- (d) To use the Center solely for the Intended Use and the Ancillary Uses as described in **Article 6** hereof.

ARTICLE 8

MAINTENANCE & REPAIRS OF CENTER

Section 8.01 Maintenance and Repairs by Tenant. Except to the extent otherwise specifically required to be maintained and/or repaired by Landlord, Tenant shall be responsible, at its sole cost and expense for the following:

- a. Maintenance and repair of the Premises as well as all improvements made by Tenant in first-class condition, good order and repair with reasonable promptness. Tenant's maintenance and repair obligations shall include but not be limited to plate glass and all windows to the exterior of the Premises, glass and show moldings, partitions, walls, ceilings, doors, floor surfaces, fixtures, light bulbs, ballasts, appliances, hood systems, toilets, faucets, tubs, showers and other equipment and appurtenances thereto in good order, condition and repair and in a satisfactory condition of cleanliness, including periodic interior painting of the Premises.
- b. Maintain and repair the plumbing, electrical, wiring, heating, ventilation and air conditioning systems (HVAC) as well as all other utilities serving the Premises, located within the Facility.
- c. Install and maintain fire extinguishers, sprinkler systems and other fire protection devices as may be required from time to time by any agency having jurisdiction of such matters, or the insurance underwriters insuring the Center.
- d. Provide janitorial service to the Premises, on a regular basis.
- e. Engage exterminators to control vermin and pests on at least a monthly basis. Such extermination services shall be supplied in all areas where food is prepared, dispensed or stored and in all areas where trash is collected and deliveries are made.

All repairs, replacements or maintenance shall be performed in a good and workmanlike manner using contractors licensed in the State of Florida approved by Landlord in its sole judgment, utilizing materials of equal or better quality and utility to the improvements as they existed after Tenant's completion of the improvements Tenant will make at the time of its initial occupancy of the Premises.

Landlord may inspect the Facility as often as it deems appropriate to verify Tenant's compliance with Tenant's maintenance and repair obligations. To the extent of any deficiencies, Landlord may provide Tenant a written list of items requiring maintenance and/or repair in order to bring the Facility up to the standards required herein. Tenant shall have thirty (30) days to correct all deficiencies, at its sole cost and expense, and provide Landlord with notice and opportunity to verify the work has been completed to Landlord's reasonable satisfaction.

Section 8.02 Maintenance and Repairs by Landlord. Landlord shall maintain the exterior of the Facility, including the painting thereof, foundation, roof, elevator and life safety systems (excluding fire sprinkler system), in good condition and repair, provided that any damage thereto shall not have been caused by the negligence or misconduct of Tenant, its employees, subleases, contractors, agents, or invitees, in which event Tenant shall be solely responsible for the repairs. Landlord shall also be responsible for replacement of the HVAC system for which Tenant is otherwise responsible, if the replacement cost exceeds Ten Thousand Dollars (\$10,000). The replacement cost shall be paid by Landlord only when the charge is the result of a single occurrence as opposed to when a series of costs over time for that component totals more than Ten Thousand Dollars (\$10,000). For example, the HVAC breaks down and costs \$2,000 to repair. A year later the HVAC breaks down again and costs Eight Thousand Dollars to repair. The City would not be responsible for any of the payments. If the HVAC system breaks down and at that time costs in excess of Ten Thousand Dollars (\$10,000) to fix, Landlord will pay for the repair or replacement, so long as Tenant has properly serviced the component all times prior thereto.

Tenant shall notify Landlord in writing if Tenant becomes aware that any items required to be maintained by Landlord are in need of repair. In addition, Landlord shall be responsible for cleaning the exterior of the Facility on a semi-annual basis, including pressure washing, window cleaning and touch-up painting.

In any instances in which Landlord is not obligated to provide maintenance or repairs, Landlord may do so. If: (a) Tenant does not maintain and repair the Facility, as required in **Section 8.01**, to the reasonable satisfaction of Landlord, within ten (10) calendar days' notice (or such shorter period as may be required in an emergency); or (b) Landlord, in the exercise of its sole discretion, determines that emergency repairs are necessary or (c) repairs or replacements to the Premises are otherwise made necessary by any act, omission or negligence of Tenant, its employees, subtenants, assignees, concessionaires, contractors, invitees, licensees or visitors; then in any such events Landlord may complete such maintenance or make such repairs without liability to Tenant for any loss or damage that may accrue to Tenant's merchandise, fixtures, or other property or to Tenant's business by reason thereof, and upon completion thereof, Tenant shall pay as additional Rent Landlord's cost for making such repairs plus fifteen percent (15%) for overhead, upon presentation of a bill. All bills shall include interest at the highest rate allowed by law from the date such repairs were billed by the contractor(s) making such repairs.

Section 8.03 Construction of Alterations and Renovations of Facility. Alterations and renovations to the Facility or anywhere on the Premises shall be completed in the following manner:

(a) Alterations and Renovations -- If Tenant shall not then be delinquent in the performance of any of Tenant's obligations under the Lease, Tenant may request Landlord's permission to make alterations and renovations to the Facility and on the Premises. Landlord's prior written consent shall be required to any such activities, but shall not be unreasonably withheld, conditioned or delayed, so long as the modifications will result in the Facility continuing to be used in strict compliance with all of the requirements of this Lease. Landlord shall have the right to approve every step to be taken in making such improvements including but not limited to site planning, permitting, site development and building construction in the manner provided in this **Section 8.03**.

(b) Costs and Expenses -- If Tenant desires to construct alterations or renovations within the Facility or anywhere on the Premises, Tenant shall be responsible for all costs and expenses, including but not limited to design, permit and construction costs, and any impact fees, permit fees and all other charges associated therewith.

(c) Plans and Specifications -- Prior to commencing any alterations or renovations, Tenant shall submit two (2) sets of the Plans and Specifications, or revisions thereto as applicable to Landlord's Real Estate Division Manager. If rejected, the Division Manager shall specify in writing to Tenant each reason for rejection. Landlord shall have thirty (30) days from receipt to review the Plans and Specifications and notify Tenant in writing of approval or rejection. Tenant shall submit for approval the Plans and Specifications in the early design phases and as each phase progresses before moving to the next stage in the development of the final Plans and Specifications. Tenant shall promptly make changes to the Plans and Specifications reasonably required by Landlord and resubmit them for review and approval. The Division Manager shall have thirty (30) days to review such resubmitted plans and approve or specify in writing the reason for rejection. All modifications to the Center must result in improvements, which will meet the standards necessary for engaging in the Intended Use. Should the construction or modification be of such a nature that an extensive review of the work is not necessary as determined by both parties, they shall revise the approval process in a manner mutually acceptable to both.

(d) Landlord's Review as Owner & Not Regulatory Authority -- Landlord's review (and approval or denial) of the Plans and Specifications pursuant to this Section, is based upon its ownership of the Center and this Lease, and not upon Landlord's functioning as a governmental or regulatory body. In addition to any of the requirements of this Lease necessary for the operation or modification of, or improvements to the Facility, Tenant shall submit all required applications, documents, drawings, plans, specifications, etc., to, and obtain all required licenses(s), permit(s), and approval(s), from the appropriate governmental or regulatory authority having jurisdiction thereof, including, but not limited to, the City acting in its governmental or regulatory capacity. After

final approval of the Plans and Specifications, material changes may be made only upon the written consent of Landlord, in its reasonable discretion.

(e) Manner of Construction -- Tenant covenants and agrees that it will construct all alterations and renovations in a good and workmanlike manner and first-class condition in accordance with the approved Plans and Specifications and this Lease, so that the improvements can be utilized for the Intended Use. To the extent legally possible, Tenant will comply with the requirements of the City's MWBE Program requirements. Tenant will inform its contractors and all subcontractors that the Center is City-owned property, on which construction liens cannot be placed.

(f) Construction Bonds -- Tenant shall require its contractor to provide a performance bond and a labor and material payment bond each in an amount not less than the aggregate construction cost of the Facility, less amounts covered by any subcontractor bonds, provided that one hundred percent (100%) of the construction cost of the improvements to the Facility is bonded in the aggregate. The construction bonds must also be submitted to and approved by Landlord prior to commencement of construction. To the extent applicable, such bonds shall conform to the requirements of Section 255, Florida Statutes. Landlord shall not unreasonably withhold consent and shall respond to such request within thirty (30) days. To be acceptable as surety for performance bonds and labor and material payment bonds, a surety company must:

1. have a currently valid certificate of authority issued by the State of Florida, Department of Insurance, authorizing it to write surety bonds in the State of Florida;
2. be named in the most recent listing of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 by the U.S. Department of the Treasury;
3. be in full compliance with the provisions of the Florida Insurance Code; and
4. have at least an "A-" financial strength rating in accordance with the most current A.M. Best Company ratings.

If the surety on any bond furnished by the contractor is declared bankrupt or becomes insolvent or if its assets are acquired by regulatory agencies or if liquidation proceedings begin or its license to do business in the State of Florida is terminated or it ceases to meet the requirements hereof, Tenant shall require the contractor to substitute an acceptable surety and provide performance and labor and material payment bonds to Landlord within ten (10) business days of obtaining actual knowledge of the occurrence of such event(s).

(g) Contractor & Architect Requirements -- Tenant shall require its contractor, as general contractor for construction to obtain general liability, builder's risk, automobile liability and worker's compensation insurance coverage in amounts as reasonably required by Landlord. Landlord shall be named "additional insured" on all policies, where allowable under law. Tenant shall require the architect/engineer of record, if any, to have professional liability insurance in an amount reasonably required by Landlord. Any such approval shall be granted or denied in writing with specificity within thirty (30) days.

(h) Documentation -- For Landlord's approval prior to commencement of construction, Tenant shall provide such other documentation as it reasonably requires to document compliance with this **Section 8.03**.

(i) Construction Liens -- Tenant agrees to inform its contractor(s), which shall be required to inform all subcontractors that the Center is City-owned property, on which construction liens cannot be placed. Should anyone attempt to file a lien on the Facility, Tenant shall notify the party and demand that all efforts to lien the property cease and be extinguished of record.

(j) As-built Documentation -- Tenant shall maintain a complete set of "as built" structural, mechanical and similar plans and specifications with respect to any improvements it may make to the Center and an "as built" survey showing the location of all such additions to the improvements on the Premises and shall, upon written request of Landlord, deliver a copy thereof to Landlord, at no cost to Landlord. Tenant shall also deliver to Landlord, upon written request of Landlord and at no cost to Landlord, a copy of any and all other reports which Tenant may have related to the Center, including, but not limited to, environmental surveys and assessments.

(k) Construction Warranties -- Tenant shall require the Contractor to warrant the work to be free of defects of workmanship and materials for a period of one (1) year following the date of substantial completion of construction. Landlord shall be made a third-party beneficiary of Tenant's agreements with the Contractor.

(l) City Approvals -- Landlord will facilitate to the extent legally permissible, approvals for any construction at the Center, but it is expected that all such work will require the approval of at least the Municipal Planning Board and City Permitting.

Section 8.04 Prohibition against Encumbrances. Tenant shall not mortgage, grant a security interest in, or otherwise encumber this Lease, the Center or any present or future improvements, alterations or renovations constructed, installed or otherwise placed on the Premises or this Lease. Further, Tenant shall not allow any liens to be placed against the Premises or Facility; however, should any attempts be made to do so, Tenant shall cause to be filed or recorded documentation clarifying that such attempts are invalid, within thirty (30) days after becoming aware of their existence and at the same time provide Landlord evidence thereof.

Likewise, Tenant shall not accept any grants which require encumbrance of the Center or this Lease.

Section 8.05 Hazardous Waste. The parties agree that the following will govern the subject of any “Hazardous Waste” at the Center:

(a) Tenant shall not cause or permit any “Hazardous Substance” (as herein defined) to be brought, kept or used in or about the Center by any of its subtenants, agents, employees, contractors, or invitees, except in quantities limited to the minimum extent necessary for the use, operation or maintenance of the Center for Tenant to engage in the Intended Use. Tenant shall store, use and dispose of such materials in compliance with all applicable federal, state and local laws, including, without limitation, Applicable Environmental Law (as herein defined). If the presence of any Hazardous Substance on, in or under the ground at the Center caused or permitted by Tenant or its subtenants, agents, employees, contractors or invitees results in any contamination of Premises or any other property, Tenant shall promptly take all actions, at its sole expense, as necessary to return the affected area to the condition existing prior to the introduction of any such Hazardous Substance, including, without limitation, any investigation or monitoring of site conditions or any clean up, remediation, response, removal, encapsulation, containment or restoration work required because of the presence of any such Hazardous Substance on, in or under the Premises or such other property or any release or suspected release or threat of release of any such Hazardous Substance into the air, soil, surface water or ground water (collectively, the “Remedial Work”). Tenant (“Responsible Party”) shall obtain all necessary licenses, manifests, permits and approvals to perform the Remedial Work. Such Responsible Party shall perform all Remedial Work and dispose of all waste generated by the Remedial Work in accordance with all Applicable Environmental Law.

(b) The Responsible Party shall indemnify, save harmless and defend Landlord and such party’s elected and appointed officials, officers, agents and employees (“Indemnified Parties”) from and against any and all claims (including, without limitation, third party claims for personal injury or real or personal property damage), actions, administrative proceedings (including informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, liabilities, interest or losses (including, without limitation, diminution in value of the Premises and sums paid in settlement of claims, attorney’s fees, consultant fees, expert fees and any fees and expenses incurred in enforcing this indemnity) incurred by, sought from or asserted directly or indirectly against the Indemnified Parties during or after the Term as a result of the presence of any Hazardous Substance on, in or under the Premises or surrounding land or any release of any Hazardous Substance into the air, soil, surface water or ground water, which Hazardous Substance was brought, kept or used in or about the Premises or the surrounding land by the Responsible Party, its tenants, agents, employees, contractors or invitees, or as a result of a breach by the Responsible Party of its obligations under **Section 8.05 (a)** above. The Responsible Party shall assume, pursuant to the foregoing indemnity, all liabilities and responsibilities which are assessed against the Indemnified Parties in any action described under this **Section 8.05 (b)**. The Responsible Party shall promptly provide to the Indemnified Parties copies of all communications, filings or other writings, photographs or materials given to or received from any person, entity or agency in connection with any cleanup or Remedial Work conducted by the Responsible Party, and shall notify the Indemnified Parties of, and permit the

Indemnified Parties' representative to attend any meetings or oral communications relating thereto.

(c) As used herein, the term "Hazardous Substance" means any hazardous or toxic substance, material, or waste which is or becomes regulated by any local governmental authority, the State of Florida or the United States Government, including, without limitation: (i) any substance, chemical or waste that is or shall be listed or defined as hazardous, toxic or dangerous under Applicable Environmental Law, (ii) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any federal, state or local governmental authority pursuant to any environmental, health and safety or similar law, code, ordinance, rule regulation, order or decree and which may or could pose a hazard to the health and safety of occupants or users of the Facility and/or Premises or any part hereof, any adjoining property or cause damage to the environment, (iii) any petroleum products, (iv) pcbs, (v) leaded paint, and (vi) asbestos. As used herein, the term "Applicable Environmental Law" shall include the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § § 9601 et seq., the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § § 6901, et seq., the Federal Water Pollution Control Act, 33 U.S.C. § § 1251 et seq., the Clean Air Act, 42 U.S.C. § § 7401, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § § 1801 et seq., the Toxic Substances Control Act, 15 U.S.C. § § 2601 et seq., and the Safe Drinking Water Act, 42 U.S.C. § § 300f through 300j-26, as such Acts have been or are hereafter amended from time to time; any so called Superfund or Superlien law; and any other federal, state and local statute, law ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material as now or any time hereafter be in effect.

(d) The obligations of Tenant and the indemnities set forth in this **Section 8.05** shall survive the termination or expiration of this Lease.

ARTICLE 9. INSURANCE

Section 9.01 Insurance by Tenant. At its own expense, Tenant shall procure and maintain throughout the Term the types and amounts of insurance conforming to the minimum requirements set forth herein. The insurers providing coverage as required herein must be either (1) authorized by a subsisting certificate of authority issued by the Department of Financial Services of the State of Florida or (2) an eligible surplus lines insurer under Florida Statutes. All insurance policies shall be primary and issued by companies with a Financial Rating of "A-" or better and a Financial Size Category of "Class V" or higher according to the most current edition of Best's Insurance Reports. Tenant shall not begin any activity or work or be open for business under this Lease until the required insurance is in force and evidence of insurance acceptable to Landlord has been provided to, and approved by Landlord. Tenant shall fulfill its insurance obligations and provide the insurance policies listed as follows:

- A. Property Insurance. Property insurance covering the Facility, in an amount at least equal to 100% of replacement value with a "deductible" of up to no more than Ten Thousand Dollars (\$10,000), and with stipulated amount full replacement cost. Such "full replacement cost" shall be determined at Tenant's sole cost and expense from time to time (but not more frequently than once in any

twenty-four (24) calendar months) at the request of Landlord, by an appraiser, engineer, architect or contractor designated by Tenant and approved in writing by Landlord (such approval not to be unreasonably withheld) or if not designated by Tenant within twenty (20) days of request, then designated by Landlord. No omission on the part of Landlord to request any such determination shall relieve Tenant of any of its obligations under this Article. Such policy shall insure against loss or damage on an “all-risk basis and shall provide for a full waiver of (i) subrogation by the insurer as to any and all claims against Landlord, and its agents, employees, contractors. Landlord and Tenant, at the sole cost and expense of Tenant, shall cooperate in adjusting and settling any loss with the insurer under such policy and Landlord shall be named as a loss payee on any claim payments. The amount of any deductible or portion of any loss not covered by said insurance policy shall be paid by Tenant to cover the first costs incurred in repairing or restoring any such loss prior to the distribution of any insurance proceeds.

Tenant shall pay on behalf of Landlord or Landlord’s elected and appointed officials, officers, agents and employees any deductible or self-insured retention applicable to a claim. Tenant shall be solely responsible for the risk of loss to the Facility and maintain insurance for any and all equipment and other personal property belonging Tenant.

- B. Workers’ Compensation Insurance. If Tenant is required by Florida State law to provide Workers’ Compensation/Employers’ Liability coverage, it shall be provided as follows:

Part A: “Statutory”

Part B:

\$100,000	(Each Accident)
\$100,000	(Disease-Policy Limit)
\$100,000	(Disease-Each Employee)

- C. Commercial General Liability Insurance. Such insurance shall be no more restrictive than that provided by the most recent version of standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida, in form acceptable to Landlord, in its reasonable discretion.

Landlord and Landlord’s elected and appointed officials, officers, agents and employees shall be included as “Additional Insureds” on a form no more restrictive than ISO Form CG 20 11 (Additional Insured - Owners, Lessees, or Tenants). The minimum limits (inclusive of amounts provided by an umbrella or excess policy) shall be:

General Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$2,000,000
Damage to Premises Rented to You	\$100,000
Medical Expense (any one person)	\$Nil

- D. Compliance. As evidence of compliance with the insurance required herein, Tenant shall furnish Landlord with a fully completed satisfactory Certificate of Insurance evidencing all coverages required herein, and a copy of the actual additional insured endorsement as issued on the Commercial General Liability Insurance, signed by an authorized representative of the insurer(s) verifying inclusion of Landlord.

Tenant shall attempt to obtain from its insurance carrier an agreement to notify Landlord in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) calendar days prior to the effective date of said action. Until such insurance is no longer required by this Agreement, Tenant shall provide Landlord with renewal or replacement evidence of insurance at least thirty (30) days prior to the expiration or termination of such insurance.

- E. Subrogation. Landlord and Tenant each expressly, knowingly, and voluntarily waives and releases any claims that each may have against the other or the other's officials, officers, employees, agents, or contractors who shall have executed a waiver similar to this one for damage to its properties and loss of business as a result of the acts or omissions of the other party or the other party's officials, officers, employees, agents, or contractors (specifically including the negligence of either party or its officials, officers, employees, agents, or contractors and the intentional misconduct of the officials, officers, employees, agents, or contractors of either party), to the extent any such claims are covered (without regard to losses not compensated as a result of such things as coinsurance adjustments or deductibles) by the workers compensation and property insurance described in this Lease, or other property insurance that either party may carry at the time of an occurrence. Landlord and Tenant shall each obtain and keep in full force and effect at all times thereafter a waiver of subrogation from its insurers concerning the workers compensation and property insurance maintained by it for the Premises. This section shall not apply to claims for personal injury or wrongful death.

- F. General Conditions. The insurance provided by Tenant shall apply on a primary basis. Any insurance, or self-insurance, maintained by Landlord shall be excess of, and shall not contribute with, the insurance provided by Tenant.

Compliance with these insurance requirements shall not limit the liability of Tenant. Any remedy provided to Landlord by the insurance provided by Tenant shall be in addition to and not in lieu of any other remedy (including, but not limited to, as an indemnitee of Tenant) available to Landlord under this Lease or otherwise.

If Tenant shall fail to comply with these insurance requirements, Landlord shall have the right, but not the obligation, in addition to all other rights and remedies available to Landlord at law, in equity, and under this Lease, to procure, at Tenant's sole cost and expense, the insurance required by this Lease.

Neither approval nor failure to disapprove insurance furnished by Tenant shall relieve Tenant from responsibility to provide insurance as required by this Lease.

Certificates of Insurance must be completed as follows:

1. Certificate Holder

City of Orlando, Florida
Attn: Real Estate Manager
400 S. Orange Avenue
Orlando, FL 32801

2. Additional Insured for General Liability

City of Orlando, Florida, its elected and appointed officials, officers, agents and employees

Section 9.02 Landlord's Right to Obtain Insurance. If Tenant fails to obtain insurance coverage or fails to provide certificates and endorsements as required by this Lease, Landlord may, at its option, obtain such insurance for Tenant. Tenant shall pay, as additional Rent, the reasonable cost thereof together with a twenty-five percent (25%) service charge, even if Tenant later produces evidence that it had insurance in effect at all times. The failure to provide the evidence of insurance in the manner required in this Lease shall be sufficient basis for Landlord to obtain the required insurance coverage and charge Tenant as authorized herein.

Section 9.03 Tenant's Risk. To the maximum extent this Lease may be made effective according to law, Tenant agrees to use and occupy the Premises and Facility at Tenant's own risk, and Landlord shall have no responsibility or liability for any loss or damage to the Premises, Facility, Tenant's personal property, or other personal property of Tenant, or for any loss or damage resulting to Tenant or those claiming by, through, or under Tenant, for any reason including but not limited to breaking, bursting, stopping, or leaking of water, gas, sewer, or steam pipes. The terms of this Section shall be applicable regarding all matters, transactions and things occurring from and after the execution of this Lease and until the end of the Term, and during such further period as Tenant may use or be in occupancy of any part of the Premises and Facility.

Section 9.04 Injury Caused by Third Parties. To the maximum extent this Lease may be made effective according to law, Tenant agrees that Landlord shall not be responsible or liable to Tenant, or to those claiming by, through, or under Tenant, for any loss or damage that may be occasioned by or through the actions or omissions of persons using, occupying, or visiting the Premises and Facility.

ARTICLE 10. DAMAGE OR DESTRUCTION

Section 10.01 Casualty Damage. If, during the Term, the Facility is destroyed or damaged in whole or in part by fire, windstorm or any other casualty whatsoever, Tenant shall give Landlord immediate notice thereof and shall repair, reconstruct or replace the Facility, or the portion thereof so destroyed or damaged (whichever is reasonably required) to a condition as good as or better than the condition existing immediately prior to such occurrence, but in every

event Tenant shall complete whatever work as is necessary for Tenant to maintain the Premises and Facility in such a condition as will enable Tenant to engage in the Intended Use.

Section 10.02 Lease Cancellation. Tenant shall not be entitled to surrender possession of the Premises, to terminate this Lease or to cause any rebate or reduction in the Rent, because of damage or destruction to the Facility by fire, windstorm, or any other casualty. If the Lease is canceled for Tenant's default at any time while any obligation remains outstanding from an insurance company to pay for such damage, the claim against the insurance company will be deemed immediately to be the absolute and unconditional property of Landlord.

Section 10.03 Damage Near End of Term. Notwithstanding any other provisions of this Lease to the contrary, if damage to or destruction of the Facility rendering it unsuitable for the Intended Use occurs during the last twelve (12) months of the Term or extended term as the case may be or if at any time the damage or destruction renders the Center unusable for the Intended Use and reasonable estimates of the time for repair exceed six (6) months, Tenant shall have the right to terminate this Lease by giving notice to Landlord within thirty (30) days after the date of damage or destruction, whereupon all accrued Rent shall be paid immediately, and this Lease shall automatically terminate five (5) days after the date of such notice.

If this Lease is canceled for any reason, other than Landlord's Default at any time while any casualty claim is pending or could be made against an insurance company for losses related to the Premises and Facility, the entitlement to the insurance proceeds will be deemed automatically and unconditionally assigned to Landlord immediately, without compensation to Tenant.

ARTICLE 11. DEFAULT

Section 11.01 Default by Tenant. Each of the following shall be an event of default and shall constitute a Tenant default of this Lease ("Tenant Event of Default"):

(a) Tenant fails to comply with the insurance requirements contained herein, and if such failure to pay or comply with the insurance requirements shall continue for ten (10) business days after Landlord shall have delivered to Tenant a Notice of Tenant Event of Default;

(b) Tenant fails to engage in the Intended Use on the Premises for a period of more than thirty (30) consecutive days.

(c) Tenant fails to fulfill the Minimum Performance Requirements either in any consecutive two (2) monthly periods or in any three (3) monthly periods within any twelve (12) monthly period.

(d) Tenant allows the Center to be used for any purpose not authorized as the Intended Use or an Ancillary Use, which is not corrected within ten (10) days of written demand by Landlord.

(e) A default is declared by the CRA in Tenant's Funding Agreement providing funds to assist Tenant's use and enjoyment of the Center, which is not cured within thirty (30) days thereof.

(f) Tenant fails to timely file its Form 990 with the Internal Revenue Service, which is not filed within ten (10) days of written demand by Landlord.

(g) Tenant fails to maintain its status as a Florida corporation not for profit recognized as a 501 (c) 3 organization in good standing with the Internal Revenue Service of the United States of America, which is not cured within thirty (30) days after written demand by Landlord.

(h) Whenever Tenant shall do, or permit anything to be done, whether by action or inaction, contrary to any covenant or agreement on the part of Tenant herein contained or contrary to any of Tenant's obligations under this Lease, or shall fail in the keeping or performance of any of Tenant's obligations under this Lease, and Tenant shall fail to remedy the same within thirty (30) days after Landlord shall have given Tenant a Notice of Tenant Event of Default;

(i) Whenever an involuntary petition shall be filed against Tenant under any bankruptcy or insolvency law or under the reorganization provisions of any law of like import, or a receiver of Tenant or for the property of Tenant shall be appointed with or without the acquiescence of Tenant, or Tenant rejects this Lease in any bankruptcy, insolvency, reorganization, or arrangement proceedings under the Bankruptcy Code or any State insolvency law, or Tenant, before the expiration of the Term, and without the written consent of Landlord, vacates the Premises or the leasehold estate granted to Tenant by this Lease is taken on execution or other legal process or whenever this Lease or the estate hereby granted or the unexpired balance of the Term would, by operation of law or otherwise, except for this provision, devolve upon or pass to any person, firm, limited liability company or corporation other than Tenant, any corporation or limited liability company in which Tenant may be duly merged, converted or consolidated under statutory procedure, and such situation under this subsection shall continue and shall remain undischarged or unstayed for an aggregate period of sixty (60) days (whether or not consecutive) or shall not be remedied by Tenant within sixty (60) days;

(j) Whenever Tenant shall make an assignment of its property for the benefit of creditors; or

(k) Whenever Tenant shall desert or abandon the Premises.

Section 11.02 Remedies of Landlord. Upon the occurrence of any of Tenant Event of Default, which is not cured within any applicable cure period, Landlord's remedies shall be limited to the following:

(a) Landlord may deliver to Tenant a notice of Landlord's intent to end the Term on a day not less than thirty (30) days after Tenant's receipt of such notice (the "Landlord Termination Date"), and this Lease and the term and estate hereby granted shall expire and terminate upon the Landlord Termination Date as fully and completely and with the same force and effect as if the day so specified were the Lease Expiration Date, and all rights of Tenant under this Lease shall expire and terminate and the Facility shall automatically on the Landlord Termination Date become the sole property of Landlord, without further compensation to Tenant, or in the alternative at the direction of the Landlord, Tenant shall remove whatever

Tenant's personal property as Landlord so directs Tenant in writing to be done at Tenant's sole cost and expense, expeditiously and continuously until completed;

(b) Institute proceedings for injunctive relief and/or specific performance as necessary to enforce the terms and conditions of this Lease; or

(c) Pursue any other remedy available at law or in equity.

Section 11.03 Default by Landlord. The occurrence of any of the events stated in this section shall be an event of default ("Landlord Event of Default") hereunder and shall constitute a breach of this Lease if not remedied within the cure period so provided. A Landlord Event of Default occurs whenever Landlord shall do, or permit anything to be done, whether by action or inaction, contrary to any material covenant or agreement on the part of Landlord herein contained or contrary to any of Landlord's obligations under this Lease, or shall fail in the keeping or performance of any of Landlord's obligations under this Lease, which Landlord fails to remedy within thirty (30) days after Tenant has given Landlord written notice specifying the same.

Section 11.04 Remedies of Tenant. Upon the occurrence of a Landlord Event of Default, which is not cured within any applicable cure period, Tenant's remedies shall be limited to the following:

(a) Tenant may give Landlord written notice of Tenant's intent to end the Term on a day not less than thirty (30) days after Landlord's receipt of such notice (the "Tenant Termination Date"), and this Lease and the term and estate hereby granted shall expire and terminate upon the Tenant Termination Date as fully and completely and with the same force and effect as if the day so specified were the Lease Expiration Date, and all rights of the parties under this Lease shall expire and terminate; or

(b) Institute proceedings for injunctive relief and/or specific performance as necessary to enforce the terms and conditions of this Lease.

ALL ACTIONS FOR DAMAGES OR OTHER TYPES OF RELIEF NOT OTHERWISE SPECIFICALLY ALLOWED HEREUNDER ARE WAIVED AND SHALL BE UNAVAILABLE UNDER THIS LEASE.

Section 11.05 Extended Cure Periods. In the event of a nonmonetary default of a nature that cannot reasonably be cured within the time period stated in this Lease, so long as the party, which has failed to properly perform under this Lease, has diligently commenced curing the problem and continues in an expeditious manner until the default is cured, the party shall be given such additional time; provided however, should the additional time needed be due to financial constraints such grace period shall not be extended for that reason. In no event shall the extended cure period exceed one hundred twenty (120) days. If under the particular circumstances allowance of a cure period or delivery of notice would prejudice or endanger the rights and estate of the other party, the party, which is in compliance with this Lease, may pursue any remedy authorized pursuant to this Lease without delay. Further, should there be a default,

which results in threat of imminent danger, loss of property or criminal actions, the time for curing the default shall not be extended for any reason.

Section 11.06 Presumption of Abandonment. It shall be conclusively presumed that Tenant has abandoned the Premises if Tenant fails to engage in the Intended Use on the Premises for thirty (30) consecutive days. In the event of an abandonment, which shall be deemed a default even if Tenant is current in all other obligations under the Lease, Landlord shall have the right to immediately retake possession of the Premises and exercise the same rights available to Landlord under **Section 11.02** hereof.

ARTICLE 12. INDEMNIFICATION

Tenant shall hold harmless and indemnify Landlord from and against any claim, penalty, loss, damage, charge, liability or expense (including, without limitation, reasonable attorneys' fees, both at trial and on any appeal or up to any settlement), threatened, sustained or incurred by reason of, directly or indirectly, (a) the death or loss of or damage or injury to person or property resulting from or caused by or claimed to have resulted from or been caused by: (i) the construction, use, operation, condition or lack of repair of the Facility, or any personal property at any time or times, or (ii) any act or thing done or omitted to be done by Tenant, its agents, employee, servants, invitees, or, without limitation, any other person or persons other than Landlord or its employees; or (b) any failure on the part of Tenant to perform or comply with any of Tenant's covenants, obligations or liabilities hereunder; or (c) any storage, handling or disposal of any flammable explosives, hazardous or toxic substances on or from the Premises, or any leakage or contamination attributable to any underground tanks or other equipment whether formerly situated on the Premises or to be placed on the Premises by or at the direction of Tenant.

ARTICLE 13. EXPIRATION OF LEASE

Section 13.01 Tenant's Duty to Deliver Possession. At the end of the Term, Tenant shall peacefully deliver up to Landlord possession of the Premises and Facility in good condition and state of repair, reasonable wear and tear excepted, and the Facility constructed thereon shall become the property of Landlord, at no cost to Landlord, free and clear of the claims of all persons and parties whomsoever, or in the alternative at Landlord's direction, Tenant shall restore the Center to the condition it was in immediately after Tenant completed its renovations made upon occupying the Facility, wear and tear excepted.

Section 13.02 Holding Over. If Tenant should hold over after expiration of the Term, Tenant shall be liable for double the fair rental value of the Premises as such is reasonably determined by Landlord's appraiser at the time of expiration of the Term or early termination thereof, to the extent allowed by law in effect at that time.

ARTICLE 14. CONDEMNATION

Section 14.01 Effect of Condemnation. If all or a substantial part of the Premises is taken by the exercise of the power of eminent domain, this Lease shall terminate as of the date possession is taken by the condemnor, and prepaid rent or unpaid rent, and all other amounts due pursuant to the provision of this Lease shall be prorated accordingly. The entire compensation

award attributable to that part of the Center taken shall belong to Landlord except to the extent set forth in **Section 14.02**. Tenant shall have the right to claim and recover from the condemning authority, such compensation as may be separately awarded or recoverable by Tenant in Tenant's own right on account of any and all damage to Tenant's business by reason of any condemnation and for or on account of any cost or loss to which Tenant might be put in removing or relocating Tenant's business, furniture, fixtures and equipment. If less than a substantial part of the Premises is taken such that Tenant can still engage in the Intended Use on the Premises, this Lease shall not terminate and there shall be no change in any of the obligations Tenant is required to fulfill under the terms of the Lease.

Section 14.02 Assignment of Tenant's Interest in the Leasehold Estate and Consideration for Tenant's Improvements to the Facility. For condemnation purposes, Tenant does hereby irrevocably assign to Landlord all of Tenant's right, title and interest in the leasehold estate evidenced by this Lease, so that the total value thereof shall be paid solely to Landlord. Tenant hereby irrevocably waives any right it may have to make a separate claim in the condemnation proceedings for the value of the leasehold estate; however, Tenant may be entitled to a payment from Landlord to be determined in the manner set forth in **Section 14.04**.

Upon Landlord's receipt of the award for the leasehold estate, separate from the condemnation proceedings, the parties will employ an appraiser acceptable to both, which shall determine solely the depreciated value of any real property improvements Tenant has incorporated into the Premises. The Landlord shall then reasonably determine, based on commercially reasonable criteria, the equitable amount from the award that Landlord will pay to Tenant for the depreciated value of such improvements.

Section 14.03 Cooperation in Making Claims. Landlord and Tenant shall, in connection with any eminent domain proceedings, cooperate in making all claims for damages and defending the Premises and Facility in the condemnation proceedings.

Section 14.04 Total Taking and Taking in the Event the Premises Become No Longer Suitable for the Intended Use. If all of the Premises and Facility are taken by the exercise of the power of eminent domain or by actions of a governmental entity that constitute inverse condemnation of the Premises, or by a purchase in lieu of condemnation or if the parties hereto determine the Premises will become Unsuitable for the Intended Use, this Lease shall terminate as of the date the Premises are taken by the condemnor, and prepaid rent or unpaid rent, and all other amounts due pursuant to the provision of this Lease shall be prorated accordingly. The entire compensation amount attributable to the Center shall include the value of the fee interest, the leasehold estate and all severance damages not only for the fee interest but also for the leasehold estate, which shall be paid exclusively to Landlord; provided however, Tenant shall be entitled to payment from Landlord to the extent as provided in this Section.

Tenant shall also have the right to claim and recover from the condemning authority, such compensation as may be separately awarded or recoverable by Tenant in Tenant's own right on account of any and all damage to Tenant's business by reason of any condemnation and for or on account of any cost or loss to which Tenant might be put in removing or relocating Tenant's business, furniture, fixtures and equipment, but not for any other loss.

Section 14.05 Condemnation Award in the Event of Taking of Less than

Substantial Part.

(a) In the case of a taking of a portion, but less than all, of the Premises and Facility, Tenant shall determine, in Tenant's reasonable discretion, whether the remaining Premises and Facility after Restoration referred to in (c) below: (i) will become Unsuited for the Intended Use and (ii) will allow Tenant to complete Restoration for an amount not to exceed the proceeds from the taking.

If Tenant determines that the Premises continue to be suitable for the Intended Use, but Tenant cannot complete the Restoration for an amount that is less than or equal to the proceeds from the taking, then and in such event Tenant may elect to terminate this Lease as of the date title passes to the condemning authority and Rent shall be apportioned and paid to the date of termination and no other claim or demand of any kind shall be made by Landlord against Tenant by reason of such termination; provided however, if there are at least thirty-six (36) months remaining in the Term, Landlord may agree to pay the excess Restoration expenses in which case this Lease shall not terminate and Tenant shall undertake the Restoration of the Premises and Facility in accordance with the terms of (c), below.

(b) In the case of a taking of less than all of the Premises and Facility, if this Lease is not terminated in accordance with the provisions of (a) above, this Lease shall continue in full force and effect as to the remaining portion of the Premises and Facility without any reduction in Rent. No such partial taking shall operate as or be deemed an eviction of Tenant from that portion of the Premises and Facility not affected by such partial taking or in any way terminate, diminish, suspend, abate or impair the obligation of Tenant to observe and perform fully all the covenants of this Lease on the part of Tenant to be performed with respect to the remainder of the Premises and Facility unaffected by the partial taking. In such an event Restoration shall proceed in the manner provided in (c) below.

(c) In the case of a taking of less than all of the Premises and Facility, if this Lease is not terminated in accordance with the provisions of **Section 14.05 (a)** above, Tenant shall commence and proceed with reasonable diligence to complete the Restoration, and immediately deposit the condemnation proceeds in an escrow account for the Restoration to be completed in the manner provided in **Section 8.03**; provided, however, if Landlord elects, Landlord shall in the event the award of the condemnation proceeds is not sufficient to complete the Restoration, in its sole and absolute discretion, Landlord may deposit the additional amount needed to complete the Restoration in the escrow account, and such funds shall be available to Tenant to be utilized for Restoration of the Premises and Facility. In the event Landlord declines to make up the difference needed to restore the Center, the Lease shall terminate and the parties shall treat the condemnation as a total taking and funds from the condemnation award shall be disbursed in same way as provided for in this Lease in the event of a total taking. Landlord shall be entitled to receive and retain the remainder of any award not needed to complete the Restoration.

Section 14.06 No Rent Reduction. In case of a Taking of less than all of the Premises and Facility, if this Lease is not terminated, neither the Rent nor any of the parties' obligations shall be reduced in any manner to the extent practicable.

ARTICLE 15. NOTICE PROVISIONS

Any notice required or permitted to be given under this Lease shall be in writing and delivered by hand, by nationally recognized overnight air courier service (such as Federal Express) or by United States Postal Service, registered or certified mail, return receipt requested, in each case addressed to the respective party at the party's notice address. A notice shall be deemed to have been delivered and received on the earlier of the date actually received (by whatever means sent, including means not authorized by this article) or on the date of transmittal by telecopier, or the first (1st) business day after having been delivered to a nationally recognized overnight air courier service for "next business day" delivery, or on the third (3rd) business day after having been deposited with the United States Postal Service registered or certified mail, return receipt requested. If any communication is returned to the addressor because it is refused, unclaimed, or the addressee has moved, or is otherwise not delivered or deliverable through no fault of the addressor, effective notice shall still be deemed to have been given. Addresses for delivery of notice shall be as follows:

LANDLORD: Real Estate Manager
 City of Orlando
 400 South Orange Avenue, 7th Floor
 Orlando, Florida 32801
 Telephone: (407) 246-2653
 Facsimile: (407) 246-3129

and

 City Attorney's Office
 City of Orlando
 400 South Orange Avenue, 3rd Floor
 Orlando, Florida 32801
 Attention: City Attorney
 Telephone: (407) 246-2341
 Facsimile: (407) 246-2854

TENANT: Downtown Arts District, Inc.
 37 S. Magnolia Ave,
 Orlando, Florida 32801
 Attention: Executive Director
 Telephone: (407) _____
 Fax: (407) _____

From time to time, either party may change its addresses for notice purposes by written notice to the other at the addresses set forth herein or as previously duly advised in writing given in accordance with this section.

ARTICLE 16.

ASSIGNMENT, SUBLEASING, SALE OR OTHER TRANSFER

Section 16.01. Transfer of Interest. Tenant shall not assign or sublet any part of Tenant's interest in the Lease, except under the following terms and conditions:

(a) **Assignment.**

(1) Tenant shall not assign or otherwise transfer this Lease, any part thereof or interest therein, or permit the same to be assigned or otherwise transferred, voluntarily or involuntarily, by operation of law or otherwise, except with the express prior written consent of Landlord as set forth below.

(2) Tenant shall pay the reasonable costs and expenses of Landlord in connection with the granting or withholding by Landlord of its consent to any assignment, including, without limitation, reasonable attorneys' fees. If Landlord shall at any time consent to one or more assignments or transfers, it shall not thereafter be precluded from withholding its consent to any one or more additional assignments or transfers.

(b) **Subleasing.** Tenant is hereby strictly prohibited from subletting the entire Premises without the prior written consent of the Landlord, which may be withheld by the Landlord at its sole and absolute discretion. It is the intent of this restriction that at no time may Tenant no longer be in possession of a substantial portion of the Center, unless Landlord has granted its prior approval in writing allowing Tenant to do so.

Tenant may sublease a portion of the Center for the conduct of a "café-style" food and beverage business (the "Café Sublease"). The Café Sublease is subject to prior written approval by Landlord, which approval may not be unreasonably withheld. All improvements or alterations to the Center that are sought by the Café Subtenant must comply with **Section 8.03** hereof.

Tenant may sublease portions of the Facility to various artists and arts, theatre and civic organizations, including, but not limited to, the Orlando Film Festival and Downtown Orlando Partnership for office, performance and other related uses. Use of the Premises under any sublease must be to a tenant which will engage in its use of the Facility strictly in conformance with the Intended Use restrictions of this Lease. Tenant may enter into such subleases without Landlord's consent, so long as the terms of the sublease comply with the requirements hereof. Upon doing so each time, immediately upon entering into the sublease, Tenant shall provide Landlord with a signed copy for Landlord's verification that it complies with the terms hereof.

Each sublease shall contain a provision satisfactory to Landlord requiring the subtenant, at the option of Landlord, to attorn to Landlord and to make all subsequent rental payments to Landlord in the event Tenant defaults under this Lease. In the event of a termination of this Lease, no sublease shall be binding upon Landlord whether or not Landlord shall have approved the sublease and the subtenant. Tenant shall pay all reasonable costs and expenses, if any, incurred by Landlord in connection with the consent of any sublease, including, without limitation, reasonable attorneys' fees.

Section 16.02 Conveyance by Landlord. Landlord may assign this Lease to any purchaser of the Center. If Landlord or any successor owner of the Center elects to convey the Center to a third party, the third party shall expressly assume all obligations of Landlord hereunder arising or accruing from and after the date of such conveyance or transfer. Landlord or such successor owner, as the case may be, shall thereupon be released from all future liabilities and obligations of Landlord under this Lease arising or accruing from and after the date of such conveyance or other transfer of the Center and all such future liabilities and obligations shall thereupon be binding upon the new owner.

ARTICLE 17. MISCELLANEOUS

Section 17.01. Estoppel Certificates. Within twenty (20) business days after request in writing by either party, the other party will furnish a written statement in form and substance reasonably acceptable to the non-requesting party, duly acknowledging the fact that (a) this Lease is in full force and effect, (b) rents payable hereunder are current, (c) there are no uncured defaults hereunder by Landlord or Tenant, if that be the case, and if not, such additional information concerning the default and such other matters as reasonably requested. Failure of either party to deliver such estoppel certificate within such twenty (20) day period shall entitle the requesting party to conclusively presume that the Lease is in good standing without default, which statement or representation may be relied upon as being true and correct by any prospective purchaser or mortgagee.

Section 17.02 Force Majeure. The parties shall use reasonable diligence to ultimately accomplish the purpose of this Lease but shall not be liable to each other, or their successors or assigns, for breach of contract, including damages, costs, and attorney's fees (including costs or attorney's fees on appeal) as a result of such breach, or otherwise for failure to timely perform its obligations under this Lease occasioned by any cause beyond the reasonable control and without the fault of the parties. Such causes may include but shall not be limited to Acts of God, acts of terrorism or of the public enemy, acts of other governments (including regulatory entities or courts) in their sovereign or contractual capacity, fires, hurricanes, tornadoes, floods, epidemics, quarantines, restrictions, strikes, substantial shortages of building materials within the Orlando Metropolitan Area, or failure or breakdown of transmission of other facilities ("Force Majeure"). Notwithstanding anything herein to the contrary, if either Landlord or Tenant is delayed, hindered or prevented in or from performing its respective obligations under this Lease by any occurrence or event of Force Majeure, then the period for such performance shall be extended for the period that such performance is delayed, hindered or prevented, and the party delayed, hindered or prevented in or from performing shall not be deemed in breach hereunder to the extent of the delay.

Section 17.03 Modification. The terms and conditions of this Lease shall not be amended in any manner except by a written instrument, duly executed by the parties, their successors or assigns.

Section 17.04 Tenant Board Membership. Tenant shall include the Mayor of the City or his/her designee on its board of directors, with voting rights the same as all other voting board members.

Section 17.05 Waiver; Remedies Cumulative. Failure on the part of Landlord or Tenant to complain of any act or failure to act on the part of the other in a timely manner shall not be a waiver of any respective rights hereunder; however, the foregoing shall not apply to provisions of this Lease, where a right of either party is dependent upon notice to be given within a specified period. Further, no waiver at any time of any of the provisions hereof by Landlord or Tenant shall be construed as a waiver of any of the other provisions hereof, and a waiver at any time of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions. No payment by Tenant, or acceptance by Landlord, of a lesser amount than shall be due from Tenant to Landlord shall be treated otherwise than as a payment on account. The acceptance by Landlord of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check, that such lesser amount is payment in full, shall be given no effect, and Landlord may accept such check without prejudice to any other rights or remedies which Landlord may have against Tenant.

Any and all rights and remedies which either party may have under this Lease or by operation of law, either at law or in equity upon any breach, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other; and no one of them, whether exercised by a party or not, shall be deemed to be in exclusion of any other, and any two or more or all of such rights and remedies may be exercised at the same time.

Section 17.06 Authority. Each signatory to this Lease on behalf of the party for whom it is executing this Lease represents and warrants to all other signatories and parties executing this Lease that such signatory is duly authorized to execute and deliver this Lease on behalf of such entity and that no other person or organization is required to join in or sign this Lease, in order to bind the party on whose behalf such person(s) signs this document. If requested by any party, the requested party agrees to deliver to all others evidence of such authority satisfactory to all others. Each party represents and warrants to the other that the execution and performance of this Lease by each party has been duly authorized by all applicable laws and regulations and all necessary corporate/company action, and this Lease constitutes the valid and binding obligation of such party, enforceable in accordance with its terms.

Section 17.07 Time of Essence. TIME IS OF THE ESSENCE with respect to the requirements of each and every section of this Lease. The provisions hereof shall be deemed incorporated by reference into each section of this Lease.

Section 17.08 Headings. The division of this Lease into parts, the article headings and subheadings herein are inserted only for convenience of reference and shall in no way define, limit or prescribe the scope or intent of any provisions of this Lease.

Section 17.09 Interest. Any amount due hereunder and not paid before becoming delinquent shall bear interest at the highest rate allowed by law from the due date until paid. Payment of such interest shall not excuse or cure any default under this Lease.

Section 17.10 Florida Law. This Lease, and all terms hereunder shall be construed consistent with the laws of the State of Florida. Any dispute resulting in litigation hereunder shall be resolved in court proceedings instituted in the courts of Orange County, Florida and in no other jurisdiction.

Section 17.11 Partial Invalidity. If any term, covenant or condition of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term, covenant or condition to persons and circumstances other than those to which it has been held invalid or unenforceable, shall not be affected thereby, and each term, covenant and condition of this Lease shall be valid and shall be enforced to the fullest extent permitted by law.

Section 17.12 Construction of Language. The language in all parts of this Lease shall in all cases be construed as a whole according to its fair meaning and not strictly for or against either Landlord or Tenant. Each party has participated extensively in the negotiations concerning drafting of this Lease, and each has been represented by legal counsel.

Section 17.13 Further Documents. Landlord and Tenant will, whenever and as often as it shall be reasonably requested so to do by the other, execute, acknowledge and deliver, or cause to be executed, acknowledged or delivered any and all such further confirmation, instruments of further assurance, and any and all such further instruments and documents as may be reasonably necessary, expedient or proper, in order to evidence or complete any and all transactions or to accomplish any and all matters and things provided in this Lease.

Section 17.14 Business Day. Should any due date hereunder fall on a Saturday, Sunday or legal holiday, such due date shall be the first business day following such Saturday, Sunday or legal holiday.

Section 17.15 Radon. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

Section 17.16 Parties Bound by Lease. Except as may be herein provided, this Lease and all of the covenants, conditions and restrictions herein shall inure to the benefit of and be binding upon the parties hereto, their respective legal representatives, successors and assigns.

Section 17.17 Liability Limits. The City of Orlando is a Florida municipal corporation whose limits of liability are set forth in Section 768.28, Florida Statutes, and nothing herein shall be construed to extend the limits of liability of Landlord beyond that provided in Section 768.28, Florida Statutes. Nothing herein is intended as a waiver of Landlord's sovereign immunity under Section 768.28, Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, which might allow claims otherwise barred by sovereign immunity or operation of law. Furthermore, all of Landlord's obligations under this Lease are limited to the payment of no more than the amount limitation per person and in the aggregate contained in Section 768.28, Florida Statutes, even if the sovereign immunity limitations of that statute are not otherwise applicable to the matters as set forth herein.

Section 17.18 Landlord's Exculpation. Anything to the contrary contained in this Lease notwithstanding, Landlord's elected and appointed officials, officers, agents, employees, representatives, successors and assigns, shall have absolutely no corporate or personal liability

with respect to the performance of any of the terms, covenants, conditions and provisions of this Lease. Such exculpation of liability shall be absolute and without exception whatsoever.

Section 17.19 Integration. This Lease shall constitute the entire agreement of the parties concerning the matters covered herein. All prior understandings and agreements between the parties concerning those matters, including all preliminary negotiations, letters of intent, and similar documents are merged into this Lease, which alone fully and completely expresses their understanding. No person, firm or entity has at any time had any authority from Landlord to make any representations or promises not stated herein on its behalf, and Tenant expressly agrees that if any such representations or promises have been made by Landlord or others, Tenant waives all rights to rely on them.

Section 17.20 Alterations Required by Law. If any alterations, additions, improvements, repairs or renewals shall be required in or to either the Premises or Facility or any part thereof by any laws, ordinances, or regulations, or by any restrictions, the same shall be done by and the cost thereof borne by Tenant.

Section 17.21 Attorneys' Fees. The prevailing party in any litigation arising out of or in any manner relating to this Agreement shall be entitled to recover from the other party reasonable attorneys' fees and costs for all pre-litigation, trial, appellate and bankruptcy proceedings, which shall be deemed to have accrued on the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

Section 17.22 Brokers. Landlord and Tenant hereby acknowledge, represent and warrant to each other that no broker or finder has been employed by either Landlord or Tenant in connection with the transaction referred to in this Lease who is seeking a commission. Each party hereto agrees to be solely responsible for any amounts allegedly owed arising out of any agreement, arrangement or understanding alleged to have been made by such party, or on its behalf, with any broker or finder in connection with this Lease or the transaction contemplated hereby. Notwithstanding anything to the contrary contained herein, this section shall survive the expiration or any termination of this Lease.

Section 17.23 Public Relations. Landlord shall have the right to approve all press releases and other statements to the newspapers, radio, television, and other media made by Tenant, relating to this transaction, the occupancy of the Facility, and present and future leasing transactions in connection with the Facility.

Section 17.24 Waiver of Jury Trial. Each party hereby irrevocably waives any and all rights it may have to demand that any action, proceeding or counterclaim arising out of or in any way related to this lease or the relationship of the parties be tried by jury. This waiver extends to any and all rights to demand a trial by jury arising from any source, including but not limited to the Constitution of the United States, the constitution of any state, common law or any applicable statute or regulation. Each party hereby acknowledges that it is knowingly and voluntarily waiving the right to demand trial by jury.

**(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURES OF
PARTIES APPEAR ON FOLLOWING PAGES.)**

IN WITNESS WHEREOF, the parties hereto have set their hand and seals the day and year on the dates set forth below.

**CITY OF ORLANDO, FLORIDA, a Florida
municipal corporation**

ATTEST:

By: _____
Denise Aldridge, City Clerk

By: _____
Mayor/Mayor Pro Tem

Executed on _____, 20__

WITNESSES:

By: _____
Print Name: _____

Approved As To Form And Legality For The
Use And Reliance Of The City
Of Orlando, Florida, Only.

By: _____
Print Name: _____

_____, 20__

Assistant City Attorney

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____ and Denise Aldridge, the Mayor/Mayor Pro Tem and City Clerk, respectively, of the City of Orlando, a Florida municipal corporation, on behalf of the corporation. They are personally known to me to be the persons described herein and who produced the identification as set forth below.

Signature of Notary Public

Print Notary Name

My Commission Expires: _____

AFFIX NOTARY STAMP

Commission No.: _____

☐ Personally known, or

☐ Produced Identification

Type of Identification Produced

WITNESSES:

**DOWNTOWN ARTS DISTRICT, INC., a
Florida corporation not for profit**

By: _____

Print Name: _____

By: _____

Print Name: _____

As its Chairman

By: _____

Print Name: _____

Executed on _____, 20__

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____, as Chairman of Downtown Arts District, Inc., a Florida corporation not for profit, on behalf of the corporation. He/She is known to me to personally or produced the identification as set forth below.

Signature of Notary Public

Print Notary Name

My Commission Expires: _____

Commission No.: _____

AFFIX NOTARY STAMP

☐ Personally known, or

☐ Produced Identification

Type of Identification Produced

EXHIBIT "A"

Landlord Real Property Legal Description

LOT 11, LESS THE NORTH 16.83 FEET THEREOF, AND ALL OF LOTS 12 AND 13, OF ROGERS AND MCCALL'S ADDITION TO ORLANDO ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK B, PAGE 9, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

EXHIBIT “B”
Landlord Personal Property