

ORDINANCE

AN ORDINANCE AUTHORIZING THE CITY OF COATESVILLE TO ENTER INTO A TEN (10) YEAR LEASE WITH THE COUNTY OF CHESTER TO RENT A 3600 SQUARE FOOT DISTRICT COURT TO BE LOCATED IN CITY HALL (AS RENOVATED) FOR \$21.50 PER SQUARE FOOT (\$6,450.00 PER MONTH WITH 2% PER ANNUM INCREASES) AND OTHER TERMS AND CONDITIONS SUBSTANTIALLY SIMILAR TO THOSE IN THE LEASE AGREEMENT ATTACHED HERETO AS EXHIBIT "A"

WHEREAS, the City of Coatesville (hereinafter the "City") is a Third Class City operating by means of a Home Rule Charter and situate in Chester County, Pennsylvania; and

WHEREAS, the City has participated in a Request for Proposal process with the County of Chester and has been selected to enter into a long term ten (10) year lease with the County whereby the City will provide the County with a Magisterial District Judge's Court of three thousand six hundred (3,600) square feet of rentable space on the first floor of the City Hall located at One City Hall Place, Coatesville Pennsylvania (with attendant parking) for use by the County pursuant to a plan to renovate the aforementioned City Hall; and,

WHEREAS, the City of Coatesville recognizes that the City Charter (Section 2301 of the Charter) requires that the City Council take action by means of enactment of an Ordinance in circumstances where the City is intending to purchase, convey, lease (or authorizes the purchase, conveyance or lease) of real property; and

WHEREAS, the City intends to enter into the proposed Lease Agreement provided by the County setting forth the rental rate of \$21.50 per square foot (\$6,450.00 per month) subject to an increase of 2% per annum during a ten (10) year term as well as other miscellaneous terms and conditions as set forth in the Lease Agreement attached hereto in substantially the form of Exhibit "A" hereto.

NOW THEREFORE, in consideration of the Authority under the Third Class City Code, 53 P.S. §§ 35101et seq. and the particular authority found at § 37402.1 (a)(3) as well as the City Charter, it is hereby enacted and ordained as follows

1. The City Council of the City of Coatesville authorizes the City Manager, Finance Director or City Council President to execute a Lease Agreement for a County Magisterial District Judge Court to be located in the first floor of City Hall, One City Hall Place, Coatesville, Pennsylvania (with attendant parking and other amenities) pursuant to the terms recited previously and conditions substantially the same as those identified in the Lease Agreement attached hereto as Exhibit "A".

2. If any portion of the Ordinance shall be determined to be unconstitutional, illegal or unenforceable, then the portion and only that portion of this Ordinance, which is deemed to be unconstitutional, illegal or unenforceable shall be severed from the remainder of this Ordinance and all other terms thereof shall remain in full force and effect.

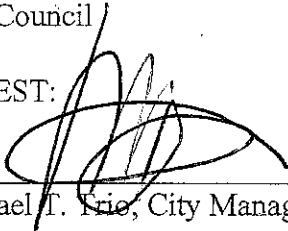
3. This Ordinance shall be effective thirty (30) days after publication following final adoption in accordance with the City Charter and the Third Class City Code.

ENACTED AND ORDAINED this 23rd day of May, 2016.



Linda Lavender Norris, President
City Council

ATTEST:



Michael T. Trio, City Manager

CERTIFICATION

I HEREBY CERTIFY that the foregoing Ordinance was introduced on the 9th day of May, 2016, and was duly enacted by the Council of the City of Coatesville, Chester County, Pennsylvania on the 23rd day of May, 2016, that the vote upon the said Ordinance has been recorded in the Minutes of the City Council and that the Ordinance has been fully recorded.



Michael T. Trio, City Manager

Lease Agreement

THIS AGREEMENT OF LEASE made this ____ day of _____, 2016 BETWEEN THE CITY OF COATESVILLE, One City Hall Place, Coatesville, PA 19320, hereinafter called "Landlord", AND THE COUNTY OF CHESTER, 313 W. Market Street, West Chester, PA 19380, hereinafter called "Tenant".

WITNESSETH, that Landlord, for and in consideration of the prompt payment of the Rent hereinafter mentioned, as well as all prompt performance by Tenant of the covenants, promises and agreements contained herein, including the RFP attached and incorporated herein by reference, and intending to be legally bound, does hereby demise and let unto Tenant, and Tenant hereby leases and takes from Landlord, 3,600 rentable square feet of office space as specified in the RFP attached and incorporated herein located at One City Hall Place, Coatesville, PA 19320, as more particularly shown on Attachment A attached hereto (the "Premises").

1. **Term of Lease:**

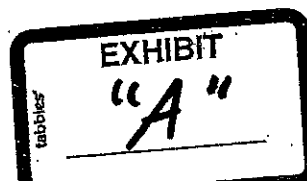
- (a) For the term of TEN (10) years ("Term"), yielding and paying therefore unto Landlord the monthly rent as specified below. The Commencement date of the Lease shall be July 1, 2017 or upon occupancy of the premises by Tenant ("Commencement Date"). The rental date shall coincide with the commencement and/or occupancy date. The commencement date is defined as the date by which a certificate of occupancy has been issued and Tenant is occupying the space. The rent commencement date is the first day rent shall be due under this Lease. If the Rent Commencement Date is not the first day of the month the rent shall be prorated for the first partial month.
- (b) Tenant, after this initial Lease term, reserves the right to extend said Lease on a year to year basis, and/or two (2) options to renew for a term of five (5) years each which will be provided at FMKevin Kelhart <kevink@sasinc.us>V (Fair Market Value). The County's Director of Procurement & General Services shall have the authority on behalf of the Tenant to extend said Lease via written memorandum to the Landlord. Both parties agree to negotiate in good faith in both the determination to extend and in determining the subsequently agreed upon rental amount.

Note: If for any reason both parties cannot agree to an extension as stated above, the County reserves the right to extend the term on a month to month basis via written correspondence from the Director of Procurement & General Services to the Landlord. The then current monthly rent shall continue until an Agreement can be obtained and/or the County terminates the Lease Agreement upon thirty (30) days written notice to Landlord.

- (c) Landlord and Tenant each for themselves, their respective officials, officers, heirs, executors, administrators, successors and assigns, agree that the Premises are demised under and subject to the following covenants and agreements, all of which are to be regarded as binding and as strict legal conditions:
- (d) The Tenant reserves the sole right to terminate this Lease Agreement upon ninety (90) days written notice to Landlord should the County and/or Court officials determine either due to a legislative or administrative determination that a Magisterial District Court in this District is no longer deemed necessary or required.

2. **Rent:**

- (a) Tenant shall pay each stipulated installment of Rent punctually on the first day of each and every month contingent upon Tenant's commencement date to occupy the facility. Actual rent is based upon 3,600 square feet of interior space. The total rent paid to Landlord shall be based upon the ratio of \$21.50/SF. The monthly rent shall be \$6,450.00/month for the initial term of one (1) year. Rent thereafter shall be adjusted/increased annually by two percent (2%) over the then prior year's rental amount.



Except as specifically noted in subsection (c) below, No other fees and/or costs shall be borne by the Tenant other than the agreed upon monthly rent.

- (b) A determination of the rental amount regarding any subsequent extension of the Lease shall be determined within ninety (90) days prior to the end of the then current term and agreed upon by both parties in writing. Should the parties be unable to reach an agreement the then current rent shall apply to any extension/holdover.
- (c) In addition to Rent, Tenant shall pay only monthly telephone bills, panic button monitoring bills, and separate utility bills for electricity, gas and/or fuel, water and sewer as utilized by Tenant in the Premises. Each utility must be metered separately and billed directly to Tenant.
- (d) Tenant will not pay additional rent based on expenses, taxes, common area maintenance or other cost/factors/fees.

3. **Option to Extend Lease:**

Landlord hereby provides Tenant the option to extend the initial leasehold of the demised premises during the leasehold consistent with the time periods/term set forth in Section 1 (b) herein said option to be exercised in writing at least six months prior to this initial Lease termination date.

4. **Project Building Schedule:**

The Premises demised herein shall be completed and ready for occupancy by Tenant at least one month prior to the term of this Lease. It is agreed that breach of this paragraph is not measurable by any exact standard, therefore, liquidated damages shall be assessed and owed to the Tenant in the amount of two hundred fifty dollars (\$250.00) per day for each day the Tenant cannot occupy said Premises. The Tenant reserves the right, in the event of a default by the Landlord with regard to the time frame above, to cancel this Lease immediately. Notwithstanding the foregoing, the above shall not apply to an event beyond Landlord's control and any such event was not caused by or contributed to by any fault or negligence attributable to the Landlord.

5. **Repairs and Services:**

- (a) Landlord, at its sole cost and expense, shall, throughout the term of this Lease and any renewals or extensions thereof, furnish the Premises with security/fire alarm monitoring, trash removal, snow removal, landscaping, janitorial and pest control services for the normal use and occupancy of the Premises by Tenant. All services shall be as stated in the RFP attached to this Lease Agreement.
- (b) Landlord, at its sole cost and expense, shall provide all necessary maintenance and repair services for the interior, exterior, and all common areas of the Premises, including the building, grounds, sidewalks and parking lot, and will provide all necessary maintenance and repairs to the heating, ventilating and air conditioning systems, electrical system, plumbing system, security system and fire safety systems, throughout the term of the Lease and any renewals or extensions thereof. Landlord shall be responsible for any maintenance, to include carpet replacement if required, painting, all repairs or replacements to the Premises, the Building or the foregoing systems caused by normal wear and tear or due to actions or misconduct of Landlord, its agents, employees, contractors or invitees.
- (c) If Tenant determines, in its reasonable business judgment, that the Premises are completely unusable by Tenant due to lack of building systems such as heating or air conditioning or the failure of Landlord to provide the other services required to be provided by Landlord, Tenant shall give Landlord timely notice (telephone notice followed by written confirmation) of such fact. If the Premises are unusable, Rent shall be abated for the number of days that Tenant is unable to use the demised space, beginning on the first day following such notice to Landlord. If, following Landlord's receipt of the foregoing notice, Landlord does not furnish these services, Tenant may, after such notice, arrange for these services and Landlord shall reimburse Tenant within 30 days of receipt of written notification for the cost of the services. Notwithstanding the foregoing, Tenant shall not have the right to exercise the foregoing remedies if Landlord's inability to provide working building systems or other building services is caused

by interruption in utilities not caused by Landlord, strikes or work stoppages or other causes outside Landlord's reasonable control.

6. **Tenant's Use of Premises:**

(a) Tenant shall not occupy or use the Premises, or permit the same to be occupied or used, except only as a Magisterial District Court with ancillary office or office accessory space uses. Tenant will comply with all laws applicable to its use and occupancy of the Premises. At the expiration or sooner termination of this Lease, Tenant will peaceably deliver up and surrender possession of the Premises to Landlord. It is specifically understood that any County agency or department may occupy the demised premises under the terms and conditions of this Lease.

(b) Tenant shall not assign this Lease, or sublet the Premises, or any part thereof, or put anyone in possession, or permit anyone to occupy, or take possession of said Premises without the consent of Landlord endorsed in writing hereon, such consent not to be unreasonably withheld or delayed.

7. **Landlord's Warranty:**

Notwithstanding anything to the contrary herein, Landlord represents and warrants to Tenant that as of the Commencement Date, (i) the Premises, (ii) the Tenant Improvements, (iii) the structural aspects of the Building including, without limitation, the roof and the foundation, (iv) the Common Areas, and (v) the building systems including, without limitation, the HVAC, electrical, plumbing, and all other mechanical systems, shall all be in good order, condition, and repair, and in compliance with all existing laws prior to the Commencement Date, including, without limitation, the Americans with Disabilities Act and hazardous material laws (collectively, "Applicable Laws"). Tenant shall not be required to make any repairs to, or otherwise pay for directly or through Operating Expenses, any defect in any of the items listed in subsections (i)-(v) herein existing prior to the Commencement Date. Tenant shall be required to comply with all Applicable Laws triggered by Tenant's specific use of the Premises if that use is for other than for general office purposes. Landlord shall be required to comply with all other Applicable Laws. Landlord shall, at Landlord's sole cost and expense, pay for all costs required to comply with Applicable Laws existing prior to and after the Commencement Date.

8. **Care of Premises:**

Tenant shall use reasonable care in using the Premises, and at the termination of this Lease, Tenant shall deliver up the Premises to Landlord broom clean, free of Tenant's installed furnishings and personal property and otherwise in good order, reasonable wear and tear and damage by accidental fire or storm excepted.

9. **Alterations or Improvements:**

Tenant shall not make any alterations, additions or improvements to the Premises without the written consent of Landlord, such consent not to be unreasonably withheld, but if any are made the same shall become the property of Landlord if permanently attached to Premises, and shall remain on the Premises at the expiration or sooner termination of this Lease. However if the alterations, additions or improvements are not permanent and are removable, they shall remain the property of Tenant and shall be removed by Tenant prior to the termination of this Lease.

10. **Casualty:**

If the Premises are so substantially destroyed or damaged by fire, or other casualty, not solely caused by Tenant, its agents, employees, contractors or invitees, so that the same cannot be repaired and restored within a period of one hundred twenty (120) days, this Lease shall absolutely cease and terminate and there shall be an abatement of Rent from the date of such casualty. If, however, Landlord reasonably believes that the damage can be restored within such one hundred twenty (120) day period, Landlord agrees to restore the same as soon as possible and the Rent shall be suspended for the period during which Tenant shall be deprived of possession of the Premises. Any Rent accrued prior to such partial or total destruction shall not be considered as released by virtue of this clause. For the purpose of this paragraph, Tenant shall not be considered to be deprived of possession as of the date Landlord has substantially completed the restoration of the Premises provided that Tenant must be able to perform its normal office operations and that heating, ventilating, air conditioning, plumbing, water and sewer, security and electrical systems are in good working order.

11. **Landlord's Right of Entry:**
Landlord, its authorized agents or employees, will have the right upon reasonable notice to enter the Premises at reasonable times (a) to make inspections or to make such repairs or maintenance to the Premises or repairs and maintenance to other premises as Landlord may deem necessary; (b) to show the Premises to prospective tenants during the last six (6) months of the term of this Lease; and (c) for purposes relating to the safety, protection or preservation of the building in which the Premises form a part.
12. **Broker:**
Both parties represent and warrant that there are no claims for brokerage commissions or finder's fees in connection with the execution of this Lease. Both parties agree to indemnify the other against, and hold it harmless from, all liability arising from any such claims including, without limitation, the cost of counsel fees in connection therewith.
13. **Indoor Air Quality:**
Landlord shall use reasonable efforts to meet all generally accepted indoor air quality guidelines and standards. Landlord shall conduct an air quality survey of the Building every year, at Landlord's expense.
14. **Entire Agreement:**
Landlord and Tenant hereby agree that this Lease, including the RFP attached, sets forth all the promises, agreements, conditions and understandings between Landlord, or its Agents, and Tenant, relative to the Premises, and that there are no promises, agreements, conditions or understandings, either oral or written, between them other than as are herein set forth. Any subsequent alteration, amendment, change or addition to this Lease shall not be binding upon Landlord or Tenant unless reduced to writing and signed by them.
15. **Definitions:**
The word "Landlord," as used herein, shall include the Owner and the Landlord, whether person, firm or corporation, as well as the officers, officials, heirs, executors, administrators, successors and assigns, each of whom shall have the same rights, remedies, powers, privileges and obligations as though he, she, it or they had originally signed this Lease as Landlord. The word "Tenant," as used herein, shall include the Tenant, whether person, firm or corporation, as well as the officers, officials, heirs, executors, administrators, successors and assigns, each of whom shall have the same rights, remedies, powers, privileges, and shall have no other liability, rights, privileges or powers than he, she, it or they would have been under or possessed had he, she, it or they originally signed this Lease as Tenant.
16. **Governing Law:**
This Lease shall be governed by the laws of the Commonwealth of Pennsylvania.
17. **Notices:**
All formal notices under the Lease are to be sent by U.S. Mail and addressed to the County of Chester, Department of Procurement & General Services, 313 W. Market Street, Suite 4402, P.O. Box 2748, West Chester, PA 19380-0991 in the case of Tenant and to City of Coatesville, One City Hall Place, Coatesville, PA 19320 for Landlord.
18. **Compliance with Law:**
 - (a) Landlord agrees that it is Landlord's responsibility at the inception of this Lease and throughout the term of the Lease to ensure that the physical structure of the Premises conform in all materials respects with the requirements of all applicable state and local laws, codes, and ordinances relating to life safety and fire safety and hereby agrees to save Tenant harmless and indemnify it from any penalties, fines, costs or damages resulting from Landlord's failure to do so. Such requirements may include, but are not necessarily limited to, fire exits, fire alarms, smoke alarms, panic hardware, emergency lighting, fire escapes, illuminated exit signs, fire extinguishers and fire doors. Landlord will be responsible for maintenance and repairs of all items required to be present at the inception of the Lease for life and fire safety throughout the term of the Lease; provided, however, that Tenant shall be responsible for the cost

of any repairs or replacements caused by the sole negligence or willful misconduct of Tenant, its agents, employees, contractors or invitees.

- (b) Landlord agrees that it is Landlord's responsibility at the inception of this Lease and throughout the term of this lease to ensure that the Premises conform in all material respects with all applicable building codes, statutes and Ordinances imposed by the United States, the Commonwealth of Pennsylvania or the municipality in which the Premises are located, including but not limited to handicapped accessibility requirements under the Americans with Disabilities Act of 1990 unless any code, statute or Ordinance is enacted specifically for and as a direct result of Tenant's use of the Premises and the Premises would conform under typical lease conditions. Notwithstanding the foregoing, if Tenant makes any alterations to the Premises during the Term of this Lease, Tenant shall be responsible for complying with all applicable laws triggered by such alterations and for any fines, penalties, judgments or damages incurred by Tenant or Landlord as a result of noncompliance with such laws. If it is determined by the appropriate authorities that the Premises are in violation of any codes, statutes or Ordinances, Landlord agrees to accept the responsibility for said violation and to be responsible for any fines, penalties, judgments or damages incurred by Tenant or Landlord, provided such violation is not the sole responsibility of Tenant pursuant to the preceding sentence or is otherwise caused by the sole negligent actions of Tenant.
- (c) If Landlord does not fulfill its responsibilities under this Section 18, then Tenant shall give written notice to Landlord specifying the responsibilities that Landlord has failed to fulfill. If Landlord has not commenced to cure the specific deficiencies cited in Tenant's notice within thirty (30) days following the date of such notice, Tenant may terminate this Lease by giving Landlord thirty (30) days written notice.

19. **Rules and Regulations:**

Landlord may promulgate such reasonable rules and regulations in connection with the safe and healthful occupancy of the Premises including the reasonable care of the Premises as may be necessary in the course of the Lease and Tenant shall comply, and cause its employees, agents, contractors and invitees to comply fully with such rules and regulations at all times.

20. **Successors and Assigns:**

All reservations, conditions, covenants and provisos herein contained, shall bind or inure to the benefit of, as the case may be, to the officers, officials, heirs, executors, administrators, successors and assigns of Landlord and Tenant.

21. **Indemnity:**

- (a) Tenant will indemnify and defend Landlord and save it harmless from and against any and all claims, actions, damages, liability and expense (including, but not limited to, reasonable attorneys fees) in connection with the loss of life, personal injury or damage to property or business arising from, related to, or in connection with the performance of Tenant's work and the occupancy of the Premises, if occasioned by Tenant's, its agents, employees, or servants' negligence or willful acts. Tenant shall not, however, be liable for damages or injury occasioned by the negligence or willful acts of Landlord, its agents, employees, or servants nor for any injury occurring on the common ground and not on the leased premises.
- (b) Landlord will indemnify and defend Tenant and save it harmless from and against any and all claims, actions, damages, liability and expense (including, but not limited to, reasonable attorneys fees and disbursements) in connection with the loss of life, personal injury or damage to property or business arising from, related to, or in connection with the performance of Landlord's work, the occupancy of the Premises or any part of Landlord's property or the Building or occasioned wholly or in part by act or omission of Landlord, its contractors, subtenants, licensees or concessionaires, or its or their respective agents, servants or employees. Landlord shall not, however, be liable for damages or injury occasioned by the negligence or willful acts of Tenant, its agents, employees, or servants. It is expressly understood

and agreed between the parties hereto that nothing contained herein shall be construed as a waiver by the Landlord and/or Tenant of the statutory provisions regarding governmental immunity, official immunity and limitations on damages as set forth in 42 Pa. C.S.A. §8541, et seq., and any applicable federal statute.

22. **Waiver of Subrogation:**

Landlord and Tenant each hereby waive each and every claim for direct personal recovery from the other for any and all loss of, or damage to, all or any portion of the Building (including, without limitation, the Premises) and/or any contents thereof, or for injury to any person, which loss, damage, or injury is covered by valid and collectible insurance policies. Landlord further waives each and every claim against Tenant for any and all loss of, or damage to, all or any portion of the Building (including, without limitation, the Premises) and/or any contents thereof, or for injury to any person, that would have been covered had the insurance policies required to be maintained by Landlord under this Lease been in force, to the extent that such loss or damage is recoverable, or would have been recoverable, under any of such insurance policies. Tenant waives each and every claim against Landlord for any and all loss of, or damage to, all or any portion of the Building (including, without limitation, the Premises) and/or any contents thereof, or for injury to any person, that would have been covered had the insurance policies required to be maintained by Tenant under this Lease been in force, to the extent that such loss or damage is recoverable, or would have been recoverable, under any of such insurance policies. Inasmuch as this mutual waiver will preclude the assignment of any such claim by subrogation (or otherwise) to an insurance company or any other person or entity, Landlord and Tenant shall each give to each insurance company that has issued, or in the future may issue, to it policies of insurance, written notice of the terms of this mutual waiver, and to have said insurance policies properly endorsed. To the extent that any such endorsement shall require the payment of a charge or fee such shall be borne by each party.

23. **Insurance:**

- (a) Landlord will keep in force policies with insurance companies licensed to do business in the Commonwealth of Pennsylvania where the Premises are located at Landlord's expense at all times during the term of this Lease. Landlord shall maintain the following insurance policies:
- (i) Broad form commercial general liability insurance (written on an occurrence basis and including an endorsement for personal injury), products liability insurance, comprehensive automobile liability insurance (covering owned and leased vehicles used in Landlord's business). Such insurance shall insure against any liability occurring on, about or with respect to the Premises, the sidewalks, if any, abutting and adjoining the Premises, and the business owned/operated by Landlord and any subtenants, licensees and concessionaires of Landlord in or from the Premises. The foregoing insurance shall carry a minimum occurrence limit of One Million Dollars (\$1,000,000.00) combined single limit and shall cover the Tenant as an Additional Insured. If the nature of Landlord's facility is such as to place any or all of its employees under coverage of Pennsylvania Worker's Compensation statutes, Landlord shall also keep in force, at its own expense, worker's compensation insurance affording statutory coverage.
 - (ii) Fire insurance, with standard broad form extended coverage endorsement covering (1) all Landlord's stock in trade, trade fixtures, furniture, furnishings, and such other equipment as is not affixed to the Premises, and (2) Landlord's interest in all of the improvements and betterment installed in the Premises by Landlord, in each case to the extent of at least eighty percent (80%) of their collective insurable value, without coinsurance.
 - (iii) Landlord will deposit with Tenant policies of insurance required by provision of this section or certificates of insurance thereof, together with satisfactory evidence of the payment of the required premium or premiums thereof. The insurance required hereby may be maintained by means of a policy or policies of blanket insurance so long as the provisions of this section are fully satisfied.

- (iv) All policies of insurance required to be carried by Landlord shall provide that the policy shall not be subject to cancellation, termination or change except after thirty (30) days prior written notice to Tenant and the liability policy referred to in (a) shall name Tenant as additional insured as its interest may appear.

- (b) Tenant must maintain at its own cost and expense, and shall obtain and keep in force during this period of this Lease a policy or policies of (i) commercial general liability insurance, including personal injury and property damage, in the amount of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) annual general aggregate (or in such lesser amounts as Landlord may agree in writing at its sole discretion), and (ii) "all-risk" property insurance covering Tenant's property (and otherwise covering any losses resulting from any acts or operations of Tenant). Said policies shall (a) name Landlord, the City of Coatesville, as an additional insured; (b) be issued by an insurance company with a Best rating of A or better and otherwise reasonably acceptable to Landlord and licensed to do business in the Commonwealth of Pennsylvania; (c) provide that said insurance shall not be canceled or materially modified unless thirty (30) days' prior written notice shall be given to Landlord; (d) provide coverage on an occurrence basis; (e) provide coverage for the indemnity obligations of Tenant under this Lease; (f) contain a severability of insured parties provision and a cross liability endorsement; (g) be primary, not contributing with, and not in excess of coverage which Landlord may carry; and (h) otherwise be in such form and include such coverage as Landlord may reasonably require.

24. **Condemnation:**

- (a) If a portion of the Premises shall be taken as herein provided for public improvements or otherwise under the exercise of the right of eminent domain and the Premises shall continue to be reasonably suitable for the use which is herein authorized, then the rental herein provided shall be reduced from the date of such taking in direct proportion to the portion of the Premises so taken. Landlord shall restore the remaining portion of the Premises to a complete unit.

- (b) If all of the Premises or a part thereof sufficient to render the Premises wholly unfit for the use herein authorized shall be condemned or acquired by grant or otherwise, for the widening of streets or for other public improvements, or shall otherwise be taken in the exercise of the right of eminent domain, either Landlord or Tenant shall have the right to terminate and cancel this Lease on thirty (30) days written notice to the other, and, Tenant shall be liable only for rents and other charges accrued and earned to the date of surrender of possession of said Premises to Landlord and for the performance of other obligations maturing prior to said date.

- (c) All awards, damages and other compensation paid by the condemning authority on account of such taking or condemnation shall belong to Landlord, and Tenant hereby assigns the right to recover all such damages to Landlord. Notwithstanding the foregoing, Tenant may make a claim directly against the condemning authority for Tenant's moving expenses so long as such claim does not reduce the amount of Landlord's award.

25. **Environmental:**

- (a) Landlord covenants that Landlord or anyone acting by, through, or under Landlord, including but not limited to Landlord's assignees, subtenants, concessionaires, licensees, agents, employees or invitees (collectively "Landlord Agents") will not, through its acts or omissions, cause or permit any "Hazardous Materials" to be placed, held, located, "Released" or disposed of on, under or at the Premises or the Building. The term "Hazardous Materials" shall mean any substance or material which is defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "extremely hazardous waste", "acutely hazardous wastes", "restricted hazardous wastes", "toxic substances", or "known to cause cancer or reproductive toxicity" (or words of similar import), petroleum products (including crude oil or any fraction thereof) or any other chemical, substance or material which is prohibited, limited or regulated under any federal, state or local law, ordinance, regulation, order, permit, license, decree, common law or treaty now or hereafter in force regulating,

relating to or imposing liability or standards concerning materials or substances known or suspected to be toxic or hazardous to health and safety, the environment or natural resources ("Environmental Laws"). "Release" means any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, presence, dumping, migrating on or from the Building or adjacent property, or disposing of Hazardous Materials into the environment.

- (b) Notwithstanding anything else to the contrary herein, in the event any Hazardous Materials are discovered on, under or at the Premises or the Building (whether or not such is caused by an act or omission of Landlord or Landlord's Agents), Landlord shall immediately notify Tenant of any such discovery. If the Hazardous Materials have been placed, held, located, Released or disposed of by Landlord during the Term of this Lease or following the termination of the Lease, Landlord shall, at its sole cost and expense, comply with all Environmental Laws to remedy the situation, including, without limitation, promptly conducting a site assessment, taking immediate action required for containment of the Hazardous Materials. Tenant may at any time during the Term and within sixty (60) days thereafter, inspect the Premises for the existence of Hazardous Materials on the Premises placed, held, located, Released and disposed of by the sole acts or omissions of Landlord or Landlord's Agents. In the event Tenant discovers Hazardous Materials on the Premises placed, held, located, Released or disposed of during the Term by the sole acts or omissions of Landlord or Landlord's Agents, Landlord shall, at its sole cost and expense and upon demand of Tenant, reimburse Tenant for its costs to inspect the Premises and comply with Environmental Laws for the removal or remediation of the Hazardous Materials.
- (c) Landlord hereby releases, indemnifies, holds harmless and agrees to defend Tenant, its affiliates, and their respective directors, officials, officers, shareholders, employees, representatives and agents, from and against any and all claims, causes of action, damages (including, without limitation, all foreseeable and unforeseeable consequential damages, injunction and other relief), fines, judgments, penalties, costs, liabilities, losses or expenses (including, without limitation, attorneys' fees and reasonable investigative and discovery costs) arising during or after the Term of this Lease on account of or in connection with, or directly or indirectly arising from: (i) the violation of any Environmental Laws by Landlord or Landlord's Agents; (ii) the presence, use, generation, storage, remediation, disposal or Release of Hazardous Materials in, on, under, or above the Premises or the Building solely attributable to the acts or omissions of the Landlord or Landlord's Agents ; (iii) any breach of the representations and warranties of Landlord contained in this Section. Without limitation of the foregoing, this indemnification shall include any and all costs incurred due to any investigations of the Building or any cleanup, removal, repair, remediation, detoxification or restoration and the preparation of any closure or other plans required or permitted by any governmental authority.
- (d) Landlord's representations, warranties, indemnifications and obligations under this Section shall survive the expiration or termination of this Lease.
- (e) Tenant shall not cause any hazardous materials as herein defined to be generated, transported, stored, used, treated or disposed of at, to, from, on or in the Premises.

26. **Estoppel Certificates:**

At any time, and from time to time, upon the written request of Landlord, or any mortgagee, Tenant, within ten (10) days of the date of such written request, agrees to execute and deliver to Landlord and/or such mortgagee, without charge and in a form satisfactory to Landlord and/or such mortgagee, a written statement: (1) ratifying this Lease; (2) confirming the commencement and expiration dates of the term of this Lease; (3) certifying that Tenant is in occupancy of the Premises, and that the Lease is in full force and effect and has not been modified, assigned, supplemented or amended except by such writing as shall be stated; (4) certifying that all conditions and agreements under this Lease to be satisfied or performed by Landlord have been satisfied and performed except as shall be stated; (5) certifying that Landlord is not in default under the Lease and there are no defenses claimed by Tenant, (6) certifying the amount of advance rent, if any, paid by Tenant and the date to which such rent has been paid; (7) reciting the amount of security deposited with Landlord, if any, and (8) any other pertinent information which Landlord or mortgagee shall reasonably require.

27. No Partnership:

It is understood that Landlord does not in any way or purpose become a partner or joint venture with Tenant in the conduct of Tenant's business, nor do Landlord and Tenant have any other relationship to one another other than Landlord and Tenant.

IN WITNESS WHEREOF, both of the respective parties to this Lease Agreement have interchangeably set their hands and seals the day and year first above written.

SEALED AND DELIVERED in the presence of:

COUNTY OF CHESTER (Tenant):

LANDLORD:

Commissioner

By: _____

Commissioner

Print and/or Type Name

Commissioner

ATTEST FOR COUNTY:

ATTEST FOR LANDLORD:

Chief Clerk

Witness

Attachment A

Landlord to submit drawing of facility.