

NOTICE OF CALLED MEETING
FOR THE
BOARD OF COMMISSIONERS
OF THE
CITY OF PADUCAH, KENTUCKY

TO: Commissioners

There will be a Called Meeting of the Board of Commissioners of the City of Paducah at 4:30 p.m., on Monday, June 30, 2014 in the Commission Chambers of City Hall located at 300 South 5th Street, Paducah, Kentucky. All members are urged to be present. The agenda is as follows:

I. MOTIONS

A. R & F Called Meeting Notice

II. EX. SESSION

III. ORDINANCE – INTRODUCTION

A. Approve Lease Agreement with Genova for 5400 Commerce Drive – CITY MGR

Maule Kader 75
Mayor

CERTIFICATE OF SERVICE

Executed by facsimile of a copy to Commissioners
at 2:25 o'clock P.M. on June 27, 2014.

Jammara S. Sanderson
City Clerk

**AGENDA ACTION FORM
PADUCAH CITY COMMISSION**

Meeting Date: _____, 2014

Short Title: Authorizing a Lease Agreement between City of Paducah, Kentucky, McCracken County, Kentucky and Genova Products, Inc., for the real property and industrial building located at 5400 Commerce Drive in Paducah, Kentucky for the public purpose of economic development

X Ordinance Emergency Municipal Order Resolution Motion

Staff Work By: Jeff Pederson, City Manager
Presentation By: Jeff Pederson, City Manager

Background Information:

GPEDC, as agent for the City of Paducah and McCracken County entered into a Memorandum of Understanding (“MOU”) with Genova Productions, Inc., (“Genova”) whereby certain public incentives were to be provided to Genova to defray certain costs and expense to be incurred by Genova in locating, equipping, operating and managing its manufacturing and distribution facility at 5400 Commerce Drive within the boundaries of Paducah, McCracken County. The MOU was previously approved by the City Commission. In order to induce Genova to locate its facility to Paducah, McCracken County, GPEDC, as agent for the City and County, has negotiated with Genova a definitive lease agreement incorporating the essential terms of the commitments of the parties as outlined in the MOU. The definitive lease agreement is scheduled to be executed as of June 30, 2014 or shortly thereafter. Negotiations are still continuing between the parties as to the City and County providing to Genova a \$1,100,000.00 revolving credit agreement to defray the costs of purchasing trade fixtures, equipment and other fixtures to enhance its operations at the property and thereby create additional new job opportunities. The final version of the lease is attached to the ordinance for review.

These transactions further the public purpose of the City to achieve long-term economic growth and employment opportunities for its citizens

Therefore, I seek approval from the City Commission to enter into and have the Mayor execute the Lease Agreement between City of Paducah, Kentucky, McCracken County, Kentucky, and Genova Products, Inc., in substantially the same form attached hereto as Exhibit A.

Agenda Action Form

Goal: XStrong Economy Quality Services Vital Neighborhoods Restored Downtowns

Funds Available: Account Name:
Account Number:

Finance

Staff Recommendation:

Attachments:

Department Head	City Clerk	City Manager
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ORDINANCE NO. 2014 - _____

AN ORDINANCE OF THE CITY OF PADUCAH, KENTUCKY, APPROVING A LEASE AGREEMENT AMONG THE CITY OF PADUCAH, MCCRACKEN COUNTY, AND GENOVA PRODUCTIONS, INC., WITH RESPECT TO A PUBLIC PROJECT; AUTHORIZING THE EXECUTION OF THE LEASE AGREEMENT AND OTHER DOCUMENTS RELATED THERETO

WHEREAS, the City of Paducah, Kentucky (the "City") has previously determined, and hereby further determines, that it is a public purpose to reduce unemployment in the City, to increase the City's tax base, to foster economic development within the City and to promote the development of a skilled workforce, all to the benefit of the citizens and residents of the City; and

WHEREAS, the City and McCracken County (the "County") jointly own an industrial building located at 5400 Commerce Drive within the boundaries of Paducah, McCracken County, Kentucky, (the "Project Site") which building was constructed by the City and the County for the public purpose of economic development; and

WHEREAS, the City and the County have determined that it is in the best interest of citizens of the City of Paducah and McCracken County that the City and the County lease the aforesaid building and the Project Site (collectively, the "Premises") to Genova Productions, Inc., a Michigan corporation ("Genova") for the purposes of locating, equipping, operating and managing a manufacturing and distribution facility of vinyl building products, and the hiring and maintaining an estimated 125 new full-time employees at the Premises, which will promote the public purpose of the City and the County; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PADUCAH, KENTUCKY, AS FOLLOWS:

Section 1. Recitals and Authorization. The City hereby approves the Lease Agreement among the City, the County, and Genova (the "Lease") in substantially the form attached hereto as Exhibit A and made a part hereof. It is further determined that it is necessary and desirable and in the best interest of the City to enter into the Lease for the purposes therein specified, and the execution and delivery of the Lease is hereby authorized and approved. The Mayor of the City is hereby authorized to execute the Lease, together with such other agreements, instruments or certifications which may be necessary to accomplish the transaction contemplated by the Lease with such changes in the Lease not inconsistent with this Ordinance and not substantially adverse to the City as may be approved by the official executing the same on behalf of the City or the City Manager. The approval of such changes, and that such are not substantially adverse to the City, shall be conclusively evidenced by the execution of the Lease by the authorized official.

Section 2. Severability. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

Section 3. Compliance With Open Meetings Laws. The City Commission hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this City Commission, and that all deliberations of this City Commission and of its committees, if any, which resulted in formal action, were in meetings open to the public, in full compliance with applicable legal requirements.

Section 4. Conflicts. All ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed and the provisions of this Ordinance shall prevail and be given effect.

Section 5. Effective Date. This Ordinance shall be read on two separate days and will become effective upon summary publication pursuant to KRS Chapter 424.

MAYOR

ATTEST:

City Clerk

Introduced by the Board of Commissioners, _____, 2014

Adopted by the Board of Commissioners, _____, 2014

Recorded by City Clerk, _____, 2014

Published by *The Paducah Sun*, _____, 2014

EXHIBIT A

LEASE AGREEMENT

See attachment

175172clean

LEASE AGREEMENT

By and Between

CITY OF PADUCAH, KENTUCKY

AND

MCCRACKEN COUNTY, KENTUCKY

Lessor

and

GENOVA PRODUCTS, INC.

Lessee

Dated as of:

June 30, 2014

**Project Site: 5400 Commerce Drive
Paducah, Kentucky**

LEASE AGREEMENT

This Lease Agreement (this "Lease"), made and entered into as of the 30th day of June, 2014, by and among **MCCRACKEN COUNTY, KENTUCKY** ("County"), with a principal mailing address of 300 South 7th Street, Paducah, Kentucky 42003; and **CITY OF PADUCAH, KENTUCKY** ("City"), with a principal mailing address of Post Office Box 2267, Paducah, Kentucky 42002-2267 (County and City shall collectively be referred to as the "Lessor"), and **GENOVA PRODUCTS, INC.**, with a principal mailing address of Post Office Box 309, Davison Michigan 48423 (the "Lessee"). (Lessee, City, and County may collectively be referred to as the "Parties" and singularly be referred to as a "Party");

WITNESSETH

WHEREAS, capitalized terms used and not otherwise defined in this preamble shall have the respective meanings ascribed thereto in Section 1 of this Lease set forth below; and

WHEREAS, the Lessor has a compelling public interest in fostering economic development and promoting the development of a skilled workforce, all to the benefit of the citizens and residents of the city of Paducah and the county of McCracken, Kentucky; and

WHEREAS, the Lessor owns the Building and has determined that it is in the best interest of citizens of the City of Paducah and McCracken County that Lessor rent the Building and the Project Site (collectively, the "Premises") to Lessee for the purposes of locating, equipping, operating and managing a manufacturing and distribution facility of vinyl building products, and the hiring and maintaining an estimated 125 new full-time employees at the Premises, all as more particularly set forth in the MOU (the "Project"), which will promote the public purpose of the Lessor; and

WHEREAS, the Lessee desires to rent the Premises from the Lessor for the rentals, and upon the terms and conditions, hereinafter set forth; and

WHEREAS, it is appropriate at this time that this Lease be consummated by and between the parties.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING PREMISES, WHICH ARE INCORPORATED AS A PART OF THIS LEASE, AND IN FURTHER CONSIDERATION OF THE TERMS, COVENANTS AND CONDITIONS HEREIN SET FORTH AND CONTAINED HEREIN AND IN THE MOU, THE LESSOR AND THE LESSEE MUTUALLY COVENANT AND AGREE AS FOLLOWS:

SECTION 1. Definitions.

Unless the context clearly indicates some other meaning, the following words and terms shall, for all purposes of this Lease, have the following meanings:

"Additional Rent" shall mean, Lessee's payment obligations under this Lease other than Base Rent.

"Authorized Officer" shall mean, with respect to (i) the Lessor, the Mayor of the City and Judge Executive of the County and any officer, agent or employees duly authorized by ordinance or resolution of the Lessor to perform the act or sign the document in question, and (ii) the Lessee, the President and any other of its officers, agents or employees duly authorized by resolution of the Lessee to perform the act or sign the document in question.

"Base Rent" shall mean the monthly payments from Lessee to Lessor, as set forth in Section 3 of this Lease.

"Building" shall mean that certain existing industrial building located on the Project Site.

"City" shall mean the City of Paducah, Kentucky, a municipal corporation and political subdivision of the Commonwealth of Kentucky.

"County" shall mean the County of McCracken, Kentucky, a county and political subdivision of the Commonwealth of Kentucky.

"Event of Default" means an event described in Section 17 of this Lease.

"Interest Rate for Advances" means ten percent (10%) per annum.

"Lease" shall mean this agreement dated as of June 30, 2014, by and between the Lessor and the Lessee, as amended or supplemented from time to time in accordance with the terms hereof.

"Lease Rental Payments" means Base Rent and Additional Rent, which constitute the payments payable by the Lessee for and in consideration of the right to use the Premises.

"Lessee" shall mean Genova Products, Inc., a Michigan corporation.

"Lessor" shall mean collectively the City of Paducah and the County of McCracken, Kentucky.

"MOU" shall mean that certain Memorandum of Understanding among the Lessor and the Lessee relating to the Project, executed by the respective parties thereto with an effective date of June 29, 2014, as the same may be amended or supplemented from time to time in accordance with its terms, and which MOU is hereby incorporated as a part of this Lease.

"Premises" shall mean, collectively, the Building and the Project Site.

"Project" shall mean the locating, equipping, operating and managing a manufacturing and distribution facility of vinyl building products on the Premises by Lessee, all as more particularly set forth in this Lease and the MOU.

"Project Site" shall mean the real property on which the Building is located, including the parking lot and adjacent real property owned by Lessor which is used in connection with the Building and Lessee is to equip, operate and manage the Project, which site is generally located at 5400 Commerce Drive, Paducah, McCracken County, Kentucky, and is more particularly described in Exhibit A attached hereto.

SECTION 2. Term; Renewal Term.

In consideration of the representations, warranties, covenants and conditions set forth herein, the Lessee hereby leases from the Lessor, and the Lessor hereby lets to the Lessee, the Premises for a term of ten (10) years (the "Initial Term"), which Term shall commence on July 1, 2014; (the "Commencement Date"). Lessor shall deliver exclusive possession of the Premises to Lessee in compliance with the Delivery Conditions, not later than the Commencement Date. The Initial Term together with the Renewal Term, if exercised by Lessee, shall be referred to herein as the "Term". As used herein, the "Delivery Conditions" shall mean that on the Commencement Date the Premises are: (a) in broom clean condition and free of all debris, (b) in compliance with all laws, ordinances, administrative rules and regulations, building codes, and fire codes (collectively, "Laws"), and (c) in good physical condition and otherwise ready for Lessee to commence renovations of the Premises to accommodate Lessee's use of the Premises for the Project. Lessee shall obtain a certificate of occupancy for the Premises as soon as reasonably practicable after the Commencement Date, the cost of which shall not exceed \$1,000.00. If the inspection of the Premises related to the obtaining of the certificate of occupancy reveals any deficiencies that are not specific to Lessee's business or intended operations, Lessor shall be responsible for the costs of remedying such deficiencies.

Provided Lessee is not then in default under this Lease beyond any applicable grace or curative period, the Term of this Lease may be renewed for one (1) additional term of ten (10) years (the "Renewal Term"). At the expiration of the Initial Term, Lessee shall be permitted to renew this Lease for the Renewal Term by providing Lessor with written notice not less than sixty (60) days prior to the expiration of the Initial Term. The Renewal Term shall be subject to all covenants, terms, conditions and obligations set forth and contained in this Lease. The Base Rent during the Renewal Term shall be the same as the Base Rent during the Initial Term.

SECTION 3. Rental.

Commencing on September 1, 2015 ("Base Rent Commencement Date"), Lessee shall pay to Lessor as Base Rent \$289,000.00 annually (the "Base Rent") in equal monthly installments of \$24,083.33 on the first day of each and every calendar month following the Base Rent Commencement Date and through-out the Term. In the event the Base Rent Commencement Date occurs on a date other than the first calendar day of a month, the Base Rent for such month shall be prorated on a per diem basis. It is expressly acknowledged by Lessor that Lessee may occupy and use the Premises from the Commencement Date until the Base Rent Commencement Date without payment of Base Rent.

Additionally, from and after the Commencement Date, Lessee shall be responsible and agrees to pay, all expenses and costs related to (i) except as otherwise provided in this Lease or to the extent such costs are Lessor's obligation under the terms of this Lease, costs incurred by Lessee for the operation, repair, replacement, and maintenance of the Premises, (ii) the insuring of the Premises after the Commencement Date as required pursuant to this Lease, (iii) a prorated portion of any Real Estate Taxes assessed against the Premises after the Commencement Date for the 2014 tax year and such Real Estate Taxes thereafter during the Term, and (iv) any amounts payable by Lessee pursuant to Sections 17 or 18 of this Lease (the "Additional Rent"). Lessee shall not be obligated to pay Lessor or any third party a management or other administrative fee with respect to Premises. During the last year of the Term, the real estate taxes shall be prorated in accordance with the customary method of proration in the area where the Premises are located. Any such amounts due as Additional Rent shall be paid by Lessee as the same become due and payable.. The term "Real Estate Taxes" shall mean all real property governmental taxes, assessments, fees and charges due during the Term and any extensions thereof, in connection with the Premises. Lessee's obligation to pay Real Estate Taxes shall expressly exclude: (a) excess profits taxes, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, estate taxes, and federal and state income taxes to the extent applicable to Lessor's general or net income (as opposed to rents, receipts or income attributable to operations at the Building); (b) any tax imposed on any mortgage or other lien encumbering the Premises which secures any indebtedness of the Lessor, (c) transfer tax upon the passing of Lessor's interest in the any part of the Premises or portion thereof; and (d) if Lessor elects to pay any one-time tax assessments (*i.e.*, an assessment for a water main improvement) in a lump sum instead of in installments, any taxes in excess of the amount which would be payable if such tax or assessment expense were paid in installments. Lessee shall be permitted to appeal the assessment of Real Estate Taxes for the Premises and Lessor will reasonably cooperate with Lessee in connection with the filing of such appeal, to the extent permitted by law.

Except as otherwise provided by the terms of this Lease, all Lease Rental Payments hereunder shall be made without notice, demand, setoff, defense, deferment or deduction at the times and in the manner set forth above.

SECTION 4. Use of the Premises.

The Premises shall be occupied and used by Lessee for the Project, general office use and such other uses which are permitted under the applicable zoning code. No use shall be made or permitted of the Premises or any part thereof, nor any acts done which shall constitute a nuisance, it being acknowledged, however, that the anticipated uses of the Project contemplated by this MOU and this Lease and which are otherwise in compliance with applicable zoning and other laws, rules and regulations, shall not be deemed to be a nuisance. Lessor acknowledges that the Premises includes the parking areas adjacent to the Building, which parking lot is located on the Project Site, and Lessee shall have exclusive use of such parking areas during the Term of the Lease.

Lessee shall use its best efforts to comply with all governmental rules, regulations, ordinances, statutes and laws now in force or which may hereafter be in force pertaining to the Premises and to Lessee's use thereof; provided, however, that during the Term of this Lease, Lessor shall not consent to or permit any change in any zoning or land use regulations which

would render the use of the Premises for the Project unlawful or as a conditional use. Notwithstanding anything contained in this Lease to the contrary, Lessee shall not be obligated to correct any violation of Law which was in existence on the Commencement Date or arises due to a newly enacted Law or change in any existing Law unless such violation of Law is due to Lessee's unique or specific use of the Premises and not applicable to all users of similar commercial properties.

Lessee shall have exclusive use of all signage located on the Premises as of the date of this Lease. Lessee shall have the right to install and display signage on the Premises and on the interior and exterior of the Building, in form, size and character as its desires, provided that such signage is in conformity with applicable laws. The signs shall be maintained by Lessee at its cost. Lessee shall remove all signs of Lessee upon the expiration or earlier termination of this Lease and immediately repair any material damage to the Premises caused by, or resulting from, such removal.

Subject to compliance with laws and securing any required governmental approvals and permits, Lessee, at its sole cost and expense, shall have the right to install (i) telecommunications antennas, microwave dishes and other communications equipment on the roof top; (ii) solar panels on the Building, and (iii) an uninterruptible power supply system and emergency stand-by battery system and/or natural gas powered generator with all associated equipment, components, connections, wiring and batteries (collectively, the "UPS"). Lessee shall be responsible for the entire cost of the operation, repair, replacement and removal of any such equipment and UPS installed by Lessee. All such equipment and the UPS installed by Lessee shall be removed at Lessee's expense prior to the expiration of the Term and Lessee shall repair any material damage caused by such installation and removal.

Lessor represents and warrants to Lessee that (i) the Premises are not subject to any covenants, encumbrances, conditions, restrictions, private agreements, reciprocal easement agreements or any other exceptions to title which would adversely affect Lessee's use of the Premises for the Project and general office use (the "Encumbrances"); (ii) the Premises are and will be on the Commencement Date, in compliance with all Laws (except those Laws that only regulate or govern Lessee's unique or specific use of the Premises); (iii) the Premises are zoned consistent with Lessee's use of the Premises for the Project and general office use and there will be on the Commencement Date a valid certificate of occupancy or similar permit in place which permits Lessee's use of the Premises for the Project and general office use; (iv) there are no outstanding delinquent taxes for the Premises; (v) the Premises are not subject to any pending litigation or government investigation; and (vi) the Premises are not leased and are not subject to any rights of first refusal, rights of first offer, options or other preferential rights to lease, occupy, license or purchase.

SECTION 5. Delivery of the Premises.

Lessee has inspected the Premises, and has found the Premises to be in an acceptable state of condition and repair and except as otherwise provided in this Lease to the contrary, Lessee accepts the Premises "AS IS", with all defects and deficiencies. Lessee shall be entitled to possession of the Premises on the Commencement Date.

SECTION 6. Release and Indemnification Covenants.

(a) Subject to the waiver of subrogation in Section 7, Lessee will and hereby agrees to indemnify and save the Lessor harmless against and from any or all claims, by or on behalf of any person, firm, corporation or other legal entity, and all liabilities, obligations, losses and damages whatsoever, and the expenses, penalties and fees in connection therewith (including reasonable attorney's fees and expenses), arising from or as a result of the occupancy or use of the Premises by Lessee, or the operation or management of the Project at the Premises during the Initial Term and the Renewal Term of this Lease (collectively, "Lessee Indemnified Claims"), including, but not limited to: (i) any condition of the Premises for which Lessee is responsible from and after the Commencement Date; (ii) any act of negligence of the Lessee or of any of the agents, contractors or employees of Lessee, or any violation of law by the Lessee or breach of any covenant or warranty by the Lessee hereunder; (iii) any accident on the Premises resulting in damage to property or injury or death to any person and not caused by the negligence or malfeasance of Lessor; (iv) the presence or alleged presence of any Hazardous Substances (as hereafter defined) on, in or under the Premises which was released by Lessee or any of the agents, employees, contractors or invitees of Lessee; and (v) any breach of Lessee's obligations under this Lease. The Lessee will indemnify and save the Lessor harmless from any such Lessee Indemnified Claims, or in connection with any action or proceeding brought thereon and, upon notice from the Lessor, will defend or pay the cost of defending such indemnitee, in any such action or proceeding.

(b) Subject to the waiver of subrogation in Section 7, Lessor will and hereby agrees to indemnify and save the Lessee harmless against and from any or all claims, by or on behalf of any person, firm, corporation or other legal entity, and all liabilities, obligations, losses and damages whatsoever, and the expenses, penalties and fees in connection therewith (including reasonable attorney's fees and expenses), arising from or as a result of the negligent acts or omissions of Lessor, its agents, contractors and employees, on or with respect to the Premises during the Initial Term and the Renewal Term of this Lease (collectively, "Lessor Indemnified Claims"), including, but not limited to: (i) the presence or alleged presence of any Hazardous Substances (as hereafter defined) on, in or under the Premises as of the date of this Lease; (ii) any act of negligence of the Lessor or of any of the agents, contractors or employees of Lessor, or any violation of law by the Lessor or breach of any covenant or warranty by the Lessor hereunder; (iii) any breach of Lessor's obligations under this Lease; and (iv) any accident resulting in damage to property or injury or death to any person caused by or related to the negligent act or omission of Lessor, its agents, contractors or employees. The Lessor will indemnify and save the Lessee harmless from any such Lessor Indemnified Claims, or in connection with any action or proceeding brought thereon and, upon notice from the Lessee, will defend or pay the cost of defending such indemnitee, in any such action or proceeding.

(c) The indemnification obligations of Lessor and Lessee arising under this Section 6 will continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the termination of this Lease for any reason; provided, however, that nothing herein

shall give rise to an obligation to indemnify for any actions arising after the date of termination of this Lease.

SECTION 7. Insurance of the Premises.

On the Commencement Date and during the Initial Term and the Renewal Term of this Lease, Lessee shall, at its sole cost and expense, carry and maintain for the mutual benefit of itself and Lessor, as their respective interests may appear, an ISO Special Causes of Loss policy of casualty insurance insuring the Premises and all additions, alterations, and improvements to the same, against damage and destruction by all causes generally insured against in policies of fire and extended coverage insurance written on properties in McCracken County, Kentucky, including earthquake insurance, for the full replacement cost of the Premises as improved, as determined by the insurance company issuing such policy of insurance. Such policy of insurance shall bear an endorsement to the effect that the insurer agrees to notify the Lessor not less than thirty (30) days in advance of any modification or cancellation thereof. Such policy of insurance shall be issued by an insurance company licensed to do business within the Commonwealth of Kentucky and shall be reasonably acceptable to Lessor. Lessee shall, upon demand, provide evidence satisfactory to Lessor of the payment of such premiums and of the renewal of such policy of insurance.

Additionally, on the Commencement Date and during the Initial Term and the Renewal Term of this Lease, Lessee shall, at its sole cost and expense, carry and maintain for the mutual benefit of itself and Lessor, as their respective interests may appear, Public Liability Insurance, with a combined single limit for bodily injury and property damage of not less than One Million (\$1,000,000) Dollars, with a reputable insurance company licensed to do business in the Commonwealth of Kentucky covering the Premises. Such policy of insurance shall bear an endorsement to the effect that the insurer agrees to endeavor to notify the Lessor not less than thirty (30) days in advance of any modification or cancellation thereof. Such policy of insurance shall be in a form reasonably acceptable to Lessor. Lessee shall, upon demand, provide evidence satisfactory to Lessor of the payment of such premiums and of the renewal of such policy of insurance. In addition, Lessee shall cause to be issued and shall maintain during the term of this Lease such Worker's Compensation and disability insurance as may, from time to time, be required by applicable city, county, state or federal laws. Further, Lessee shall maintain insurance coverage for Lessee's equipment and personal property on the Premises. Lessor will not be responsible for contents belonging to the Lessee or any other party in the event of damage or loss.

Without affecting the coverage provided by insurance required to be maintained hereunder, Lessor and Lessee each waive any right to recover against the other for damages to personal property or damages to all or any portion of either or both of the Premises, arising by any cause whatsoever, to the extent such damages and claims are (a) insured against, or (b) required to be insured against by Lessor or Lessee under this Lease, or (c) were otherwise insurable against (whether or not actually insured). This provision is intended to waive, fully and for the benefit of each party, any rights and/or claims which might give rise to a right of subrogation by any insurance carrier. The coverage obtained by each party pursuant to this Lease shall include, without limitation, a waiver of subrogation by the carrier which conforms to the provisions of this section.

SECTION 8. Operation, Maintenance and Repair of the Premises.

Except as otherwise provided in this Lease to the contrary, the Lessee agrees to take good care of the Premises and to keep the Premises in the same condition as existed on the Commencement Date. Lessee's repairs, replacements, and maintenance obligations shall include, but not be limited to HVAC, parking lot, floor covering, the exterior and interior portions of all doors, windows, light fixtures, trade fixtures, door frames, walls, ceiling, electrical, plumbing, and mechanical installations therein, and all other repairs, replacements, and maintenance of the Premises. Lessee's maintenance repair and replacement obligations are subject to: (i) damages caused by casualty or condemnation; (ii) ordinary wear and tear; (iii) damages which are Lessor's obligation to repair or replace under the terms of this Lease; and (iv) any alterations or other improvements to the Premises which Lessee elects not to remove from the Premises. The Lessee further agrees to pay, at its sole cost, any and all (i) costs of collection of waste generated at the Premises, (ii) landscaping maintenance and snow removal costs, (iii) costs of janitorial services, (iv) utility costs and charges, whether public or private, (v) personal property taxes, if applicable, and (vi) Real Estate Taxes, in accordance with the terms of Section 3 of this Lease. The Lessee has and does hereby covenant for the benefit of the Lessor that it will accept custody, control, dominion and possession of the Premises on the Commencement Date, and, at all times during the Term of this Lease to either operate, maintain and repair the Premises itself in accordance with the terms of this Lease.

Notwithstanding the foregoing, Lessor shall, at its cost and without charge to Lessee, be responsible for all maintenance, repairs and replacement of ~~the~~ (a) the roof (including roof membrane, flashings and water tightness of the Premises), (b) the structure of the Premises (including, pile caps, load bearing walls, columns, beams, struts, ties, plates, joists, trusses, and items of similar character), (c) load-bearing walls, and (d) foundations, provided, the cost of such maintenance, repair, and replacement for each of the foregoing portions of the Premises exceeds \$5,000 per occurrence. It is the intent of the parties that the \$5,000 threshold shall be determined on a per occurrence basis and shall include all costs (including labor, materials, permits and other related costs or expenses) related to that structural component of the Premises which is being repaired or replaced. Furthermore, it is the intent of the parties that all repairs or replacements of a particular structural component of the Premises as described in (a) through (d) above which occurs within a 90-day time period shall be treated as a single occurrence for purposes of determining whether the \$5,000 threshold has been reached and shall not be separately itemized by the date of repair for purposes of avoiding the \$5,000 threshold. For example, if the roof needs to be repaired or replaced, any series of repairs or replacements of the roof over a 90-day period shall be deemed to be a single occurrence. In addition, where repair of a portion or component of a particular structural component of the Premises as described in (a) through (d) above is possible but would cost more than 1/3 of the cost of replacing such item or component, Lessee shall be permitted to replace such item even if the cost of replacement exceeds \$5,000 while such item could have been repaired for less than \$5,000. Lessor shall engage and pay its own contractors for performance of any work that is the responsibility of Lessor. Further, Lessor shall, at its cost, repair and replace any portion of the Premises necessitated by the negligent acts or omissions of Lessor or its agents, employees or contractors.

SECTION 9. Alteration of the Premises; Additional Improvements.

Lessee shall have and is hereby given the right, at its sole cost and expense, to make such other additions, changes and alterations in and to any part of the Building as Lessee from time to time may deem necessary or advisable; provided, however, Lessee shall not make any addition, change or alteration, which materially affects the structure or use of the Building (a "Structural Alteration"), without the prior written approval of Lessor, which approval will not be unreasonably delayed, withheld or conditioned, and which consent will be deemed given if any such request is not either approved or denied with specificity by Lessor within twenty (20) business days after submission by Lessee. Except for Structural Alterations, Lessee shall be permitted to make any other alterations or improvements to the Premises without obtaining Lessor's consent. Any denial of approval shall be accompanied by a detailed explanation of the conditions upon which approval of such request shall be granted by Lessor. The additions, changes and alterations made by Lessee pursuant to the authority of this Section 9 shall (a) be made in a workmanlike manner and in compliance with all subdivision regulations, laws and ordinances applicable thereto, (b) when commenced, be prosecuted to completion with due diligence without delay or abatement in Lessee's payment of Lease Rental Payments due hereunder, subject to casualty, and other matters beyond the control of Lessee, and (c) when completed, be deemed a part of the Project Site and the separate and absolute property of Lessor. Lessee shall be permitted to remove trade fixtures, furnishings, machinery and equipment; provided such trade fixtures, furnishing, machinery, and equipment shall be removed in a manner that is least destructive to the Premises and Lessee shall repair the damage covered by such removal.

SECTION 10. No Hazardous Wastes.

(a) From and after the Commencement Date, Lessee shall not cause or permit the release or disposal of any Hazardous Substances (as hereafter defined) on or about the Premises, except for normal and customary use and disposal of substances customarily used in connection with the use of the Premises permitted under this Lease and used in accordance with all applicable laws, rules and regulations, such as cleaning agents and other Hazardous Substances used in Lessee's business operations. For purposes of this Lease, "Hazardous Substances" shall mean all substances, wastes and materials which are defined as hazardous, toxic or dangerous in, or the use of which is otherwise regulated by, the Comprehensive Environmental/Environmental Response Compensation and Liability Act of 1980, as amended, 42 USC Section 6901 et seq., and the Toxic Substance Control Act, as amended, 15 USE Section 2601 et seq. To the extent permitted by law, Lessee shall indemnify, defend and hold Lessor and its officers, employees and agents harmless from and against all claims, costs, damages, demands, expenses, fines, judgments, liabilities and losses (including reasonable attorneys' fees, paralegal fees, expert witness fees, consultant fees, and other costs of defense), arising out of or connected with Lessee's failure to comply with the terms of this Section 10, which terms and this obligation shall survive the expiration or earlier termination of this Lease. Notwithstanding anything herein to the contrary, Lessee will not have any responsibility or liability whatsoever for, resulting from, or in any way related to (i) any Hazardous Substances, at, in, on, under, emanating from or in connection with the Premises (except for Hazardous Substances that Lessee or any agent, employee, member, manager, subcontractor, contractor or invitee of Lessee introduces onto the Premises after the date of this Lease in violation of applicable environmental laws); (ii) (ii) the

acts or omissions of Lessor, any other lessee or sublessee, or any respective agents, employees, members, managers, invitees, contractors or subcontractors; (iii) any environmental permits, licenses, authorization, or approvals, except for those which Lessee must by law obtain in its or their own name for their use of the Premises; (iv) minimal losses of oil, petroleum, or other substances contained in (but not transported by) vehicles which enter the Premises or any roads, parking areas, or other areas used in connection therewith; or (v) all existing underground storage tanks and related piping, equipment and systems (if any) that are located at the Premises (collectively, the "USTs"), including, without limitation, any required closure, investigation, removal, cleanup or other remedial activity associated with such USTs.

(b) Lessor represents and warrants that, except as to such matters as were discovered in the Phase I (as defined herein), which matters shall be remedied to the reasonable satisfaction of Lessee: (i) any handling, transportation, storage, treatment or use of Hazardous Substances that have occurred on the Premises and Building prior to the Commencement Date have been in compliance with all applicable federal, state, and local laws, regulations and ordinances; (ii) that no leak, spill, release, discharge, emission or disposal of hazardous substances in violation of applicable environmental laws has occurred on the Premises prior to the Commencement Date; (iii) that the soil, groundwater, and soil vapor on or under the Premises are free of Hazardous Substances as of the Commencement Date, (iv) that the Premises is in full compliance with environmental laws and (v) that as of the Commencement Date the Premises will not contain any asbestos or PCBs,.

(c) Lessor hereby agrees to defend, indemnify and save harmless Lessee and its officers, employees and agents from all claims, costs, damages, demands, expenses, fines, judgments, liabilities and losses (including reasonable attorneys' fees, paralegal fees, expert witness fees, consultant fees, and other costs of defense) which arise during or after the term of this Lease from or in connection with the Lessor's breach of Paragraph 10(b) above. This obligation shall survive the expiration or termination of the Lease.

(d) On or before the Commencement Date, Lessor, at its sole cost and expense, shall provide Lessee with a Phase I Environmental Site Assessment ("Phase I") from an environmental consultant acceptable to Lessee, in its sole discretion. If the Phase I identifies any "recognized environmental conditions" or if the consultant completing the Phase I recommends additional testing, Lessor shall promptly remedy such conditions and complete such additional testing, at its sole cost and expense. If upon completion of the Phase I, any recommended remedies, and any other environmental testing, Lessee is not satisfied with the environmental condition of the Premises, Lessee shall be permitted to terminate this Lease and the MOU within thirty (30) days after the later of: (i) Lessee's receipt of the Phase I; (ii) the completion of any remedial actions of Lessor, or (iii) Lessee's receipt of any additional environmental reports or testing with respect to the Premises which is completed after the Phase I as required by this Section 10(d).

SECTION 11. Utilities.

From and after the Commencement Date, Lessee shall pay all charges for utilities (including gas, electric, water and telephone) furnished to the Premises during the Initial Term and the Renewal Term of this Lease. Lessor shall not be responsible for the quality, quantity, interruption or failure in the supply of any utility to the Premises when said supply is so affected as a result of conditions beyond the control of Lessor.

SECTION 12. Damage or Destruction of the Premises.

(a) If the Premises are damaged by fire or other casualty which does not result in termination of this Lease under Section 12(c). Lessor shall repair the damage and restore and rebuild the Premises with reasonable dispatch after the adjustment of the insurance proceeds attributable to such damage. Lessor shall use its diligent, good faith efforts to make such repair or restoration promptly and in such manner as not to unreasonably interfere with Lessee's use and occupancy of the Premises. Lessor's duty to repair the Premises is limited to repairing the Premises to the condition existing immediately prior to such fire or other casualty. In the event of a casualty which does not result in a termination of this Lease under Section 12(c), then if the Lessor does not restore the Premises within one hundred eighty (180) days from the date of such casualty, Lessee may terminate this Lease retroactive to the date of the casualty if the restoration is not completed within such 180-day period.

(b) If (a) the Premises are damaged by fire or other casualty thereby causing the Premises to be inaccessible or (b) the Premises are partially damaged by fire or other casualty, the Lease Rental Payments shall be proportionally abated to the extent of any actual loss of use of the Premises by Lessee.

(c) If the Premises shall be totally destroyed by fire or other casualty, or if the Premises shall be so damaged by fire or other casualty that (in the reasonable opinion of a reputable contractor or architect designated by Lessor and approved by Lessee, which opinion Lessor shall be provided within 10 days of the casualty or other damage): (i) its repair or restoration requires more than 180 days, or occurs during the last two years of the Term, Lessor and Lessee shall each have the option to terminate this Lease (by so advising the other, in writing) within 30 days after said contractor or architect delivers written notice of its opinion to Lessor and Lessee or the date of the casualty, whichever is applicable. In such event, the termination shall be effective as of the date upon which either Lessor or Lessee, as the case may be, receives timely written notice from the other terminating this Lease pursuant to the preceding sentence. If neither Lessor nor Lessee timely delivers a termination notice, this Lease shall remain in full force and effect.

SECTION 13. Condemnation.

The term "condemnation" as used in this Lease shall mean the exercise of the power of eminent domain by any person, entity, body agency or authority, or private purchase in lieu of eminent domain, and the date of condemnation shall mean the day on which the actual physical taking of possession pursuant to the exercise of said power of eminent domain, or private purchase in lieu thereof, occurs, or the date of settlement or compromise of the claim of the parties thereto during the pendency of the exercise of said power, whichever first occurs.

In the event the entire Premises are condemned, or so much thereof that in Lessee's reasonable judgment the Premises are no longer suitable for the continuation of the Project or its business then being conducted therein, then, in either event, this Lease shall terminate on the date of condemnation. In the event only a part of the Premises is condemned and, in Lessee's reasonable judgment, the part not condemned remains reasonably suitable for Lessee's continued occupancy and conduct of the Project or its business thereon, this Lease shall, only as to the part so taken, terminate on the date of condemnation, and the Lease Rental Payments shall thereupon be reduced proportionately for the area of the Premises taken.

Whether or not this Lease is terminated pursuant to this Section, Lessee shall have no claim against Lessor or be entitled to any part or portion of the amount that may be paid or awarded to Lessor as compensation and/or damages for the condemnation of the Premises. Lessee shall be entitled to seek to recover as against the condemnor, and Lessor shall have no claim for or thereto, for the loss of the value of Lessee's leasehold interest, the Lessee's trade fixtures erected and made by Lessee to or upon the Premises which Lessee is entitled to remove at the expiration of this Lease, and for such other claims available to Lessee under applicable law.

SECTION 14. Lessee to Have Exclusive Possession of the Premises.

During the Initial Term and the Renewal Term of this Lease, the Lessee shall have full possession, control and operation of the Premises.

SECTION 15. Subordination And Attornment.

This Lease shall be subject to and subordinate and inferior at all times to the lien of any mortgage or other method of financing or refinancing now or hereafter existing against all or a part of the Premises, and to all renewals, modifications, replacements, consolidations and extensions of any of the foregoing, provided that, as a condition precedent to subordination of this Lease, the holder of any such indebtedness executes and delivers to Lessee a form of subordination, non-disturbance and attornment agreement providing that Lessee's leasehold interest in the Premises shall not be disturbed for so long as Lessee is in compliance with the terms of this Lease and which includes such other normal and customary provisions as are reasonably acceptable to Lessee ("SNDA"). Subject to Lessee's reasonable satisfaction with the form of such documents, Lessee shall execute and deliver all documents reasonably requested by any mortgagee or security holder to effect such subordination, non-disturbance and attornment. Lessee's failure to execute and deliver such documents or instruments provided for in this Section 15 despite the requesting party's willingness to make reasonable and customary changes to the form thereof, within twenty (20) days after the receipt by Lessee of a written request shall constitute a default under this Lease.

Subject to Lessee's receipt of an SNDA, as described above, if the holder of any mortgage or deed to secure debt shall hereafter succeed to the rights of Lessor under this Lease, Lessee shall attorn to and recognize such successor as Lessee's lessor under this Lease, and shall promptly execute and deliver any commercially reasonable instrument that may be necessary to evidence such attornment. If any such successor requests such attornment and provides Lessee

with an SNDA, this Lease shall continue in full force and effect as a direct lease between such successor, as lessor and Lessee, subject to all of the terms, covenants and conditions of this Lease, regardless of whether Lessee executes and delivers the instrument requested by such successor Lessor.

SECTION 16. Estoppel Certificates.

At any time, but not more often than twice in any calendar year, Lessee, on or before the date specified in a written request therefor, made by Lessor, which date shall not be earlier than twenty (20) days from the making of such request, shall execute, acknowledge and deliver to Lessor a certificate evidencing whether or not to the best of the Lessee's current actual knowledge: (a) this Lease is in full force and effect; (b) this Lease has been amended in any way; (c) there are any existing defaults hereunder to the knowledge of Lessee and specifying the nature of such defaults if any; and (d) the amount of the Lease Rental Payments and the dates to which the Lease Rental Payments have been paid. Each certificate delivered pursuant to this Section may be relied on by any prospective purchaser or transferee or the holder or prospective holder of any mortgage of the Premises or of Lessor's interest hereunder.

SECTION 17. Default Provisions.

This Lease is made on condition that if (each of the following events being deemed an "Event of Default" under the provisions of this Lease):

(a) Lessee fails to pay within five (5) days after written notice from Lessor after the applicable due date, any Base Rent or Additional Rent as provided in Section 3 of this Lease or any other monetary obligations hereunder;

(b) Lessee shall fail to observe and perform any other agreement, term or condition contained in this Lease, and such failure or neglect continues unremedied for a period of thirty (30) days after written notice thereof to Lessee, or if the default is of such a nature which cannot be cured within such 30-day period, Lessee shall have not commenced to cure the same within such 30-day period and thereafter diligently prosecute such cure to completion;

(c) The Lessee shall: (i) admit in writing its inability to pay its debts generally as they become due; (ii) have an order for relief entered in any case commenced by or against it under the Federal bankruptcy laws, as now or hereafter in effect; (iii) commence a proceeding under any other Federal or state bankruptcy, insolvency, reorganization or similar law, or have such a proceeding commenced against it and either have an order of insolvency or reorganization entered against it or have the proceeding remain undismissed and unstayed for ninety days; (iv) make an assignment for the benefit of creditors; or (v) have a receiver or trustee appointed for it or for the whole or any substantial part of its property; or

(d) Lessee abandons the Premises for a period in excess of sixty (60) consecutive days;

then Lessor may take any one or more of the following remedial steps, in addition to all other remedies available at law or equity:

Lessor may then or at any time thereafter, and while such default shall continue, give Lessee written notice of intention to terminate this Lease on a date specified therein, which date shall not be earlier than ten (10) days after such notice is given, and, if all defaults have not then been cured, on the date so specified, Lessee's rights to possession of the Premises shall cease and this Lease shall thereupon be terminated, and Lessor may re-enter and take possession of the Premises pursuant to judicial eviction proceedings and Lessor shall be entitled to recover from Lessee the sum of the following: (i) the worth at the time of the award of the unpaid Base Rent and other sums due hereunder which had been earned at the time of the termination; and (ii) the worth at the time of the award of the Base Rent and the Additional Rent, which but for termination of this Lease would have become due during the remainder of the Term, less the amount of rentals, if any, received from reletting of the Premises as provided in this Section 17; provided, however, in no event shall the monetary damages payable to Lessor under subsection (ii) exceed \$361,250.00. As used in subpart (i) above, the "worth at the time of the award" is computed by allowing interest on unpaid amounts at the per annum rate equal to the 8%, or such lesser amount as may then be the maximum lawful rate. As used in subpart (ii) above, the "worth at the time of the award" is computed by discounting such amount at the discount rate of six (6%) percent.

As an alternative remedy Lessor may, at Lessor's election, without terminating this Lease or the term thereof, re-enter the Premises and take possession thereof pursuant to judicial eviction proceedings, as agent for Lessee, and having elected to re-enter and take possession of the Premises without terminating this Lease or the term thereof, Lessor shall use reasonable diligence to relet the Premises, or parts thereof for Lessee's account, for such term or terms and at such rental and upon such other terms and conditions as Lessor may deem advisable, with the right to make alterations and repairs to the Premises, and no such re-entry or taking of possession of the Premises by Lessor shall be construed as an election on Lessor's part to terminate this Lease, and no such re-entry or taking of possession by Lessor shall relieve Lessee of its obligation to pay Base Rent or Additional Rent (at the time or times provided herein), or of any of its other obligations under this Lease, all of which shall survive such re-entry or taking of possession, and Lessee shall continue to pay the Base Rent and Additional Rent provided for in this Lease until the end of the current term thereof and whether or not the Premises shall have been relet, less the net proceeds, if any, of any reletting of the Premises after deducting all of Lessor's reasonable expenses in connection with such reletting, including without limitation all reasonable repossession costs, brokerage commissions, legal expenses, expenses of employees, and reasonable costs and expenses of preparation for reletting including the reasonable cost of any alterations that may be necessary in connection therewith. Any such reletting may be effected by private negotiation and without public advertisement. Having elected to re-enter or take possession of the Premises without terminating the term of this Lease, Lessor may, by notice to Lessee given at any time thereafter while Lessee is in default in the payment of Base Rent or Additional Rent or in the performance of any other obligation under this Lease, elect to terminate this Lease on a date to be specified in such notice, which date shall be not earlier than ten (10) days after the giving of such notice, and if all defaults shall not have then been cured, on the date so specified, this Lease shall thereupon be terminated. If in accordance with any of the foregoing provisions of this Section 17, Lessor shall have the right to elect to re-enter and take possession of the Premises, Lessor may enter and expel Lessee and those claiming through or under Lessee and remove the property and effects of both or either but only after Lessee has been evicted from the Premises pursuant to judicial eviction proceedings.

The declaration of an Event of Default and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of Federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

The provisions of this Section 17 are subject to the further limitation that a declaration of an Event of Default under this Section 17 by the Lessor may be waived or rescinded in writing by the Lessor, provided that no such waiver or rescission shall extend to or affect any subsequent or other default or impair any right consequent thereon.

If Lessor defaults or fails to perform any of its representations, warranties, covenants or obligations under this Lease and fails to cure such default within thirty (30) days after written notice from Lessee specifying the nature of such default or such longer period as is necessary to cure such failure which due to the nature thereof cannot be cured within such thirty (30) day period (provided Lessor shall have initiated action to cure the default within the thirty (30) day period), Lessee, at its option, in addition to any other remedies available to Lessee at law or in equity, may (i) proceed in equity or at law to compel Lessor to perform its obligations, (ii) terminate this Lease in whole or as to any particular portion of the Premises, and/or (iii) perform or cause the performance of Lessor's obligations, and any such amount incurred by Lessee shall be payable by Lessor to Lessee within ten (10) days following Lessee's written demand for payment (with interest at the per annum rate equal to 4.5% and if not so paid, may be offset against and deducted from the Lease Rental Payments and other sums subsequently accruing under this Lease.

SECTION 18. Performance of Lessee's Obligations by Lessor.

If Lessee shall fail to keep or perform any of its obligations as provided in this Lease in respect of (a) maintenance of liability insurance or casualty insurance with respect to Lessee's personal property, (b) repairs and maintenance of the Premises but only to the extent such repairs are Lessee's obligation under the terms of this Lease, (c) compliance with Law hereunder but only to the extent Lessee is obligated to comply with such Law under the terms of this Lease, (d) keeping the Premises lien free in connection with any improvements or alterations which are undertaken by Lessee and in connection with Real Estate Taxes, or (e) the making of any other payment or performance of any other obligation of Lessee under the terms of this Lease, then Lessor may (but shall not be obligated so to do) upon the continuance of such failure on Lessee's part for thirty (30) days after written notice of such failure is given Lessee by Lessor, or such longer period as is necessary to cure such failure which due to the nature thereof cannot be cured within such thirty (30) day period (provided Lessee shall have initiated action to cure the default within the thirty (30) day period), and without waiving or releasing Lessee from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all sums so paid by Lessor and all necessary incidental costs and expenses incurred by Lessor in performing such obligation shall be deemed Additional Rent and shall be paid to Lessor on demand with interest thereon from the date of such payment at the Interest Rate for Advances, and if not so paid by Lessee, Lessor shall have the same rights and remedies as provided for in Section 17 in the case of default by Lessee in the payment of the Lease Rental Payments.

SECTION 19. Attorneys' Fees and Expenses.

Should a default under the provisions of this Lease occur and the non-defaulting Party employ attorneys or incur other expenses for the enforcement of performance of any other obligation of the defaulting Party under this Lease, the defaulting Party shall on demand pay to the non-defaulting Party the reasonable fees of such attorneys and such other reasonable expenses so incurred; provided that such attorney's fees shall be allowed only to the extent actually paid and shall not be allowed to a salaried employee of the non-defaulting Party. If any such expenses sought from Lessee are not so reimbursed, the amount thereof, together with interest thereon from the date of demand for payment at the Interest Rate for Advances, shall constitute Additional Rent, and in any action brought to collect Lease Rental Payments, the Lessor shall be entitled to seek the recovery of those expenses in such action.

SECTION 20. Lessor's Right of Entry.

Lessee shall have exclusive possession of the Premises from and after the Commencement Date, and thereafter Lessor may from time to time enter the Premises during normal business hours of Lessee and upon at least three (3) business days' prior written notice, for any legitimate purposes related to Lessor's obligations under this Lease and for purposes of exhibiting the Premises to prospective purchasers or lessees but in the case of lessees only during the last year of the Term or in the event of default by Lessee under this Lease.

SECTION 21. No Encumbrance, Mortgage or Pledge of the Premises.

The Lessee will not directly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Premises.

SECTION 22. Subleasing of the Premises; Assignment. Lessee shall not sublease, assign, transfer, or dispose of the Premises, or its interest under this Lease, except to an affiliate or subsidiary of Lessee or in connection with a merger or sale of substantially all of Lessee's assets, without the prior written consent of Lessor, which approval shall not be unreasonably withheld, delayed or conditioned. Any consent by Lessor to any assignment subject to Lessor approval shall not constitute a waiver of the necessity of such consent to any subsequent assignment. Each Sublessee, assignee or transferee shall assume and be deemed to have assumed this Lease and shall remain liable jointly and severally with Lessee for the payment of all Lease Rental Payments and for the due performance of all the terms, covenants, conditions and agreements herein contained on Lessee's part to be paid and performed for the Initial Term and the Renewal Term of this Lease. No sublease or assignment shall be binding on Lessor unless such sublessee, assignee or Lessee shall deliver to Lessor a counterpart of such Sublease, assignment and an instrument in recordable form which contains a covenant of assumption by the assignee or sublessee. No assignment by Lessee shall relieve Lessee of its obligations hereunder unless Lessor expressly so agrees in writing.

SECTION 23. Scope of the Agreement.

Except for the MOU and loan documents pertaining to an equipment loan from Lessor to Lessee, this Lease is and shall be considered to be the only agreement between the parties hereto as to the subject matter hereof, with the MOU and this Lease to be read together in the

interpretation of the terms of the relationship among the Parties. In the event of any conflict between the express terms of the MOU and this Lease regarding the lease, and use of the Premises, this Lease shall be controlling. Time is of the essence of this Lease.

SECTION 24. Further Covenants of Lessee and Lessor.

In addition to all other covenants, stipulations, obligations and agreements of the Lessee contained in this Lease, the Lessee covenants and agrees to comply, at all times during the Initial Term of this Lease and the Renewal Term, with the covenants and agreements of the Lessee set forth in the MOU and the Revolving Loan Credit Agreement of even date herewith be and among Lessor and Lessee, the provisions of both are incorporated herein by reference as fully as if set forth herein. In the event this Lease is executed by the Parties prior to the execution of the MOU, Lessee's and Lessor's obligations under this Lease shall be expressly contingent on the execution of the MOU, in form and substance satisfactory to both Lessor and Lessee, in their sole discretion. If for any reason the MOU has not been executed by both Lessor and Lessee by the date which is thirty (30) days after the date of this Lease, Lessor and Lessee shall be permitted to terminate this Lease upon written notice to the other party and upon such termination neither party shall have any further obligation under this Lease.

SECTION 25. Holding Over.

In the event Lessee shall, with Lessor's consent, hold over after the expiration of an Initial Term and the Renewal Term hereof (without renewal of the Term), such holding over shall be construed to be a tenancy from month-to-month and shall be governed by the other terms, conditions and covenants contained in this Lease.

SECTION 26. Binding Effect.

This Lease shall inure to the benefit of and shall be binding upon the Lessor and the Lessee and their respective successors and assigns, subject, however, to the limitations contained herein.

SECTION 27. Amendments, Changes and Modifications.

This Lease may not be amended, changed, modified or altered, or any provision hereof waived, without the written consent of the Lessor and the Lessee.

SECTION 28. Invalidity of Provisions of Lease.

If for any reason any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

SECTION 29. Captions.

The captions or headings herein shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

SECTION 30. Execution of Counterparts.

This Lease may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. A copy of a signature received through telefax transmission or other electronic means (including files in Adobe .pdf or similar format) shall bind the party whose signature is so received, and shall be considered for all purposes, as if such signature were an original.

SECTION 31. References to Attorneys' Fees.

Any covenant contained in this Lease to pay or to reimburse the payment of attorneys' fees shall be construed to include reasonable attorneys' fees through all proceedings, including, but not limited to, negotiations, administrative hearings, trials and appeals.

SECTION 32. Notices.

Except as otherwise specifically provided herein, the Lease Rental Payments and all notices, approvals, consents, requests and other communications hereunder shall be in writing and shall be deemed to have been given when delivered, if hand delivered or sent by a nationally recognized courier service, or three business day after postmarked if mailed by first class registered or certified mail, postage prepaid, addressed, if to Lessor, at City of Paducah, Post Office Box 2267, Paducah, Kentucky 42002-2267, Attention: City Manager, and at McCracken County, Kentucky, 300 South 7th Street, Paducah, Kentucky 42003, Attention: Judge Executive, with a copy to Denton & Keuler, LLP, 555 Jefferson Street, Suite 301, Paducah, Kentucky, 42001, Attention: Lisa H. Emmons and to County Attorney, McCracken County, Kentucky, 300 South 7th Street, Paducah, Kentucky 42003; and if to the Lessee at Post Office Box 309, Davison, Michigan 48423, Attention: Don Dinkgrave, with a copy to: Bodman PLC, 6th Floor at Ford Field, 1901 St. Antoine Street, Detroit, Michigan 48226, Attention: Amanda J. Pontes. The Lessor and the Lessee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, approvals, consents, requests or other communications shall be sent or persons to whose attention the same shall be directed, but no such communication shall thereby be required to be sent to more than three addresses.

SECTION 33. Governing Law.

This Lease and the MOU shall be deemed to be contracts made under the laws of the Commonwealth of Kentucky and for all purposes shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. The parties hereby consent to the exclusive jurisdiction of the state courts sitting in McCracken County, Kentucky and/or the federal court for the Western District of Kentucky, Paducah Division with respect to all matters arising out of or related to this Lease.

SECTION 34. Surrender of the Premises upon Termination.

At the expiration or termination of this Lease for any reason, the Lessee shall surrender the Premises in as good condition as it was at the Commencement Date, but subject to: (i) damages caused by casualty or condemnation; (ii) ordinary wear and tear; (iii) damages which are

IN TESTIMONY WHEREOF, the Parties have caused this instrument to be executed in its name and on its behalf by their Authorized Officers, effective as of the day and year first above written.

LESSEE:

GENOVA PRODUCTS, INC.

By: _____

Title: _____

STATE OF MICHIGAN)
) ss
COUNTY OF _____)

The foregoing instrument was sworn and acknowledged before me this ____ day of _____, 2014, by _____, _____ (title) of Genova Products, Inc., a Michigan corporation, on behalf of said corporation, Lessee.

My commission expires _____.

NOTARY PUBLIC

EXHIBIT A

**Project Site: 5400 Commerce Center
Paducah, Kentucky**

BEING TRACT "D," CONSISTING OF 12 ACRES, AND TRACT "E," CONSISTING OF 7.2207 ACRES, IN THE INDUSTRIAL PARK WEST AS SET FORTH ON THE WAIVER OF SUBDIVISION OF THE INDUSTRIAL PARK WEST TO CREATE NEW TRACT "D", AND TRACT "E" OF THE PADUCAH-MCCRACKEN COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY PROPERTY OF RECORD IN PLAT SECTION "L," PAGE 1166, MCCRACKEN COUNTY COURT CLERK'S OFFICE.

SUBJECT TO DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS FOR INDUSTRIAL PARK WEST OF RECORD IN DEED BOOK, 1186, PAGE 67, AND RERECORDED IN DEED BOOK 1186, PAGE 643, IN THE AFORESAID CLERK'S OFFICE.

EXHIBIT B

MEMORANDUM OF LEASE

KNOW ALL MEN BY THESE PRESENTS that **MCCRACKEN COUNTY, KENTUCKY** ("County"), with a principal mailing address of 300 South 7th Street, Paducah, Kentucky 42003; and **CITY OF PADUCAH, KENTUCKY** ("City"), with a principal mailing address of Post Office Box 2267, Paducah, Kentucky 42002-2267 (County and City shall collectively be referred to as the "Lessor"), has entered into a Lease Agreement dated June 30, 2014, with **GENOVA PRODUCTS, INC.**, a Michigan corporation, ("Lessee") having a principal mailing address of P O Box 309, Davison, Michigan 48423, which agreement relates to the property as described on **Appendix "A"** attached hereto and made a part hereof.

The Lease is effective on the Commencement Date, as such term is defined in the Lease, and shall continue throughout a term of ten (10) years. All of the foregoing are pursuant to the provisions of a written Lease between McCracken County, Kentucky, City of Paducah, Kentucky and Genova Products, Inc., dated the 30th day of June, 2014, all of which are incorporated in this memorandum the same as if the terms, provisions, and conditions were written herein in full.

This _____ day of _____, 2014.

LESSOR:

MCCRACKEN COUNTY, KENTUCKY

By _____

Title _____

COMMONWEALTH OF KENTUCKY)

) ss

COUNTY OF MCCRACKEN)

The foregoing instrument was sworn and acknowledged before me this _____ day of _____, 2014, by _____, _____ (title) of McCracken County, Kentucky, on behalf of said entity, Lessor.

My commission expires _____.

NOTARY PUBLIC, STATE AT LARGE

LESSOR:

CITY OF PADUCAH, KENTUCKY

By _____

Title _____

COMMONWEALTH OF KENTUCKY)

) ss

COUNTY OF MCCRACKEN)

The foregoing instrument was sworn and acknowledged before me this _____ day of _____, 2014, by _____, _____ (title) of City of Paducah, Kentucky, on behalf of said entity, Lessor.

My commission expires _____.

NOTARY PUBLIC, STATE AT LARGE

APPENDIX "A"

BEING TRACT "D," CONSISTING OF 12 ACRES, AND TRACT "E," CONSISTING OF 7.2207 ACRES. IN THE INDUSTRIAL PARK WEST AS SET FORTH ON THE WAIVER OF SUBDIVISION OF THE INDUSTRIAL PARK WEST TO CREATE NEW TRACT "D", AND TRACT "E" OF THE PADUCAH-MCCRACKEN COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY PROPERTY OF RECORD IN PLAT SECTION "L," PAGE 1166, MCCRACKEN COUNTY COURT CLERK'S OFFICE.

BEING PART OF THE SAME PROPERTY CONVEYED TO CITY OF PADUCAH, KENTUCKY, AND COUNTY OF MCCRACKEN, KENTUCKY, BY DEED DATED MARCH 26, 2004, OF RECORD IN DEED BOOK 1035, PAGE 452, IN THE MCCRACKEN COUNTY COURT CLERK'S OFFICE.