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Document No. C-25-00__

SUBLEASE AGREEMENT

This SUBLEASE AGREEMENT (the "Sublease") is made and entered into as of the____ day of _____, 2025, by and between **CITY OF KNOXVILLE**, a municipal corporation organized and existing under the laws of the State of Tennessee with its principal office at 400 West Main Street, Knoxville, Tennessee 37902 (the "Lessor"), and **THE ARTS AND CULTURE ALLIANCE OF GREATER KNOXVILLE**, a non-profit corporation organized and existing under the laws of the State of Tennessee with its principal office at 100 South Gay Street, Suite 201, Knoxville, Tennessee 37902 (the "Lessee").

WITNESSETH:

WHEREAS, Lessor has entered into a Lease Agreement, known as City of Knoxville Document No. C-23-0216, the term for which began on July 1, 2023 between Boghani Properties LLC, a Tennessee limited partnership, as Landlord ("Boghani") and the Lessor as Tenant (the "Main Lease"), pursuant to which the Lessor has leased approximately 32,927 square feet of Units B 10, B 101, B 103, B 104, B 105, 103, 104, and 105 of the Emporium Building, located at 100 South Gay Street, Knoxville, Tennessee (the "Premises");

WHEREAS, pursuant to Tenn. Code Ann. § 12-2-302, Lessor has the power to convey to a not-for-profit corporation property owned by the municipality for such consideration and upon such terms and conditions as in the judgment of the governing body are in the interests of the municipality; and

WHEREAS, Lessor has agreed to sublease to Lessee the Premises in the Building leased by Lessor under the Main Lease, under the terms and conditions contained herein, which are in the

interests of the Lessor; and

WHEREAS, the Lessee intends to further sublease the Premises to other parties that promote arts and cultural activities within the City of Knoxville.

NOW, THEREFORE, for and in consideration of the premises and the covenants and agreements herein contained and for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee hereby mutually covenant and agree as follows:

ARTICLE 1 DEFINITIONS

- 1.1 Building.** The term “Building” as used herein shall mean the building in which the Premises are located.
- 1.2 Common Areas.** The term “Common Areas” as used herein shall mean any parking areas, hallways, entrances and exits, elevators, loading facilities, sidewalks, service areas, outside lighting areas, landscaped areas, and all other areas constructed or to be constructed for use in common by the Lessee, its agents, employees, and business invitees and other tenants on the Property. The Common Areas are not exclusive as to use by Lessor, Lessee, or Sublessees.
- 1.3 Common Area Costs.** The term “Common Area Costs” (or “Common Area Maintenance Costs”) as used herein shall mean all expenses of Boghani as Landlord under the Main Lease with respect to the maintenance, servicing, repairing, and operation of any Common Areas, including, but not limited to the following: maintenance and repair costs; electricity, fuel, water, sewer, gas and other utility charges; security, window washing and janitorial services; trash and snow and ice removal; landscaping and pest control; management fees payable to Boghani, Boghani’s affiliates, or third parties; wages and benefits payable to employees of Boghani whose duties are directly connected with the operation and maintenance of the Common Areas, which wages and benefits shall not exceed 10% of the Common Area Costs; all services, supplies, repairs, replacement, or other expenses for maintaining and operating the Common Areas; the cost, including interest, amortized over its useful life, of any capital improvement made to the Common Areas by Boghani after the date of this Sublease which is required under any governmental law or regulation that was not applicable to the Common Areas at the time it was constructed; the cost, including interest, amortized over its useful life, of installation of any device or other equipment which improves the operating efficiency of any system serving the Common Areas and thereby reduces operating expenses; all other expenses which generally would be regarded as operating and maintenance expenses which would reasonably be amortized over a period not to exceed five (5) years; all real property taxes and installments of special assessments; governmental levies or charges of any kind or nature assessed or imposed on the Property, whether by state, county, city or any political

subdivision thereof; and all insurance premiums Boghani is required to pay or deems necessary to pay, including public liability insurance, with respect to the Property. The term “operating expenses” does not include the following: expenses for repairs, restoration, or other work occasioned by fire, wind, the elements or other casualty that are covered by insurance; income, franchise and excise taxes of Boghani; expenses incurred in leasing to or procuring of tenants, leasing commissions, advertising expenses and expenses for the renovating of space for new tenants; interest or principal payments on any mortgage or other indebtedness of Boghani; compensation paid to any employee of Boghani above the grade of property manager; any depreciation allowance or expenses; or operating expenses which are the responsibility of Lessor as Tenant under the Main Lease.

- 1.4 **Main Lease.** The term “Main Lease” as used herein refers to Lease Agreement, known as City of Knoxville Document No. C-23-0216, the term for which began on July 1, 2023 between Boghani and the Lessor as Tenant, pursuant to which the Lessor has leased the Premises. The Main Lease is attached hereto as **Exhibit A**, incorporated herein by reference, and made a part of this Lease as if it were fully set out verbatim. The term “Main Lease” as used herein shall refer also to the First Amendment made to C-23-0216, which is also attached hereto as **Exhibit B** and incorporated by reference.
- 1.5 **Premises.** The term “Premises” as used herein shall mean 32,927 square feet of Units B 10, B 101, B 103, B 104, B 105, 103, 104, and 105 of the Emporium Building, located at 100 South Gay Street, Knoxville, TN 37902, as further described in **Exhibit C** to this Sublease, incorporated herein by reference.
- 1.6 **Property.** The term “Property” as used herein shall mean the Premises, the Building, and the real property upon which the Building is located and improvements located thereon, including Common Areas as defined in this Sublease.

ARTICLE 2 PREMISES

- 2.1 **Purpose of Lease.** The purpose of this Lease is to allow the Lessee to use Premises in a manner that will promote arts and cultural activities within the City of Knoxville.
- 2.2 **Lease of Premises.** Subject to and upon the terms, provisions and conditions hereinafter set forth, and each in consideration of the duties, covenants and obligations of the other hereunder, the Lessor does hereby demise and lease, exclusively unto the Lessee, and the Lessee hereby rents and leases from the Lessor, the Premises to this Sublease, incorporated herein by reference, and made a part of this Lease as if it were fully set out verbatim (the “Premises”).
- 2.3 **Premises Parking.** The Lessee understands and agrees that at the time this Sublease is executed, there is no exclusive parking designated for the Premises.
- 2.4 **Condition of Premises.** Lessee’s signature on this Lease signifies that representatives of the Lessee (i) have visited the Premises, (ii) have inspected the Premises, and (iii) are fully

acquainted with the condition of the Premises. The failure of the Lessee to do any of the above does not, in any way, relieve Lessee of any obligations pursuant to this Lease. The parties agree that the Premises is in good order and repair, and the Lessee accepts the Premises in its present condition and acknowledges that it is suitable for Lessee's intended use. The Premises are leased and the Lessee accepts the same in their "as is" condition, and the Lessor has no obligation to build or make any improvements thereon or thereto whatsoever.

- 2.5 Exception and Reservation.** Lessor reserves and excepts from the Premises the right in, over, and upon the Premises as may be reasonably necessary or desirable for the servicing by the Lessor or Boghani of the Premises or other portions of the Building. Lessor reserves the right to control and manage the Common Areas and to alter, add to, or reduce the same; provided, however, that Lessee shall retain its access to the Premises. Lessor further reserves its right and the right of Boghani to construct additions to the Building, and the right to alter or change the storefronts of the Premises.
- 2.6 Main Lease.** Lessee acknowledges that Lessor has provided Lessee with a copy of the Main Lease. Any capitalized term used herein and not otherwise defined shall have the meaning given to such term in the Main Lease.
- 2.7 Utilities.** Pursuant to the Main Lease, mains, conduits and other facilities necessary to supply water, gas, electricity, telephone service and sewage service to the Premises shall be provided and such utilities shall be separately metered for Lessee's use. Lessor shall have no responsibility for the provision thereof, including, but not limited to, financial responsibility for the HVAC repair, maintenance, replacement, and/or relocation costs. Lessee shall be responsible for the costs of the HVAC repair, maintenance, replacement, and/or relocation as well as for the payment of utility costs pursuant to Article 4.

ARTICLE 3 TERM OF LEASE

- 3.1 Base Term.** This Sublease shall commence on January 1, 2025 (the "Commencement Date"), and shall terminate on December 31, 2050 (the "Termination Date"), unless the Termination Date is extended or terminated earlier pursuant to the provisions of this Sublease. The Lessee's obligation to pay rent and Lessee's right to possession of the Premises shall commence on the Commencement Date. However, all of the terms and provisions of this Sublease shall be binding upon the parties upon execution of this Sublease.
- 3.2 Extension Options.** Because all extension options have been exercised through the Main Lease, there shall be no extension options in this Sublease. However, the parties may enter into a new Main Lease and Sublease in the future, following the expiration of the same.

ARTICLE 4 RENT AND OTHER CONTRIBUTIONS OF LESSEE

- 4.1 Place of Payment.** Lessee shall pay to the City Finance Department all rent and other sums payable by Lessee to the Lessor.

- 4.2 **Base Rent.** As consideration for the use and occupancy of, and as rent for the Premises, the Lessee shall not be obligated to pay annual rent.
- 4.3 **Security Deposit.** There shall be no security deposit required from Tenant for this Sublease.
- 4.5 **Utilities.** Tenant will directly pay the appropriate suppliers for all water and gas, electricity, light, heat, telephone, power, waste removal, and all other utilities relating to the Premises. In no event shall Landlord be liable for any interruption or failure in the supply of any such utilities or other services to the Building or the Common Areas, unless such interruption or failure is a direct result of Landlord's willful act, gross negligence, or relocation of any heating, cooling, or ventilation systems.
- 4.6 **Late Payment.** If any payment due hereunder is not received on or before the fifth (5th) day of the month following the month in which Lessor was invoiced, Lessee shall also pay (a) a late payment charge of five percent (5%), but not less than \$10.00, of such past due amount if such amount is not received within three (3) days of when Lessee receives notice that such amount is overdue and (b) interest of eight percent (8%) per annum or the maximum then allowed by applicable law, whichever is less, on the remaining unpaid balance, retroactive to the date that is three (3) business days after Lessee receives notice that such payment was overdue. The Lessor reserves all other remedies available to it for late payments or non-payments under this Sublease.
- 4.7 **Increase in Insurance Premiums.** If an increase in any insurance premiums paid by Boghani for the Property or Lessor for the Premises is caused by Lessee's or any Sublessee's use of the Premises, or if Lessee or any Sublessee vacated the Premises and caused an increase in such premiums, then Lessee shall pay the amount of such increase to Boghani for increases in premiums on the Property and to Lessor for increases to premiums on the Premises. Lessee agrees to pay any amounts due under this Section within ten (10) days following receipt of the invoice showing the increase in insurance premiums due.
- 4.8 **Utilities.** Lessee shall be responsible, at its sole expense, to make provisions for connecting or hooking up to such utilities, directly with the appropriate utility company furnishing the same. Lessee shall be responsible for payment of all utility costs for the Premises. This section shall be controlling, except in the event that the Homeowner's Association assumes this duty in writing.
- 4.9 **Taxes.** Lessee shall be responsible for the following tax obligations related to the Premises:
- a. **Personal Property Taxes.** Lessee shall be liable for all taxes levied against leasehold improvements separately assessed from the Premises, merchandise, personal property and trade fixtures and any other taxable personal property of Lessee or its Sublessees located in the Premises. If any such taxes for which Lessee is liable are levied against Lessor or Lessor's property and if Lessor elects to pay the same or if the assessed value of Lessor's property is increased by inclusion of personal property and trade fixtures placed by Lessee in the Premises and Lessor elects to pay the taxes based on such increase, Lessee shall pay to Lessor, upon demand, that part of such taxes for which the Lessee is primarily liable pursuant to the terms of this Section. Lessee shall pay

when due any and all taxes related to Lessee's use and operation of any business located in the Premises.

- b. **Other Taxes.** If, at any time during the term hereof, under the laws of the United States, the State of Tennessee, or political subdivision thereof in which the Premises are situated, a tax on rent or other charge by whatever name called, is levied, assessed, or imposed against Lessor or the payments payable hereunder to Lessor as a substitute in whole or in part for the tax on real estate, Lessee, to the extent that such substitute tax or other charge relieves Lessee from the payments provided herein, shall pay such tax or other charge as soon as the same becomes due and payable.

4.10 Lessor's Rights upon Nonpayment. Lessor shall have the right after delinquency and reasonable prior notice to Lessee at all times during the term hereof to pay any taxes, assessments, water rents, levies, interest, or other charges upon the Premises, and to pay, cancel and clear all tax sales, liens, charges, and claims upon or against the Premises or any improvements that are now, or may be, placed thereon, and to redeem said Premises from time to time, without being obligated to inquire as to the validity of the same. Any sums so paid by Lessor shall be due and payable by Lessee upon demand by Lessor.

4.11 Permitted Contests. At its sole expense, the Lessee by appropriate legal proceedings conducted in good faith and with due diligence may contest the amount, validity or application, in whole or part, of any tax or charge referred to in this Article 4, provided that Lessee shall give Lessor prior written notice of such contest and Lessee shall have deposited with Lessor or the taxing authorities a surety company bond in such sum and upon such conditions as will assure payment, upon termination of such proceedings, of the amount of taxes so contested and unpaid, together with all interest and penalties in connection therewith and all charges that may or might be assessed against or become a charge on the Premises in said proceedings. Upon the termination of such proceedings, Lessee shall deliver to Lessor proof of the amount of the imposition as finally determined in such proceedings. Lessor, on behalf of Lessee and at Lessee's sole expense, may join in any such proceedings and shall cooperate with Lessee to the end that such proceedings may be brought to a successful conclusion. Lessee shall be entitled to any refund of any such tax and penalties or interest thereon which shall have been paid by Lessee. Lessee shall indemnify and save harmless Lessor from responsibility, financial or otherwise, arising out of any such proceedings.

ARTICLE 5 USE OF PREMISES

5.1 Permitted Use of Premises. Lessee and Sublessees may use the Premises for the purpose of providing space for operations for cultural and arts organizations and artists' studios. Lessee may also rent or use the Premises for events, provided that any money raised or received for such event furthers the Lessee's organizational goals and purposes. Any other use desired by the Lessee requires prior written approval by the Lessor.

5.2 Operation of Lessee's and Sublessees' Businesses. Lessee shall, and shall cause its Sublessees to, occupy the Premises, conduct their businesses, and control their agents, employees, invitees and visitors in such a manner as is lawful, reputable and will not create a nuisance to other tenants in the Property. Specifically, Lessee shall not, and shall not permit any Sublessee to:

- a. conduct any auction sale, fire sale, or bankruptcy sale in the Premises;
- b. solicit business, distribute handbills, or display merchandise within the Common Areas, or take any action which would interfere with the rights of other persons to use the Common Areas;
- c. conduct any operation which emits any odor or matter which intrudes into other portions of the Property, or use any apparatus or machine which makes undue noise or causes vibration in any portion of the Property or otherwise interferes with, annoys, or disturbs any other tenant in its normal business operations or Boghani in its management of the Property, provided Lessor recognizes that Tenant may use amplified sound in performances occurring at Units B 104 and B 10 until 11:00 p.m. each day. Lessee shall include a provision in its leases with its Sublessees by which the other tenants consent to such use; or
- d. permit any waste on the Premises nor allow the Premises to be used in any way which would, in the opinion of Lessor, be extra hazardous on account of fire or which would in any way increase or render void the fire insurance on the Premises.

5.3 Use of Common Areas. The Lessee's right to use the Common Areas shall be a license during the term of this Lease and Lessee shall have no property interest therein.

5.4 Compliance with Laws and Regulations.

- a. **Generally.** Lessee will not use or occupy, or permit any portion of the Premises to be used or occupied, in violation of any law, ordinance, order, rule, regulation, certificate of occupancy, or other governmental requirement.
- b. **Building Rules.** Lessee will comply, and will cause all Sublessees to comply using a provision in all subleases, with any rules, regulations, and use restrictions of the Building that may be adopted by Boghani and/or the homeowner's association or similar entity. If Lessee or any Sublessee is not complying with the Building Rules, after notice and a reasonable period to cure of not less than thirty (30) days, then, notwithstanding anything to the contrary contained herein, Lessor may, at its election, enter the Premises without liability therefore and fulfill Lessee's obligations. Lessee shall reimburse Lessor on demand for any expenses which Lessor may incur in effecting compliance with Lessee's obligations and agrees that Lessor shall not be liable for any damages resulting to Lessee from such action. Lessee recognizes that Boghani has the right at all times to change and amend the rules and regulations in any reasonable manner as it may deem advisable for the safety, care, cleanliness, preservation of good order and operation or use of the Property or the Premises. All changes and amendments to the rules and regulations of the Property will be forwarded by Lessor to Lessee in writing and shall thereafter be carried out and observed by Lessee and its sublessees.
- c. **ADA Compliance.** The Lessee will comply and cause its sublessees to comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.* ("ADA"), including but not limited to the removal of all structural barriers, the accessibility of programs, services and goods, the provision of all auxiliary aids and services, and the modification of policies, practices and procedures. The Lessee agrees that the City will not be responsible for any costs or expenses related to compliance with the ADA. The Lessee agrees that it will defend, indemnify and hold the City

harmless against any and all claims, demands, suits or causes of action which arise out of this Agreement or the use of the property, or an act or an act of omission by the Lessee, its employees, agents or representatives that violates or claims to violate the ADA. The Lessor makes no representation to the Lessee as to whether the Premises complies with the accessibility guidelines under the ADA for the Lessee's varied uses and operations.

- 5.5 Liens.** In the event Lessee makes any improvements to portions of the Premises pursuant to Article 7 hereof, Lessee shall not permit any liens to attach to Lessor's interest in the Premises. Lessee shall keep the Premises and every part thereof free and clear of any and all liens for work or labor done, services performed, or materials or appliances used, furnished or incorporated into the Premises, or for any other obligations of any kind incurred by Lessee. Lessee shall at all times promptly and fully pay and discharge any and all claims on which any such lien may or could be based and shall indemnify Lessor against all such liens and claims of liens, including any suits or other proceedings pertaining thereto. Lessor hereby gives notice to any and all suppliers of material or labor or other lien claimants that they must look solely to the Lessee for payment and not Lessor or the Premises themselves. The Lessee's failure to remove any such lien as may be filed against the Premises within fifteen (15) days after the same is filed shall be deemed an event of default under this Lease. Lessee shall reimburse Lessor for any losses arising out of any such claim (including, without limitation, legal fees and court costs).
- 5.6 Mortgaging.** Lessee shall not mortgage or otherwise encumber its interest in the Premises or the improvements thereon without the written approval of Lessor.
- 5.7 Advertising Lease Availability.** Lessor or Lessor's agents, at any time within one hundred eighty (180) days before the expiration of any term hereof, shall have the right to enter upon the Premises and to affix upon any suitable part thereof a notice or notices for the leasing of the Premises, which Lessee shall not remove.
- 5.8 Signs.** Lessee may install signs for itself and/or its Sublessees on or near the entrance doors of the building or in or over the windows of the building only after written approval of Boghani, as provided in Section 4.4 of the Main Lease, and the Lessee must notify the Lessor of all such requests for sign approval. No other sign of any type or description shall be erected, placed, projected, or painted in, on, or about the Premises without Boghani's prior written consent or in or about the Property without Boghani's prior written consent. Lessor reserves the right to remove, at Lessee's expense, all signs other than signs approved in writing by Lessor and/or Boghani, without notice to Lessee and without liability to Lessee for any damages sustained by Lessee as a result thereof. Lessee shall be liable to Lessor for any cost or expense incurred by Lessor in removing such sign and for any damage caused by the removal of such sign. Lessee must seek all required permits and/or approval from relevant City boards or commissions per the City of Knoxville Zoning Code.
- 5.9 Inspection.** Boghani, Lessor, or those entity's authorized agents shall at any and all reasonable times have the right to enter the Premises to inspect the same, to supply janitorial service or any other service to be provided by Boghani or Lessor and to show the Premises to prospective mortgagees, purchasers or prospective lessees provided Boghani and Lessor does not interfere with Lessee's or any Sublessee's business on the Premises. Lessee hereby waives

any claim for abatement or reduction of rent, or for any damages for injury, or inconvenience to, or interference with, Lessee's business, for any loss or occupancy or use of the Premises, and for any other loss occasioned thereby. Boghani and Lessor shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Premises. Lessee shall not change the lock system or in any other manner prohibit Boghani and Lessor from entering the Premises. Boghani and Lessor shall have the right at all times to enter the Premises by any means without notice in the event of an emergency without liability therefor.

ARTICLE 6 SUBLEASES

- 6.1 Subleases Generally.** Lessee shall have the right and power, at any time or from time to time, to enter into Subleases for all or any portion of the Premises without the prior written consent of Lessor, provided that Lessee shall remain liable hereunder, and provided that the Subleases comply with the terms of this Sublease. If Lessee subleases all or portions of the Premises to the Sublessees, such subleases shall be made pursuant to the terms of subleases (the "Sublessee Leases").
- 6.2 Sublessee Rent.** The Sublessee Leases shall provide for a rental fee at below market rate rent per square foot of leasable space to tenants that help fulfill the mission of the Arts and Culture Alliance, payable monthly or such other terms as are approved by Lessor (the "Sublessee Rent"). The Sublessee Rent for each Sublessee Lease may be increased upon renewal, as long as the monthly rent remains below market rate rent. The Sublessee Rent shall be applied to Lessee's operating costs and expenses relating to the Premises, under Article 4 hereof. After the payment in full of such operating costs and expenses, any surplus in each year shall be used by Lessee to build and encourage closer partnerships and efficiency between the Sublessees. Market rate rent shall be determined by the City of Knoxville.
- 6.3 Exceptions to Sublessee Rent.** Notwithstanding the provisions of Section 6.2, the Lessee may charge more than the Sublessee Rent if (i) the Sublessee is a for-profit entity, and (ii) the Lessee certifies to Lessor that the rent that Lessee is otherwise permitted to charge its Sublessees under this paragraph is not sufficient to allow Lessee to meet its payment obligations under this Sublease; however, in no event shall the increased rent charged by Lessee pursuant to this clause exceed the amount necessary to allow Lessee to meet its payment obligations under this Lease without receiving the prior written consent of the Lessor's Director of Finance.

ARTICLE 7 MANAGEMENT, MAINTENANCE, AND ALTERATIONS OF THE PREMISES

- 7.1 Management of the Premises.** Lessor hereby leases the Premises to Lessee upon the condition that (i) Lessee serve as the manager of the Premises, and (ii) Lessee bears those operating costs and expenses as further described in Article 4 herein.
- 7.2 Repair and Maintenance.** Boghani is responsible for the repair and maintenance of the Buildings during the term of the Main Lease pursuant to Article 6 of the Main Lease. Lessor

shall reimburse Boghani for Boghani's actual costs to third parties incurred pursuant to Article 6 of the Main Lease within the time periods provided therein and subject to the limits contained in the Main Lease; provided, however, Lessee shall reimburse Boghani for any maintenance and repair expenses incurred due to the negligence or willful misconduct of Lessee and its agents, employees, and invitees. Neither Boghani nor Lessor shall be liable to Lessee, except as expressly provided in this Sublease, for any damage or inconvenience, and Lessee shall not be entitled to any damages nor to any abatement or reduction of rent by reason of any repairs, alterations or additions made by Boghani or Lessor under this Sublease.

Lessee, as part of its obligation to pay all operating costs and expenses relating to the Premises shall be responsible for the following: (i) normal janitorial services for the Premises to the extent deemed reasonably necessary by Lessor; (ii) painting and otherwise maintaining the interior walls of the Premises to the extent Lessee and the Sublessees deem reasonably necessary, (iii) repairing and maintaining any flooring installed by Lessor (flooring does not include the structural floor supports or base floor) and (iv) maintaining all signs erected by Lessor or Lessee and all furniture and equipment installed by Lessor or Lessee.

7.3 Garbage. All garbage and refuse that is removed from the Premises shall be kept in an area designated by Boghani and in the kind of container specified by Boghani and shall be placed outside of the Premises daily, prepared for collection in the manner and at the times and places specified by Lessor. If Boghani provides or designates a service for collection of refuse and garbage for the Buildings, Lessee shall use it, at Lessee's expense, provided the cost thereof is competitive with any identical service available to Lessee.

7.4 Historical Nature. Lessee acknowledges that the Building is deemed an historic structure and is subject to restrictions regarding any changes or improvements to the interior and exterior of the building, visible additions to the interior and exterior of the building (whether temporary or permanent), and preservation of existing aspects of the building's interior and exterior deemed to be of an historic nature by the National Park Service. Lessee warrants that it will not make any alterations or modifications to the Building that could cause the revocation of the historic tax credits obtained by the owner of the Building as part of its renovation of the Building, provided that Lessee shall not be responsible for the effect of any alterations or modifications approved by Boghani and Lessor.

7.5 Alternations and Improvements. Lessee shall not make or allow to be made any alterations, physical additions or improvements in or to the Premises, Building, or Common Areas without the prior written consent of Boghani and Lessor. Any alterations, physical additions or improvements to the Premises, Building, or Common Areas made by or installed by either party hereto shall remain upon and be surrendered with the Premises and become the property of Lessor upon the expiration or earlier termination of this Sublease without credit to Lessee; provided, however, Lessor, at its option, may require Lessee at Lessee's expense to remove any physical improvements or additions and/or repair any alterations in order to restore the Premises, Building, or Common Areas to the condition existing at the time Lessee took possession if such additions, alterations and improvements were not approved by Boghani and Lessor. This paragraph shall not apply to moveable equipment, furniture or moveable trade fixtures owned by Lessee or any Sublessee, which may be removed by Lessee at the end of the term of this Sublease.

ARTICLE 8 SURRENDER OF PREMISES

- 8.1 Surrender of Premises.** Lessee covenants and agrees, at the expiration or earlier termination of this Sublease, whether by limitation, forfeiture or otherwise, to quit, surrender and deliver to Lessor possession of the Premises with all the improvements thereon (excluding any personal property properly removed under Section 5.8(a) above) free from all liens thereon, in good condition and repair, ordinary wear and tear excepted, all of which shall become and remain the property of Lessor. Lessee's obligations to observe or perform this covenant shall survive the expiration or other termination of the term of this Sublease.
- 8.2 Lessee Holdover.** If Lessee shall default in so surrendering the Premises, Lessee's occupancy subsequent to such expiration or termination, whether or not with the consent or acquiescence of Lessor, shall be deemed to be a tenancy-at-will and shall not be deemed a month-to-month or year-to-year tenancy; such tenancy-at-will shall be subject to all the terms, covenants and conditions of this Sublease applicable thereto, and no extension or renewal of this Sublease shall be deemed to have occurred by such holding over.
- 8.3 Removal of Lessee's Property.** It is agreed that at the termination of this Sublease, Lessee may remove any movable personal property which Lessee has placed in the Premises, except any property which has been attached to the Premises in such a manner as to become a fixture, including, but not limited to, such property as electric and gas fixtures, switches and controls, floor and wall coverings, heating and air conditioning equipment and alterations, additions or improvements of any kind to the Premises, provided, however, that no such alterations, additions or improvements may be made to the Premises without the prior written consent of Boghani and Lessor as herein specified.

ARTICLE 9 DEFAULT

- 9.1 Events of Default.** The occurrence of any of the following acts or events, shall constitute events of default under this Sublease (herein referred to as "Default"):
- a. Lessee fails to make any payment required hereunder within five (5) days after the receipt of written notice from Lessor to Lessee specifying the amount due;
 - b. Lessee fails to fulfill or perform any of Lessee's covenants, agreements, or obligations under this Sublease and such failure continues for a period of thirty (30) days after Lessor shall have given Lessee and Lessee shall have received written notice specifying the nature of such failure;
 - c. If at any time during the term herein there shall be filed by or against Lessee in any court pursuant to any petition in bankruptcy, alleging an insolvency, for reorganization, for the appointment of a receiver, or for an arrangement under the Bankruptcy Code, or if a similar type of proceeding shall be filed;
 - d. If Lessee shall abandon the Premises for a period of sixty (60) or more days other than for renovation or casualty;
 - e. If this Sublease or the estate of Lessee hereunder shall be transferred or passed to or devolve upon any other person, firm, association or corporation, except as specifically permitted herein; or

- f. If Lessee takes any action that results in an event of default occurring under the Main Lease.

9.2 Rights of Lessor upon Default. Upon the occurrence of any Default hereunder, Lessor shall have the right, at its option, and upon ten (10) days written notice to Lessee, to terminate this Sublease. On any such termination date, this Sublease and the term hereby granted and created, as well as all of the right, title, and interest of Lessee hereunder (without further action on Lessor's part or those claiming under Lessor) shall wholly cease and expire, in the same manner and with the same force and effect as if the expiration of time in such notice were the end of the term herein originally demised. Lessor or those claiming under Lessor may immediately or at any time thereafter, and without further notice or demand, enter into and upon the Premises or any part thereof, and repossess the same as of Lessor's first and former estate, and expel Lessee and those claiming under Lessee and remove Lessee's effects or take said effects, without being taken or deemed guilty of any manner of trespass and without prejudice to any remedies that might otherwise be used for arrears of rent or breach of contracts. Lessee agrees that, notwithstanding the termination of the Lease and the possession regained by Lessor, it will indemnify Lessor against all loss of rent which Lessor may suffer by reason of such termination, during the remainder of the term hereof, as well as all other damages to which Lessor may be entitled. Lessor may retain all advance rentals or deposits in Lessor's possession as and for damages to apply against rentals to accrue during the remainder of the term hereof and any other damages.

Upon the occurrence of any Default hereunder, Lessor shall have, in addition to any other remedies which it may have hereunder, the right to invoke any remedy allowed at law or in equity to enforce Lessor's rights or any of them, as if reentry and other remedies were not herein provided for, including, without limitation, the right to elect not to terminate this Sublease and require Lessee to cure any default hereunder.

In the event Lessor does not exercise the rights of reentry hereinabove given Lessor, Lessor may accept rent from any receiver, trustee, or other officer in possession thereof, for the term of such occupancy without impairing or affecting in any way the rights of Lessor against Lessee hereunder or his right to such advance rentals or deposit. Any neglect or failure to enforce the right of forfeiture of this Sublease or reentry upon the breach of any of the conditions, covenants, terms and agreements herein contained, shall not be deemed a waiver of such right upon any continuing or subsequent breach of any such or any other condition, covenant, term and/or agreement herein contained.

ARTICLE 10 INSURANCE

10.1 Property Insurance. Boghani shall at all times maintain, pursuant to the Main Lease, insurance in an amount equal to the full replacement costs of the value of all buildings, improvements, leasehold improvements and betterments. Neither Boghani nor Lessor shall be obligated in any way or manner to insure any personal property (including, but not limited to, any furniture, machinery, goods or supplies) of Lessee upon or within the Premises, any fixtures installed or paid for by Lessee upon or within the Premises, or any improvements which Lessee may construct on the Premises other than any subsequent leasehold improvements by Lessee approved by Boghani and Lessor. Lessee shall have no right in or

claim to the proceeds of any policy of insurance maintained by Boghani or Lessor even if the cost of such insurance is borne by Lessee. Lessee at all times during the term of this Sublease shall, at its own expense, keep in full force and effect insurance against fire and such other risks as are from time to time included in standard all-risk insurance policy (including coverage against vandalism, theft, burglary, and malicious mischief) for full replacement cost of Lessee's trade fixtures, furniture, supplies and all items of personal property of Lessee located on or within the Premises.

10.2 Commercial General and Umbrella Liability Insurance. The Lessee shall at its sole expense obtain and maintain in full force and effect for the duration of the Sublease and any extension hereof occurrence version commercial general liability insurance, and if necessary umbrella liability insurance, with a limit of not less than \$2,000,000 each occurrence for bodily injury, personal injury, property damage, and products and completed operations. If such insurance contains a general aggregate limit, it shall apply separately to the work/location in this Agreement or be no less than \$3,000,000. Such insurance shall:

- a. Contain or be endorsed to contain a provision that includes the City, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Lessee including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds. Proof of additional insured status up to and including copies of endorsements and/or policy wording will be required.
- b. For any claims related to this project, Lessee's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance programs covering the City, its officials, officers, employees, and volunteers shall be excess of Lessee's insurance and shall not contribute with it.
- c. At the sole discretion of the City, dedicated limits of liability for this specific project may be required.

10.3 Automobile Liability Insurance. The Lessee shall at its sole expense obtain and maintain in full force and effect for the duration of the Sublease and any extension hereof automobile liability insurance to cover vehicles owned, hired, and non-owned, with a combined single limit of not less than \$1,000,000 each accident. Such insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes the City, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Lessee.

10.4 Workers' Compensation Insurance. Lessee shall maintain workers' compensation insurance with statutory limits as required by the State of Tennessee or other applicable laws and employers' liability insurance with limits of not less than \$500,000. Lessee shall require each of its Sublessees to provide Workers' Compensation for all of the latter's employees to be engaged in such work unless such employees are covered by Lessee's workers' compensation insurance coverage. Such insurance shall include a waiver of subrogation in

favor of the City. Proof of waiver of subrogation up to and including copies of endorsements and/or policy wording will be required.

10.5 Other Insurance Requirements. Lessee shall:

- a. Prior to commencement of services, furnish the City with original certificates and amendatory endorsements effecting coverage required by this section and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on 30 days' prior written notice to the City Attorney of Knoxville, P.O. Box 1631, Knoxville, Tennessee 37901. Proof of policy provisions regarding notice of cancellation will be required.
- b. Upon the City's request, provide certified copies of endorsements and policies if requested by the City in lieu of or in addition to certificates of insurance. Copies of policies will only be requested when contracts are deemed to be extremely or uniquely hazardous, include a dollar amount that is significant to the overall budget of the City or a City Department, or the coverage(s) may not follow standard insurance forms. A policy will only be requested after the City's Risk Manager has reviewed the contract and proof of coverage has been provided. Should the certificate of insurance refer to specific coverage wording or endorsement(s), proof of such policy wording or endorsement(s) will be required.
- c. Replace certificates, policies, and endorsements for any such insurance expiring prior to completion of services.
- d. Maintain such insurance from the time services commence until services are completed. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of contract.
- e. Place such insurance with insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A. Modification of this standard may be considered upon appeal to the City Law Director.
- f. Require all sublessees to maintain during the term of the Agreement Commercial General Liability insurance, Business Automobile Liability insurance, and Workers' Compensation/Employer's Liability insurance (unless subcontractor's employees are covered by Lessee's insurance) in the same manner as specified for Lessee. Lessee shall furnish subcontractors' certificates of insurance to the City without expense immediately upon request.
- g. Any deductibles and/or self-insured retentions greater than \$50,000 must be disclosed to and approved by the City of Knoxville prior to the commencement of services. Use of large deductibles and/or self-insured retentions will require proof of financial ability as determined by the City.
- h. The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, and employees for losses arising from work performed by Contractor for the City. Proof of waiver of subrogation up to and including copies of endorsements and/or policy wording will be required.
- i. All general liability policies must be written on an occurrence basis unless the Risk Manager determines that a claims made basis is reasonable in the specific circumstance. Use of policies written on a claims made basis must be approved by the Risk Manager and retroactive dates and/or continuation dates must be provided to the City prior to commencement of any work performed.

ARTICLE 11 INDEMNIFICATION

Lessee shall defend, indemnify and hold harmless the City, its officers, employees and agents from any and all liabilities which may accrue against the City, its officers, employees and agents or any third party for any and all lawsuits, claims, demands, losses or damages alleged to have arisen from an act or omission of Lessee in performance of this Agreement or from Lessee's failure to perform this Agreement using ordinary care and skill, except where such injury, damage, or loss was caused by the sole negligence of the City, its agents or employees.

Lessee shall save, indemnify and hold the City harmless from the cost of the defense of any claim, demand, suit or cause of action made or brought against the City alleging liability referenced above, including, but not limited to, costs, fees, attorney fees, and other expenses of any kind whatsoever arising in connection with the defense of the City; and Lessee shall assume and take over the defense of the City in any such claim, demand, suit, or cause of action upon written notice and demand for same by the City. Lessee will have the right to defend the City with counsel of its choice that is satisfactory to the City, and the City will provide reasonable cooperation in the defense as Lessee may request. Lessee will not consent to the entry of any judgment or enter into any settlement with respect to an indemnified claim without the prior written consent of the City, such consent not to be unreasonably withheld or delayed. The City shall have the right to participate in the defense against the indemnified claims with counsel of its choice at its own expense.

Lessee shall save, indemnify and hold City harmless and pay judgments that shall be rendered in any such actions, suits, claims or demands against City alleging liability referenced above.

The indemnification and hold harmless provisions of this Agreement shall survive termination of the Agreement.

ARTICLE 12 CONDEMNATION

12.1 Taking. Any taking during the term of this Sublease of any interest in the Premises as a result of the actual exercise of the power of condemnation or eminent domain by the United States or any other body having such power or any sale or other transfer of any such interest in lieu of or in anticipation of the impending exercise of any such power, to any person legally empowered to exercise such power shall be herein referred to as a "Taking" for the purposes of this Sublease.

12.2 Substantial Taking. If, by exercise of the right of eminent domain or by conveyance made in response to the threat of the exercise of such right (in either case a "Taking"), all of the Premises are taken, or if so much of the Premises are taken that the cannot reasonably be used by Boghani, Lessee, and/or Lessee for its business operations, this Sublease will end on the earlier of the vesting of title to the Premises in the condemning authority or the taking of possession of the Premises by the condemning authority (in either case, the "Ending Date"). If this Lease ends according to this Section, payments due under this Sublease will be appropriately prorated to the Ending Date. The termination of this Sublease shall not benefit the condemner and shall be without prejudice to the rights of either Lessor or Lessee to recover just and adequate compensation from the condemning authority.

- 12.3 Partial Taking.** If, after a Taking, so much of the Premises remains that the Premises can reasonably be used by Lessee for its business operations in Lessor's opinion (i) this Lease will end on the Ending Date as to the part of the Premises which is taken; (ii) rent will be appropriately allocated to the part of the Premises which is taken and prorated to the Ending Date; (iii) beginning on the day after the Ending Date, rent for so much of the Premises as remains will be reduced based on the area taken. Boghani and/or Lessor shall make such restoration or repairs to the Premises as necessary to restore them as nearly as practical to their original condition; provided, however, Boghani and/or Lessor shall not be obligated to spend any funds in excess of the condemnation award or amounts paid in lieu thereof for such restoration or repair. Notwithstanding, in the event any portion of the Premises are Taken, Boghani or Lessor may, at its option, terminate this Lease, and upon such termination neither party shall any further obligation to the other.
- 12.4 Allocation of an Award for a Taking.** All compensation awarded for any Taking (or the proceeds of private sale in lieu thereof), whether for the whole or a part of the Premises, shall be the property of Lessor (or Boghani), whether such award is made to Lessor. Notwithstanding, Tenant may, to the extent separately awarded, recover for its trade fixtures and moving expenses from the condemning authorities.

ARTICLE 13 DAMAGE OR DESTRUCTION

- 13.1 Lessee to Give Notice.** In the event of any damage to or destruction of the Premises or any improvements or any part thereof, Lessee will give written notice thereof to Boghani and Lessor describing the nature and extent of such damage or destruction.
- 13.2 Total Destruction.** In the event the Premises are damaged and destroyed and the Main Lease is terminated, this Sublease shall also terminate. In the event the Premises are damaged or destroyed and the Main Lease is not terminated pursuant to the Main Lease, this Lease shall remain in full force and effect. Lessee shall have no interest in any proceeds of insurance maintained by Boghani or Lessor with respect to the Premises.

ARTICLE 14 NON-DISCRIMINATION

Lessee:

- a. will not discriminate against any employee or applicant for employment because of race, age, color, religion, national origin, sex or disability;
- b. will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, age, color, religion, national origin, sex or disability; and
- c. will, in all solicitations or advertisements for employees placed by or on behalf of it, state that all qualified applicants will receive consideration for employment without regard to race, age, color, religion, national origin, sex or disability.
- d. will include these provisions in every subcontract or sublease let by or for it.

ARTICLE 15 ETHICAL STANDARDS

Lessee hereby takes notice of and warrants that it is not in violation of, or has not participated, and will not participate, in the violation of any of the following ethical standards prescribed by the Knoxville City Code:

(A) Sec. 2-1048. Conflict of Interest.

It shall be unlawful for any employee of the city to participate, directly or indirectly, through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering advice, investigation, auditing or otherwise, in any proceeding or application, request for ruling or other determination, claim or controversy or other matter pertaining to any contract or subcontract and any solicitation or proposal therefor, where to the employee's knowledge there is a financial interest possessed by:

- (1) The employee or the employee's immediate family;
- (2) A business other than a public agency in which the employee or a member of the employee's immediate family serves as an officer, director, trustee, partner or employee; or
- (3) Any other person or business with whom the employee or a member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment.

(B) Sec. 2-1049. Receipt of Benefits from City Contracts by Councilmembers, Employees and Officers of the City.

It shall be unlawful for any member of council, member of the board of education, officer or employee of the city to have or hold any interest in the profits or emoluments of any contract, job, work or service, either by himself or by another, directly or indirectly. Any such contract for a job, work or service for the city in which any member of council, member of the board of education, officer or employee has or holds any such interest is void.

(C) Sec. 2-1050. Gratuities and Kickbacks Prohibited.

Gratuities. It is unlawful for any person to offer, give or agree to give to any person, while a city employee, or for any person, while a city employee, to solicit, demand, accept or agree to accept from another person, anything of a pecuniary value for or because of:

- (1) An official action taken, or to be taken, or which could be taken;
- (2) A legal duty performed, or to be performed, or which could be performed; or
- (3) A legal duty violated, or to be violated, or which could be violated by such person while a city employee.

Anything of nominal value shall be presumed not to constitute a gratuity under this section.

Kickbacks. It is unlawful for any payment, gratuity or benefit to be made by or on behalf of a

subcontractor or any person associate therewith as an inducement for the award of a subcontract or order.

(D) Sec. 2-1051. Covenant Relating to Contingent Fees.

(a) *Representation of Contractor.* Every person, before being awarded a contract in excess of ten thousand dollars (\$10,000.00) with the city, shall represent that no other person has been retained to solicit or secure the contract with the city upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for bona fide employees or bona fide established commercial, selling agencies maintained by the person so representing for the purpose of securing business.

(b) *Intentional violation unlawful.* The intentional violation of the representation specified in subsection (a) of this section is unlawful.

(E) Sec. 2-1052. Restrictions on Employment of Present and Former City Employees.

Contemporaneous employment prohibited. It shall be unlawful for any city employee to become or be, while such employee, an employee of any party contracting with the particular department or agency in which the person is employed.

(F) Remedies for Violations. For violations of the ethical standards outlined in the Knoxville City Code, the City has the following remedies:

- (1) Oral or written warnings or reprimands;
- (2) Cancellation of transactions; and
- (3) Suspension or debarment from being a Contractor or subcontractor under city or city-funded contracts.

The value of anything transferred in violation of these ethical standards shall be recoverable by the City from such person. All procedures under this section shall be in accord with due process requirements, included but not limited to a right to notice and hearing prior to imposition of any cancellation, suspension or debarment from being a Contractor or subcontractor under a city contract.

ARTICLE 16 ENVIRONMENTAL MATTERS

16.1 Hazardous Materials. For purposes of this Lease, the term "Hazardous Materials" is defined as any substance, chemical or material that is prohibited, regulated or controlled by any federal, state or local statute, law or ordinance enacted for the protection of the environment, including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (42 U.S.C. §§9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. §§1801, et seq.), and the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§6901 et seq.).

16.2 Warranties, Agreements, and Indemnity. Lessee warrants, represents and covenants as follows:

- a. **Agreement.** Lessee nor its permitted Sublessees or assigns shall use or store, locate, discharge, possess, manage, process or otherwise handle any Hazardous Materials on the Premises other than reasonable amounts of supplies for cleaning and operation of the improvements on the Premises which shall be used and stored in accordance with applicable laws and regulations. In the event Hazardous Materials are discovered on, in, or under the Premises, which are present as a result of Lessee's use or occupancy of the Premises or as a result of the use or occupancy, or any acts or omissions, of Lessee's employees, agents, contractors, invitees, licensees, permitted Sublessees or assigns, or any person who comes upon the Premises with Lessee's permission, Lessee, at its sole expense, shall immediately institute and complete, on an emergency basis, all proper, requisite, and thorough procedures for the removal of Hazardous Materials in accordance with all applicable laws, rules, ordinances, and regulations.
- b. **Indemnification.** Lessee shall indemnify and hold the Lessor and its successors and assigns harmless from and against any costs, reasonable attorney's fees, expenses, fines, or claims arising out of the presence or existence of Hazardous Materials on, in or under the Premises which are present as a result of Lessee's use or occupancy of the Premises or as a result of any acts or omission of Lessee's employees, agents, contractors, invitees, licensees, permitted subtenants or assigns, or any person who comes upon the Premises with Lessee's permission. Lessee shall have no liability for Hazardous Materials which are on, in or under the Premises prior to the date of Lessee's occupancy thereof. The indemnity obligation stated herein shall survive the termination of this Lease.
- c. **Notification and Remediation.** Lessee shall immediately notify Lessor should Lessee become aware of any Hazardous Materials or other environmental problems or liabilities with respect to the Premises. If any such Hazardous Materials were released on the Premises by Lessee or its agents, employees, Sublessees or invitees, Lessee shall, at Lessee's or its Sublessees' own cost and expense, take or cause its Sublessees to take all actions as shall be necessary or advisable for the clean-up of the Premises within fourteen (14) days of the earlier of (i) Lessee's knowledge of the necessity of clean-up, or (ii) Lessor's request for clean-up; which clean-up shall include all removal, containment, and remedial actions in accordance with all applicable environmental laws (and in all events in a manner satisfactory to Lessor), and Lessee shall further pay or cause to be paid at no expense to the Lessor all clean-up, administrative, and enforcement costs of applicable government agencies which may be asserted against the Premises, Lessor or any other owner thereof, or any lender of Lessor or any owner. All costs, including, without limitation, those costs set forth above, damages, liabilities, losses, claims, expenses (including attorney's fees and disbursements) and any and all other incidental costs which are incurred by or asserted against Lessor, without requirement of waiting for the ultimate outcome of any litigation, claim or other proceeding, shall be paid by Lessee to Lessor as incurred within ten (10) days after notice from Lessor itemizing the amounts incurred to the date of such notice. Lessee does hereby agree to pay (or cause its Sublessee to pay) any fines, charges, fees, expenses, damages, losses, liabilities, costs of clean-up, or response costs arising from or pertaining to any such applicable environmental laws as a result of any actions, omissions, events, or circumstances caused by Lessee and to indemnify and hold Lessor harmless therefrom.

- 16.3 Survival.** All warranties, representations and covenants of Lessee above shall be continuing and shall remain true and correct in all material respects and shall survive the expiration of this Sublease or any exercise of any remedy by Lessor hereunder, including the termination of this Sublease.

ARTICLE 17 MISCELLANEOUS PROVISIONS

- 17.1 Amendment or Modification.** This Sublease may be modified only by a written amendment or addendum that has been executed and approved by the appropriate officials shown on the signature page of this Sublease.
- 17.2 Approvals.** All approvals required to be obtained from the City hereunder may be granted by the Mayor of the City of Knoxville or the Mayor's designee. Neither Lessee nor Lessor is bound by this Lease until it is approved by the appropriate officials shown on the signature page of this Lease. The parties signing this Agreement represent that they possess the proper authority to bind the parties with respect to this Lease.
- 17.3 Assignment.** Lessee shall not assign, transfer, or encumber any interest in this Agreement, nor assign or sublet Lessee's leasehold interest in the Premises, without obtaining the prior written consent of the Lessor, except that Lessee is expressly authorized to enter into written sublease or licensure agreements consistent with the purposes of this Lease. The form of any sublease shall contain contractual obligations for the sublessee substantially similar to Lessee's obligations stated herein and such additional terms and conditions as Lessee deems appropriate; provided, however, that any sublease or licensure agreement shall contain the exact language as it is stated in Articles 14, 15, and 16 of this Lease. Upon entering into any such agreement, Lessee shall submit an executed copy of the written agreement to the City at the address provided for Notices.
- 17.4 Attorney's Fees.** In the event of any litigation involving this Sublease or the Premises between the Lessor and Lessee, the attorneys' fees and expenses of the party which prevails in such litigation shall be paid by the losing party.
- 17.5 Captions.** The captions appearing in this Sublease are for convenience only and are not a part of this Lease; they do not in any way limit or amplify the provisions of this lease.
- 17.6 Counterparts.** This Sublease may be executed in any number of counterparts, each of which is an original, but all of which shall constitute one instrument.
- 17.7 EEO/AA.** The City of Knoxville is an EEO/AA/Title VI/Section 504/ ADA/ADEA Employer.
- 17.8 Entire Agreement.** This Sublease document forms the entire agreement between the City and Lessee. Any prior representations, promises, agreements, oral or otherwise, between the parties, which are not embodied in this writing, will be of no force or effect.
- 17.9 Estoppel Certificates.** Lessee agrees to furnish, from time to time, within twenty (20) days after receipt of a request from Lessor or Boghani, a statement certifying, if applicable, all or

some of the following: Lessee is in possession of the Premises; the Lease is in full force and effect; the Sublease is unmodified (except as disclosed in such statement); Lessee claims no present charge; lien, or claim of offset against any amounts due to Lessor; all fees and charges paid for the current month, but it is not prepaid for more than one (1) month and will not be prepaid for more than one (1) month in advance; there is no existing default by reason of some act or omission by Lessor; that Lessor has performed all inducements required of Lessor in connection with this Sublease, including construction obligations, and Lessee accepts the Premises as constructed; an acknowledgment of the assignment of rentals and other sums due hereunder to the mortgagee and agreement to be bound thereby; an agreement requiring Lessee to advise the mortgagee of damage to or destruction of the Premises by fire or other casualty requiring reconstruction; an agreement by Lessee to give the mortgagee written notice of Lessor's default hereunder and to permit the mortgagee to cure such default within a reasonable time after such notice before exercising any remedy Lessee might possess as a result of such default; and such other matters as may be reasonably required by Lessor's mortgagee. Lessee's failure to deliver such statement, in addition to being a default under this Sublease, shall be deemed to establish conclusively that this Sublease is in full force and effect except as declared by Lessor, and that Lessor is not in default of any of its obligations' under this Sublease.

- 17.10 Federal, State and Local Requirements.** The Lessee is responsible for full compliance with all applicable federal, state and local laws, rules and regulations.
- 17.11 Force Majeure.** Neither party shall be liable to the other for any delay or failure to perform any of the services or obligations set forth in this Agreement due to causes beyond its reasonable control, and performance times shall be considered extended for a period of time equivalent to the time lost because of such delay plus a reasonable period of time to allow the parties to recommence performance of their respective obligations hereunder. Should a circumstance of force majeure last more than ninety (90) days, either party may by written notice to the other terminate this Agreement. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies or officials, or any civil or military authority; insurrections, riots, landslides, earthquakes, fires, storms, tornadoes, droughts, floods, explosions, breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of either party.
- 17.12 Governing Law and Venue.** This Sublease shall be governed and construed in accordance with the laws of the State of Tennessee. Any action for breach of this Sublease or to enforce or nullify any provision of this agreement shall be instituted only in a court of appropriate jurisdiction in Knox County, Tennessee.
- 17.13 No Benefit for Third Parties.** No benefit is conferred hereby, nor is any contractual relationship established herewith, upon or with any person or entity not a party to this Agreement. This Sublease is solely for the benefit of the Lessor and Lessee, and no benefit is hereby conferred, nor is any contractual relationship established herewith, upon or with any person or entity not a party to this Sublease. No right to assert a claim against the City, its officers, employees, agents, or contractors shall accrue to any third party or sublessee as a result of this Sublease or the performance or non-performance hereunder.

- 17.14 No Liens.** The City does not consent to the imposition of any mechanic's or materialmen's lien against the Premises, and Lessee shall keep the Premises free thereof.
- 17.15 Non-Reliance of Parties.** Parties explicitly agree that they have **not** relied upon any earlier or outside representations other than what has been included in this Agreement. Furthermore, neither party has been induced to enter into this Agreement by anything other than the specific written terms set forth herein.
- 17.16 Notices, Demands and Other Instruments.** All notices, demands, requests, consents and other instruments required or permitted to be given pursuant to the term of this Sublease shall be in writing and shall be deemed to have been properly given (i) upon personal delivery, or (ii) upon deposit in the United States Mail, if sent by first class, registered or certified United States Mail, return receipt requested, or (iii) forwarded by a nationally recognized overnight courier service, addressed to each party at:

Lessor: City of Knoxville
400 S. Main Street, Suite 699
Knoxville, Tennessee 37902
Attention: Law Director

Lessee: Arts and Culture Alliance
P.O. Box 2506
Knoxville, Tennessee 37901
Attention: Executive Director

Boghani: Boghani Properties, LLC
C/O Jackson Central Group
129 South Central Street
Knoxville, TN 37902

or at such other address in the United States as Lessor or Lessee may from time to time designate in writing and deliver to the other party.

- 17.17 Severability.** If any provision of this Sublease is determined to be unenforceable or invalid, such determination will not affect the validity of the other provisions contained in this Sublease. Failure to enforce any provision of this Sublease does not affect the rights of the parties to enforce such provision in another circumstance, nor does it affect the rights of the parties to enforce any other provision of this Sublease at any time.
- 17.18 Short Form Lease.** The parties will at any time at the request of either one, execute duplicate originals of any instrument in recordable form which will constitute a short form lease or memorandum of lease setting forth the description of the Premises and the term of this Sublease so that it will not be necessary to record this Sublease in its entirety.
- 17.19 Successors and Assigns.** Each and every covenant, term, condition and obligation contained in this Sublease shall apply to and be binding upon and inure to the benefit or detriment of the respective legal representatives, successors and assigns of Lessor and Lessee. Whenever

reference to the parties hereto is made in this Sublease, such reference shall be deemed to include the legal representatives, successors and assigns of Lessor and Lessee as if in each case expressed. The term "Person" when used in this Sublease shall mean any individual, corporation, partnership, limited liability company, firm, trust, joint venture, business association, syndicate, government or governmental organization or any other entity.

17.20 Termination of Main Lease. This Sublease shall terminate if Lessor terminates the Main Lease.

17.21 Time of the Essence. It is specifically agreed that the timely payment of each and every amount due under this Sublease and timely performance of each and every one of the terms, covenants and conditions hereof is of the essence of this Sublease.

17.22 Waiver. Failure of Lessor to insist upon the strict performance by Lessee of any term, condition or covenant on Lessee's part to be performed pursuant to the term of this Sublease or to exercise any option, right, power or remedy of Lessor contained in this Sublease shall not be deemed nor construed as a waiver of such performance or relinquishment of such right now or subsequent hereto. No waiver of any terms or provisions shall be valid unless such waiver is in writing.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Sublease to be executed as of the day and year first above written.

APPROVED AS TO FORM:

CITY OF KNOXVILLE

CHARLES W. SWANSON
LAW DIRECTOR

BY: _____
INDYA KINCANNON
MAYOR

DATE: _____

FUNDS CERTIFIED:

THE ARTS AND CULTURE
ALLIANCE OF GREATER
KNOXVILLE

BOYCE H. EVANS
FINANCE DIRECTOR

BY: _____

TITLE: _____

Required Documents:

Certificate of Insurance X