

**A RESOLUTION AUTHORIZING STAFF TO PURSUE A COMMUNITY FINANCED
PHOTOVOLTAIC ARRAY AT THE TOWN COMMONS**

WHEREAS, the Town of Carrboro wants to demonstrate that conservation practices can be applied to the daily operations of municipal government and to infrastructure projects and thereby save taxpayer dollars; and

WHEREAS, the Board of Aldermen authorized staff to work with the Appalachian Institute for Renewable Energy in January, 2012 to pursue a community investing project at the Town Commons, and the resulting study and effort has resulted in the formation of Carrboro Community Solar LLC;

NOW, THEREFORE BE IT RESOLVED that the Carrboro Board of Aldermen directs the Town Manager to pursue and execute (barring an inability to reach mutually beneficial terms) a lease agreement with Carrboro Community Solar for a 5 kilowatt system to be installed on the south facing market stall roof at the Town Commons for a nominal rent. The Aldermen further direct staff to plan a community event to recognize and inform the community of the fruition of this effort.

The resolution is effective upon adoption.

This the 16th day of October, 2012.

ATTEST

SAMPLE SOLAR POWER LEASE AGREEMENT

This Solar Power Lease Agreement (this "Lease Agreement") is made and entered into as of this _____ day of _____, 20____ (the "Effective Date") between _____ ("Tenant"), a North Carolina Limited Liability Company, and _____ ("Landlord/Host"), a Non Profit Corporation incorporated under the laws of the State of North Carolina.

RECITALS:

- A. The parties are entering into this Agreement in order to further the development of solar electric energy generating capacity in the Community of _____ and to demonstrate the financial practicality and systems feasibility of a model through which private citizens and private organizations, even on a small scale, may join to this end.
- B. Tenant desires to install, maintain and operate a solar electric generating facility with an installed capacity of approximately _____ kilowatt (kW) (the "Facility") on the rooftop of _____ of the Landlord/Host's property (the "Leased Premises") located at _____ North Carolina (the "Site"); and
- C. Tenant desires to sell the solar energy generated from the Facility consisting of metered monthly production of energy to third persons as follows:

NOW THEREFORE, in consideration of the mutual promises set forth above, and other good and valuable consideration, the recital and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. LEASED PREMISES/FACILITY DESCRIPTION. Landlord/Host, for and in consideration of the rents, covenants, agreements, and stipulations hereinafter mentioned, provided for and covenanted to be paid, kept and performed by Tenant, leases and rents unto Tenant and Tenant hereby leases and takes upon the terms and conditions which hereinafter appear, the following described property, to wit:

Leased Premises: Description of Rooftop

Site: Street Address

Facility: The Facility shall be a solar electric generating facility with an Installed Capacity estimated to be approximately _____ kilowatt (kW) to be located on the rooftop of the Site.

2. TERM AND TERMINATION.

2.1 Term. Tenant shall have and hold the Leased Premises for a term of **five (5)** years beginning on the _____ day of _____, 20____, and ending on the _____ day of _____, 20____, at midnight, unless sooner terminated as hereinafter provided. The first Lease Year Anniversary shall be the date twelve (12) calendar months after the first day of the first full month of the term hereof and successive Lease Year Anniversaries shall be the date twelve (12) calendar months from the previous Lease Year Anniversary.

2.2 Option to Extend Term of Lease. Tenant is granted an option to extend the term of its lease for **three (3) one (1)** year terms at the same rental amount specified in this Lease Agreement. In order for Tenant to exercise its options, Tenant must not be in default of the Lease Agreement and Landlord must be notified thereof at least **three (3)** months in advance of the expiration date.

3. RENT. Tenant agrees to pay Landlord/Host or its Agent without demand, deduction or set off, an annual rental of _____ Dollars (\$_____) the full amount of rent for the initial term is payable in advance upon the execution of this Lease Agreement and is non-refundable. Rental for any period during the term hereof which is less than one month shall not be pro-rated.

4. UTILITY BILLS.

4.1 Tenant shall pay the following utilities: _____ All utility fees incurred in connection with its use of the premises.

4.2 Landlord/Host shall pay the following utilities: None in connection with Tenant's use of the premises.

Responsibility to pay for a utility service shall include all metering, hook-up fees or other miscellaneous charges associated with the installation and maintenance of the Facility.

5. RULES AND REGULATIONS. **Inasmuch as the Facility is part of a larger building,** Tenant agrees to perform and abide by Rules and Regulations, if any, as may be made from time to time by Landlord/Host provided said Rules and Regulations are not inconsistent with and do not interfere with the terms of this Lease Agreement.

6. USE OF LEASED PREMISES. The Leased Premises shall be used for installation and operation of a solar electric generating facility only. The Leased Premises shall not be used for any illegal purposes, nor in any manner to create any nuisance or trespass, nor in any manner to vitiate the insurance on the Premises.

7. TAX AND INSURANCE ESCALATION. In the event Tenant's use of the Leased Premises results in an assessment of taxes (including but not limited to, ad valorem taxes, personal property taxes, special assessments and any other governmental charges) and/or an increase rate of insurance on the Leased Premises, Tenant shall pay to Landlord/Host, upon demand and as additional rental, the amount of any such assessment and/or increase.
8. INDEMNITY; INSURANCE. Tenant agrees to and hereby does indemnify and save Landlord/Host harmless against all claims for damages to persons or property by reason of Tenant's use or occupancy of the Leased Premises, and all expenses incurred by Landlord/Host thereof, including attorney's fees and court costs. Tenant shall be responsible for all costs and expenses associated with insurance for the Facility, including any additional premium rate increases that might be incurred by Landlord/Host due solely to a claim made because of damages to the Facility.
9. REPAIRS BY LANDLORD/HOST. Landlord/Host agrees to keep in good repair the roof, foundation and exterior walls of the Leased Premises (exclusive of all glass and exclusive of all doors), except repairs rendered necessary by the negligence or intentional wrongful acts of Tenant, its agents, employees or invitees. Tenant shall promptly report in writing to Landlord/Host any defective condition known to it which Landlord/Host is required to repair and failure to report such condition shall make Tenant responsible to Landlord/Host for any liability incurred by Landlord/Host in reason of such conditions.
10. REPAIRS BY TENANT. Tenant shall, throughout the initial term of the Lease, and any extension or renewal thereof, be solely responsible for maintaining in good order and repair the Facility, except those repairs expressly required to be made by Landlord/Host hereunder.
11. REMOVAL OF FIXTURES. Tenant may (if not in default hereunder) prior to the expiration of this Lease Agreement, or any extension or renewal thereof, remove all fixtures and equipment which it has at the Leased Premises and its Facility, provided Tenant repairs all damage to the Leased Premises caused by such removal.
12. GOVERNMENTAL ORDERS. Tenant agrees, at its own expense, to comply promptly with all requirements of any legally constituted public authority made necessary by reason of Tenant's occupancy of the Premises.
13. CONDEMNATION. If the whole of the Premises, or such portion thereof as will make the Leased Premises unusable for the purposes herein leased, is condemned by any legally constituted authority for any public use or purpose, then in either of said events the term hereby granted shall cease from the date when possession thereof is taken by public authorities, and rental shall be accounted for as between Landlord/Host and Tenant as of said date. Such termination, however, shall be without prejudice to the rights of either Landlord/Host or Tenant to recover compensation and damage caused by condemnation.

from the condemnor. It is further understood and agreed that Tenant shall not have any rights in any award made to Landlord/Host by any condemnation authority.

14. EVENTS OF DEFAULT. The happening of any one or more of the following events (hereinafter any one of which may be referred to as an "Event of Default") during the term of this Lease, or any renewal or extension thereof, shall constitute a breach of this Lease on the part of the Tenant: (a) Tenant fails to pay the rental as provided for herein; (b) Tenant abandons or vacates the Premises; (c) Tenant fails to comply with or abide by and perform any other obligation imposed upon Tenant under this Lease.
15. REMEDIES UPON DEFAULT. Upon the occurrence of Event of Default, Landlord/Host may pursue any one or more of the following remedies separately or concurrently, without prejudice to any other remedy herein provided or provided by law; (a) if the Event of Default involves nonpayment of rental and Tenant fails to cure such default with twenty (20) days after receipt of written notice thereof from Landlord/Host, or if the Event of Default involves a default in performing any of the terms or provisions of this Lease other than the payment of rental and Tenant fails to cure such default within fifteen (15) days after receipt of written notice of default from Landlord/Host, Landlord/Host may terminate this Lease Agreement by giving written notice to Tenant and upon such termination shall be entitled to recover from Tenant damages as may be permitted under applicable law; or (b) if the Event of Default involves a manner other than those set forth in (a) of this paragraph, Landlord/Host may terminate this Lease by giving written notice to Tenant and upon such termination shall be entitled to recover from the Tenant damages in an amount equal to all rental which is due and all rental which would otherwise have become due throughout the remaining term of this Lease Agreement, or any renewal or extension thereof (as if this Lease had not been terminated). Landlord/Host shall not be considered to be under any duty by reason of this provision to take any action to mitigate damages by reason of Tenant's default. In the event Landlord/Host hires an attorney to enforce its rights upon default, Tenant shall in addition be liable for reasonable attorney's fees and all costs of collection.
16. EXTERIOR SIGNS. Tenant shall place no signs upon the outside walls or roof of the Leased Premises, except with the express written consent of the Landlord/Host. Any and all signs placed on the Leased Premises by Tenant shall be maintained in compliance with governmental rules and regulations governing such signs and Tenant shall be responsible to Landlord/Host for any damage caused by installation, use or maintenance of said signs, and all damage incident to removal thereof.
17. MORTGAGEE'S RIGHTS. Tenant's rights shall be subject to any bona fide mortgage, deed of trust or other security interest which is now or may hereafter be placed upon the Premises by Landlord/Host. Tenant shall, if requested by Landlord/Host, execute a separate agreement reflecting such subordination, and shall be obligated to execute such documentation as may facilitate Landlord/Host's sale or refinancing of the Premises, including, but not limited to estoppel certificates, subordination or attornment agreements.

18. QUIET ENJOYMENT. So long as Tenant observes and performs the covenants and agreements contained herein, it shall at all times during the Lease term peacefully and quietly have and enjoy possession of the Leased Premises, but always subject to the terms hereof. Provided, however, that in the event Landlord/Host shall sell or otherwise transfer its interest in the Leased Premises, Tenant agrees to attorn to any new owner or interest holder and shall, if requested by Landlord/Host, execute a separate agreement reflecting such agreement, provided that said agreement requires the new owner or interest holder to recognize its obligations and Tenant's rights hereunder.
19. HOLDING OVER. If Tenant remains in possession of the Premises after expiration of the term hereof, with Landlord/Host's acquiescence and with or without any express agreement of the parties, Tenant shall be a tenant at-will at the rental rate which is in effect at end of this Lease. Thereafter, either party may terminate this Lease Agreement upon thirty (30) days written notice to either party.
20. WAIVER OF DEFECTS. No failure of either party to exercise any power given hereunder or to insist upon strict compliance by the other party of its obligations hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.
21. REMOVAL OF DEFECTIVE OR ABANDONED FACILITY. In the event that the Landlord/Host becomes aware that the facility system having an opening for a continuous period of sixty (60) months, Landlord/Host may notify Tenant by registered mail and provide forty five (45) days for a written response. In such a response, Tenant shall set forth reasons for the operational difficulty and provide a reasonable time for corrective action. If no corrective action is taken by the timetable provided and the term (including extensions thereof) of the Lease has lapsed for at least sixty (60) days, any Personal Property belonging to Tenant and left on the Premises shall, at the option of Landlord/Host, be deemed abandoned, and available to Landlord/Host to use or sell to offset any expenses incurred by removing same and restoring the Premises.
22. TRANSFER OF LANDLORD/HOST'S INTEREST. In the event of the sale, assignment or transfer by Landlord/Host of its interest in the Premises or in this Lease (other than a collateral assignment to secure a debt of Landlord/Host) to a successor in interest who expressly assumes the obligations of Landlord/Host under this Lease, Landlord/Host shall thereupon be released and discharged from all its covenants and obligations under this Lease, except those obligations that have accrued prior to such sale, assignment or transfer; and Tenant agrees to look solely to the successor in interest of Landlord/Host for the performance of those covenants accruing after such sale, assignment or transfer. Landlord/Host's assignment of this Lease, or of any or all of its rights in this Lease, shall not affect Tenant's obligations hereunder, and Tenant shall attorn and look to the assignee as Landlord/Host, provided Tenant has first received written notice of the assignment of Landlord/Host's interest.

23. FACILITY & OWNERSHIP. Tenant is the legal and beneficial owner of the Facility. Further,

23.1 Incentives. Tenant shall receive all payments available under any state solar incentive program and any other federal, state or local programs applicable to renewable energy sources.

23.2 SRECs. Tenant shall be the owner of any solar renewable energy certificates ("SRECs") or other environmental attributes which may arise as a result of the operation of the Facility.

23.3 Capacity. Tenant shall be entitled to receive any payments for electric capacity or ancillary services which may become available to the Facility, or any other similar payments in connection with the ownership of generation capacity.

23.4 Information. Upon reasonable request, and if necessary, Landlord/Host shall provide Tenant with information required for preparing documents necessary for Tenant to receive the foregoing.

23.5 Facility Tax Assets. Tenant, as owner of the Facility, shall be entitled to all tax benefits under federal and state income tax laws with respect to the Facility.

24. CONSTRUCTION, ACCESS, OPERATION. Tenant shall use licensed North American Board of Certified Electric Professionals (NABCEP) certified contractors to oversee the work of installing, operating, and maintaining the Facility. Tenant will advise Landlord/Host of the contractors being hired. Landlord/Host shall have no contractual relationship with the contractors.

25. PERMITTING. Tenant shall obtain all Permits for the Facility and shall design, install, operate, and maintain the Facility so as to keep it in good condition and repair, in compliance with law and with the generally accepted practices of the electric industry, in general, and the solar power generation industry, in particular. Such work shall be at Tenant's sole expense.

26. TENANT & INSTALLER ACCESS. Landlord/Host shall grant Tenant and its designees, including Tenant's installation contractor (the "Installer"), access to the Site, the surrounding areas of the Premises, and the Premises, by lease or license for the purposes of designing, installing, operating, and maintaining the facility.

27. TIME OF WORK. Except for emergency situations, Tenant shall perform all work between the hours of am and pm, Monday through Saturday, in a manner that minimizes interference with Landlord/Host and its use of the building.

28. SECURITY. Landlord/Host will provide security for the Facility as part of its normal security procedures for the Site and will advise Tenant immediately upon observing any damage to the Facility.
29. SITE MODIFICATION. Landlord/Host will agree not to modify the Site in such a way as to interfere with the construction, operation or maintenance of, or solar access of, the Facility.
30. LANDLORD/HOST OPTION TO PURCHASE THE FACILITY. At the end of the initial lease term, and at any time thereafter during the term of this Agreement, the Landlord/Host may exercise an option to purchase the facility from Tenant at a cost based on fair market value of the Facility at the time, as determined by a mutually acceptable professional appraiser (the "Fair Market Value"). The appraiser shall be selected according to the process set out in Paragraph 30.1.
- 30.1. Appraisal. Landlord/Host and Tenant shall choose a reputable and credentialed independent appraiser, which such appraiser shall determine, at equally shared expense of the Parties, the Fair Market Value of the Facility. In the event that the Parties cannot agree upon a single independent appraiser, each Party shall contract for an independent appraiser at its own expense, and the Fair Market Value shall be the simple average of the determinations of the two independent appraisers. The appraisal shall consider the projected value of the Facility, to include but not to be limited to the following:
- a. The Facility as an income-producing facility over the remaining operational period;
 - b. The fair market value of the physical components of the Facility;
 - c. The projected income from remaining incentives and SRECs associated with the Facility;
 - d. The long term maintenance and costs associated with the Facility, including but not limited to scheduled inverter replacements, inspections and insurance.
31. DECOMMISSIONING & REMOVAL. If, at the end of the Lease term, Landlord/Host does not exercise its option to purchase the Facility and the Parties do not agree to any extension of the Agreement, then Tenant, at its sole expense, shall decommission and remove the Facility from the Site. Tenant shall not be obligated, however, to remove any support structures for the Facility which are affixed to Landlord/Host's structures or any below grade structures, including foundations and conduits.
32. PERMITS & APPROVALS. Tenant shall be responsible for obtaining, and paying for, any and all consents or approvals from the local electric utility which are necessary for the

construction, commissioning, and operation of the Facility and shall also pay for and obtain all approvals from governmental entities necessary for the construction and operation of the Facility, including but not limited to land use permits, building permits, and demolition and waste disposal permits.

33. LANDLORD/HOST CONSENTS. Landlord/Host shall pay for and obtain any and all consents required for it to execute this Agreement and perform its obligations under this Agreement from its lenders, and any other persons with an interest in the Site.

34. DISPUTE RESOLUTION

- 34.1 Dispute Negotiation. In the event of any dispute arising under this Agreement (a "Dispute"), within ten (10) Days following the delivered date of a written request by either Party, (1) each Party shall appoint a representative (individually, a "Party Representative", together, the "Parties' Representatives"), and (2) the Parties' Representatives shall meet, negotiate and attempt in good faith to resolve the Dispute informally and inexpensively.

- 34.2 Non-Binding Mediation. In the event the Parties' Representatives cannot resolve the Dispute within thirty (30) Days after commencement of negotiations pursuant to Section 34.1, the Parties shall submit to non-binding mediation.

35. REPRESENTATION AND WARRANTIES

- 35.1. Mutual Representations and Warranties. Each Party represents and warrants to the other Party that:

- a. It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- b. The execution, delivery and performance of this Agreement is within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
- c. This Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms;
- d. It is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt;
- e. There is not pending or, to its knowledge, threatened against it or any of its

affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;

- f. It is acting for its own account, has made its own independent decision to enter into this Lease Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of, and understands and accepts, the terms, conditions and risks of this Agreement.
- g. It shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- h. It shall maintain (or obtain from time to time as required, including through renewal, as applicable) all regulatory authorizations necessary for it to legally perform its obligations under this Lease Agreement; and

It shall perform its obligations under this Lease Agreement in a manner that does not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation or order of the like applicable to it.

36. **DAMAGES & TERMINATION.** Upon the occurrence of an Event of Default that occurs at any time during the Term, the non-defaulting Party shall have the right to pursue all available legal or equitable remedies available to it, including the right to collect damages.

- 36.1 **Waiver and Exclusion of Other Damages.** THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY HEREIN PROVIDED, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY.

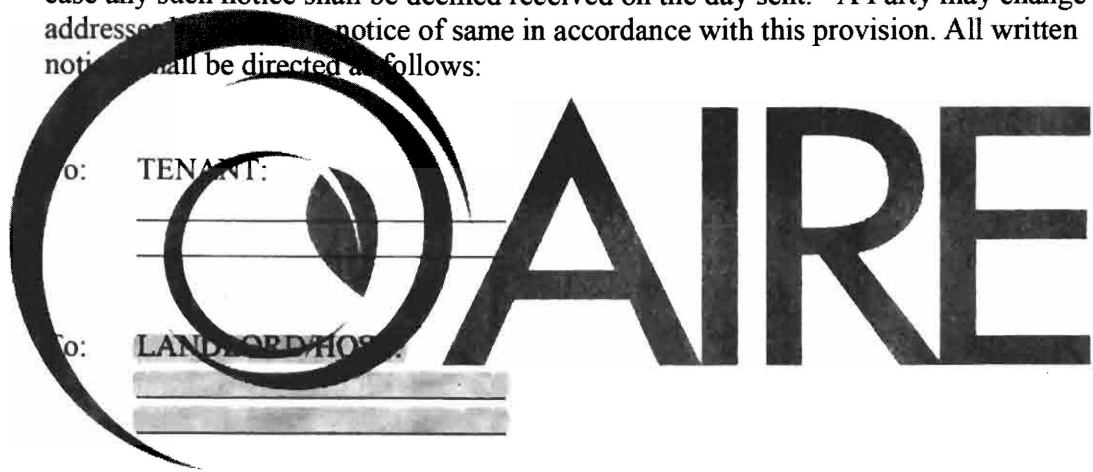
37. **DUTY TO MITIGATE.** Each Party agrees that it has a duty to mitigate damages and covenants that it shall use reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of this Lease Agreement.

38. **FORCE MAJEURE.**

- 38.1 **Definition of Force Majeure.** For purposes of this Lease Agreement, an event of Force Majeure means any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, any curtailment, order, regulation or restriction imposed by a court or governmental military or lawfully established civilian authorities, or any other cause beyond a Party's control. A

Force Majeure event does not include an act of negligence or intentional wrongdoing. Neither Party shall be considered in default as to any obligation hereunder if prevented from fulfilling the obligation due to an event of Force Majeure.

39. **NOTICES.** Notices shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service, facsimile or electronic messaging (e-mail). Whenever this Agreement requires or Permits delivery of a "notice" or requires a Party to "notify", the Party with such right or obligation shall provide a written communication in the manner specified below. A notice sent by facsimile transmission or email will be recognized and shall be deemed received on the day on which such notice was transmitted if received before 5:00 p.m. Eastern prevailing time (and if received after 5 p.m., on the next day) and a notice by overnight mail or courier shall be deemed to have been received two (2) days after it was sent or such earlier time as is confirmed by the receiving Party unless it confirms a prior oral communication, in which case any such notice shall be deemed received on the day sent. A Party may change its address by giving notice of same in accordance with this provision. All written notices shall be directed as follows:



40. **MISCELLANEOUS**

- 40.1 **Change of Law.** Any provision declared or rendered unlawful by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change will not otherwise affect the remaining lawful obligations that arise under this Agreement; and provided, further, that if such an event occurs, the Parties shall use their best efforts to reform this Agreement in order to give effect to the original intention of the Parties.
- 40.2 **Continuing Effect.** Notwithstanding anything to the contrary in this Agreement, applicable provisions of this Agreement, including all indemnity rights, audit rights and confidentiality obligations, shall continue in effect after termination of this Agreement, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to

such termination and, as applicable, to provide for final billings and adjustments related to the period prior to such termination, repayment of any money due or owing to either Party pursuant to this Agreement, repayment of principal and interest associated with security funds, if any, and the indemnifications specified in this Agreement.

- 40.3 Governing Law. This Agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the State of North Carolina.
- 40.3 Assignment. Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld.
- 40.4 Waiver. The failure of either Party to enforce or insist upon compliance with or strict performance of any of the terms or conditions of this Agreement, or to take any action to enforce any of its rights thereunder, shall not constitute a waiver or relinquishment of any such terms, conditions, or rights, but the same shall be and remain at all times in full force and effect.
- 40.5 Relationship of the Parties. This Agreement shall not be intended to create an association, joint venture, or partnership between the Parties nor to impose any partnership obligation or liability upon either Party. Neither Party shall have any right, power, or authority to bind the other Party in any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.
- 40.6 Severability. In the event any of the terms, covenants, or conditions of this Agreement, its Exhibits, or the application of any such terms, covenants, or conditions, shall be held invalid, illegal, or unenforceable by any Governmental Authority, all other terms, covenants, and conditions of the Agreement and their application not adversely affected thereby shall remain in force and effect; provided, however, that Landlord/Host and Tenant shall negotiate in good faith to attempt to implement an equitable adjustment in the provisions of this Agreement with a view toward effecting the purposes of this Agreement by replacing the provision that is held invalid, illegal, or unenforceable with a valid provision the economic effect of which comes as close as possible to that of the provision that has been found to be invalid, illegal or unenforceable.
- 40.7 Complete Agreement. The terms and provisions contained in this Lease Agreement constitute the entire agreement between Landlord/Host and Tenant and shall supersede all previous communications, representations, or agreements, either verbal or written, between Landlord/Host and Tenant.
- 40.8 Amendments. This Agreement may be amended, changed, modified, or altered,

provided that such amendment, change, modification, or alteration shall be in writing and signed by both Parties.

- 40.9 Headings. Captions and headings used in this Agreement are for ease of reference only and do not constitute a part of this Agreement.
- 40.10 Counterparts. This Agreement may be executed in any number of counterparts, including in facsimile and electronic formats (including portable document format (pdf)), each of which is an original and all of which constitute one and the same instrument.
- 40.11 Authorized Execution of this Lease Agreement. Each individual executing this Lease Agreement as director, officer, partner, member, or agent of a corporation, limited liability company, or partnership represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of such corporation, limited liability company, or partnership

40.12 Definitions. "Landlord/Host" as used in this Lease shall include the undersigned, its representatives, assigns and successors in title to the Premises. "Agent" as used in this Lease shall mean the party designated as agent in Paragraph 37, its heirs, representatives, assigns and successors. "Tenant" shall include the undersigned and its representatives, assigns and successors and this lease shall be validly assigned or sublet shall include also Tenant's assigns and successors as to the Premises covered by such assignment or sublease. "Landlord/Host," "Tenant," and "Agent" include male and female, singular and plural, corporation, partnership or individual, as may be the particular parties.

41. MEMORANDUM OF LEASE. Upon request by either Landlord/Host or Tenant, the parties hereto shall execute a short form lease (Memorandum of Lease) in recordable form, setting forth such provisions hereof as either party may wish to incorporate. The cost of recording such memorandum of lease shall be borne by the party requesting execution of same.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, the date and year first above written.

LANDLORD:

[INSERT NAME OF LANDLORD]

By: _____ (SEAL)

Title:

TENANT:

[INSERT NAME OF TENANT]

By: _____ **(SEAL)**

Title:

