

RESOLUTION NO. 76-17

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING THE ACQUISITION OF THAT CERTAIN PARCEL OF REAL PROPERTY LOCATED IN PALM BEACH COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; AND AUTHORIZING THE CITY MANAGER TO AUTHORIZE THE NECESSARY DOCUMENTS TO EFFECTUATE SUCH SALE; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach, Florida ("City") desires to acquire certain property located at 15 SE 10th Street and the parcel located on SE 1st Avenue, Delray Beach, Florida ("Property") from 10th ST Storage LLC, ("Seller"); and

WHEREAS, the City desires to acquire the above-referenced property for the purpose of constructing a training center for the City of Delray Beach Fire Rescue; and

WHEREAS, City desires to acquire the Property from Seller and, in consideration, City will pay Two Million Nine Hundred Thousand Dollars (\$2,900,000.00); and

WHEREAS, it is in the best interest of the City of Delray Beach, Florida, to acquire the Property from Seller.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the City Commission of the City of Delray Beach, Florida, as Buyer, hereby agrees to acquire Property from 10th ST Storage LLC, as Seller, for a purchase price of Two Million Nine Hundred Thousand Dollars (\$2,900,000.00) and other good and valuable consideration, the sufficiency of which is hereby acknowledged by the parties; said Property being described as follows:

See Attached "Exhibit A"

Section 2. That the terms and conditions contained in Commerical Contract between the City of Delray Beach, Florida, and 10th ST Storage LLC are incorporated herein as Exhibit "B".

Section 3. That the City Manager, acting on behalf of the City of Delray Beach, is hereby specifically authorized to negotiate, enter into, execute, and deliver such other documents relating to the purchase of the subject Property as the City Manager deems necessary and appropriate to effectuate such purchase.

Section 4. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the ____ day of _____, 2017.

ATTEST:

Mayor

City Clerk

Approved as to form and legal sufficiency:

City Attorney

EXHIBIT “A”

Parcel A:

Triangular strip West of Block 14, OSCEOLA PARK, according to the Plat thereof, as recorded in Plat Book 3, Page 2, of the Public Records of Palm Beach County, Florida.

Parcel B:

An unnumbered and irregular shaped lot in OSCEOLA PARK, Delray Beach, Florida, lying between the Florida East Coast Railroad right-of-way on the West, Currie Street on the East, Nelson Street on the North, Rousseau Street on the South, as shown on the Plat of OSCEOLA PARK, according to the Plat thereof, as recoded in Plat Book 3, Page 2, of the Public Records of Palm Beach County, Florida.

Parcel C:

That portion of S.E. 1st Avenue (now vacated) running between S.E. 9th Street and S.E. 10th Street, as shown on the Plat of OSCEOLA PARK, according to the Plat thereof, as recorded in Plat Book 3, Page 2, pf the Public Records of Palm Beach County, Florida.

Parcel D:

Lots 10 through 18, inclusive, Block 15, Osceola Park, according to the Plat thereof, as recorded in Plat Book 3, Page 2, of the Public Records of Palm Beach County, Florida, LESS the East 50 feet thereof.

Parcel Control No.: 12-43-46-21-01-015-0101

and

Parcel Control No.: 12-43-46-21-01-014-0190

Commercial Contract

1. **PARTIES AND PROPERTY:** _____ City of Delray Beach _____ ("Buyer")

agrees to buy and _____ 10th ST Storage LLC _____ ("Seller")

agrees to sell the property as: Street Address: 15 SE 10th ST and parcel on SE 1st AVE, Delray Beach, FL 33444

Legal Description: PCN #: 12-43-46-21-01-015-0101 and 12-43-46-21-01-014-0190 (see attached exhibit A)

and the following Personal Property: N/A

(all collectively referred to as the "Property") on the terms and conditions set forth below.

2. PURCHASE PRICE: \$ 2,900,000.00

(a) Deposit held in escrow by _____ \$ 0.00
("Escrow Agent") (checks are subject to actual and final collection)

Escrow Agent's address: _____ Phone: _____

(b) Additional deposit to be made to Escrow Agent within _____ days after Effective Date \$ _____

(c) Additional deposit to be made to Escrow Agent within _____ days after Effective Date \$ _____

(d) Total financing (see Paragraph 5) \$ 0.00

(e) Other _____ \$ _____

(f) All deposits will be credited to the purchase price at closing. Balance to close, subject to adjustments and prorations, to be paid with locally drawn cashier's or official bank check(s) or wire transfer. \$ 2,900,000.00

3. TIME FOR ACCEPTANCE; EFFECTIVE DATE; COMPUTATION OF TIME: Unless this offer is signed by Seller and Buyer and an executed copy delivered to all parties on or before November 10, 2017, this offer will be withdrawn and the Buyer's deposit, if any, will be returned. The time for acceptance of any counter offer will be 3 days from the date the counter offer is delivered. The "Effective Date" of this Contract is the date on which the last one of the Seller and Buyer has signed or initialed and delivered this offer or the final counter offer. Calendar days will be used when computing time periods, except time periods of 5 days or less. Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal holidays. Any time period ending on a Saturday, Sunday, or national legal holiday will extend until 5:00 p.m. of the next business day. Time is of the essence in this Contract.

4. CLOSING DATE AND LOCATION:

(a) **Closing Date:** This transaction will be closed on December 15, 2017 (Closing Date), unless specifically extended by other provisions of this Contract. The Closing Date will prevail over all other time periods including, but not limited to, Financing and Due Diligence periods. In the event insurance underwriting is suspended on Closing Date and Buyer is unable to obtain property insurance, Buyer may postpone closing up to 5 days after the insurance underwriting suspension is lifted.

Buyer () () and Seller () () acknowledge receipt of a copy of this page, which is Page 1 of 8 Pages.

(b) Location: Closing will take place in Palm Beach County, Florida. If left blank, closing will take place in the county where the property is located. Closing may be conducted by mail or electronic means.

5. THIRD PARTY FINANCING:

BUYER'S OBLIGATION: Within N/A days (5 days if left blank) after Effective Date, Buyer will apply for third party financing in an amount not to exceed _____% of the purchase price or \$ _____ with a fixed interest rate not to exceed _____% per year with an initial variable interest rate not to exceed _____% with points or commitment or loan fees not to exceed _____% of the principal amount, for a term of _____ years and amortized over _____ years, with additional terms as follows:

CASH

Buyer will timely provide any and all credit, employment, financial and other information reasonably required by any lender. Buyer will use good faith and reasonable diligence to (i) obtain Loan Approval within _____ days (45 days if left blank) from Effective Date (Loan Approval Date), (ii) satisfy terms and conditions of the Loan Approval, and (iii) close the loan. Buyer will keep Seller and Broker fully informed about loan application status and authorizes the mortgage broker and lender to disclose all such information to Seller and Broker. Buyer will notify Seller immediately upon obtaining financing or being rejected by a lender. **CANCELLATION:** If Buyer, after using good faith and reasonable diligence, fails to obtain Loan Approval by Loan Approval Date, Buyer may within _____ days (3 days if left blank) deliver written notice to Seller stating Buyer either waives this financing contingency or cancels this Contract. If Buyer does neither, then Seller may cancel this Contract by delivering written notice to Buyer at any time thereafter. Unless this financing contingency has been waived, this Contract shall remain subject to the satisfaction, by closing, of those conditions of Loan Approval related to the Property. **DEPOSIT(S) (for purposes of Paragraph 5 only):** If Buyer has used good faith and reasonable diligence but does not obtain Loan Approval by Loan Approval Date and thereafter either party elects to cancel this Contract as set forth above or the lender fails or refuses to close on or before the Closing Date without fault on Buyer's part, the Deposit(s) shall be returned to Buyer, whereupon both parties will be released from all further obligations under this Contract, except for obligations stated herein as surviving the termination of this Contract. If neither party elects to terminate this Contract as set forth above or Buyer fails to use good faith or reasonable diligence as set forth above, Seller will be entitled to retain the Deposit(s) if the transaction does not close.

6. TITLE: Seller has the legal capacity to and will convey marketable title to the Property by ☒ statutory warranty deed ☐ other _____ free of liens, easements and encumbrances of record or known to Seller, but subject to property taxes for the year of closing, covenants, restrictions and public utility easements of record, existing zoning and governmental regulations, and list any other matters to which title will be subject: _____

provided there exists at closing no violation of the foregoing and none of them prevents Buyer's intended use of the Property as CF

(a) **Evidence of Title:** The party who pays the premium for the title insurance policy will select the closing agent and pay for the title search and closing services. Seller will, at (check one) ☒ Seller's ☐ Buyer's expense and within 5 days ☒ after Effective Date ☐ or at least _____ days before Closing Date deliver to Buyer (check one) ☒ (i) a title insurance commitment by a Florida licensed title insurer setting forth those matters to be discharged by Seller at or before Closing and, upon Buyer recording the deed, an owner's policy in the amount of the purchase price for fee simple title subject only to exceptions stated above. If Buyer is paying for the evidence of title and Seller has an owner's policy, Seller will deliver a copy to Buyer within 15 days after Effective Date. ☐ (ii) an abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an existing firm. However, if such an abstract is not available to Seller, then a prior owner's title policy acceptable to the proposed insurer as a basis for reissuance of coverage may be used. The prior policy will include copies of all policy exceptions and an update, in a format acceptable to Buyer from the policy effective date and certified to Buyer or Buyer's closing agent together with copies of all documents recited in the prior policy and in the update. If such an abstract or prior policy is not available to Seller then (i) above will be the evidence of title.

(b) **Title Examination:** Buyer will, within 15 days from receipt of the evidence of title deliver written notice to Seller of title defects. Title will be deemed acceptable to Buyer if (i) Buyer fails to deliver proper notice of defects or

Buyer _____ and Seller SD acknowledge receipt of a copy of this page, which is Page 2 of 3 Pages.

(2) **Buyer** delivers proper written notice and **Seller** cures the defects within 5 days from receipt of the notice ("Curative Period"). If the defects are cured within the Curative Period, closing will occur within 10 days from receipt by **Buyer** of notice of such curing. **Seller** may elect not to cure defects if **Seller** reasonably believes any defect cannot be cured within the Curative Period. If the defects are not cured within the Curative Period, **Buyer** will have 10 days from receipt of notice of **Seller's** inability to cure the defects to elect whether to terminate this Contract or accept title subject to existing defects and close the transaction without reduction in purchase price.

(c) **Survey:** (check applicable provisions below)

☒ (i) **Seller** will, within 2 days from Effective Date, deliver to **Buyer** copies of prior surveys, plans, specifications, and engineering documents, if any, and the following documents relevant to this transaction:

prepared for **Seller** or in **Seller's** possession, which show all currently existing structures. In the event this transaction does not close, all documents provided by **Seller** will be returned to **Seller** within 10 days from the date this Contract is terminated.

☒ **Buyer** will, at Seller's ☒ **Buyer's** expense and within the time period allowed to deliver and examine title evidence, obtain a current certified survey of the Property from a registered surveyor. If the survey reveals encroachments on the Property or that the improvements encroach on the lands of another, ☐ **Buyer** will accept the Property with existing encroachments ☒ such encroachments will constitute a title defect to be cured within the Curative Period.

(d) **Ingress and Egress:** **Seller** warrants that the Property presently has ingress and egress.

7. PROPERTY CONDITION: **Seller** will deliver the Property to **Buyer** at the time agreed in its present "as is" condition, ordinary wear and tear excepted, and will maintain the landscaping and grounds in a comparable condition. **Seller** makes no warranties other than marketability of title. In the event that the condition of the Property has materially changed since the expiration of the Due Diligence Period, **Buyer** may elect to terminate the Contract and receive a refund of any and all deposits paid, plus interest, if applicable. By accepting the Property "as is," **Buyer** waives all claims against **Seller** for any defects in the Property. (Check (a) or (b)).

☐ (a) **As Is:** **Buyer** has inspected the Property or waives any right to inspect and accepts the Property in its "as is" condition.

☒ (b) **Due Diligence Period:** **Buyer** will, at **Buyer's** expense and within 30 days from Effective Date ("Due Diligence Period"), determine whether the Property is suitable, in **Buyer's** sole and absolute discretion, for **Buyer's** intended use and development of the Property as specified in Paragraph 5. During the Due Diligence Period, **Buyer** may conduct any tests, analyses, surveys and investigations ("inspections") which **Buyer** deems necessary to determine to **Buyer's** satisfaction the Property's engineering, architectural, environmental properties, zoning and zoning restrictions, flood zone designation and restrictions, subdivision regulations, soil and grade, availability of access to public roads, water, and other utilities; consistency with local, state and regional growth management and comprehensive land use plans; availability of permits, government approvals and licenses; compliance with American with Disabilities Act; absence of asbestos, soil and ground water contamination, and other inspections that **Buyer** deems appropriate to determine the suitability of the Property for **Buyer's** intended use and development. **Buyer** will deliver written notice to **Seller** prior to the expiration of the Due Diligence Period of **Buyer's** determination of whether or not the Property is acceptable. **Buyer's** failure to comply with this notice requirement will constitute acceptance of the Property in its present "as is" condition. **Seller** grants to **Buyer**, its agents, contractors and assigns, the right to enter the Property at any time during the Due Diligence Period for the purpose of conducting inspections, provided, however, that **Buyer**, its agents, contractors and assigns enter the Property and conduct inspections at their own risk. **Buyer** will indemnify and hold **Seller** harmless from losses, damages, costs, claims and expenses of any nature, including attorneys' fees at all levels, and from liability to any person arising from the conduct of any and all inspections or any work authorized by **Buyer**. **Buyer** will not engage in any activity that could result in a mechanic's lien being filed against the Property without **Seller's** prior written consent. In the event this transaction does not close, (1) **Buyer** will repair all damages to the Property resulting from the inspections and return the Property to the condition it was in prior to conduct of the inspections, and (2) **Buyer** will, at **Buyer's** expense, release to **Seller** all reports and other work generated as a result of the inspections. Should **Buyer** deliver timely notice that the Property is not acceptable, **Seller** agrees that **Buyer's** deposit will be immediately returned to **Buyer** and the Contract terminated.

(c) **Walk-through Inspection:** **Buyer** may, on the day prior to closing or any other time mutually agreeable to the

Buyer () and **Seller** () I acknowledge receipt of a copy of this page, which is Page 2 of 5 Pages.

parties, conduct a final "walk-through" inspection of the Property to determine compliance with this paragraph and to ensure that all Property is on the premises.

8. OPERATION OF PROPERTY DURING CONTRACT PERIOD: Seller will continue to operate the Property and any business conducted on the Property in the manner operated prior to Contract and will take no action that would adversely impact the Property, tenants, lenders or business, if any. Any changes, such as renting vacant space, that materially affect the Property or Buyer's intended use of the Property will be permitted ☒ only with Buyer's consent ☐ without Buyer's consent.

9. CLOSING PROCEDURE: Unless otherwise agreed or stated herein, closing procedure shall be in accordance with the norms where the Property is located.

(a) Possession and Occupancy: Seller will deliver possession and occupancy of the Property to Buyer at closing. Seller will provide keys, remote controls, and any security/access codes necessary to operate all locks, mailboxes, and security systems.

(b) Costs: Buyer will pay Buyer's attorneys' fees, taxes and recording fees on notes, mortgages and financing statements and recording fees for the deed. Seller will pay Seller's attorneys' fees, taxes on the deed and recording fees for documents needed to cure title defects. If Seller is obligated to discharge any encumbrance at or prior to closing and fails to do so, Buyer may use purchase proceeds to satisfy the encumbrances.

(c) Documents: Seller will provide the deed; bill of sale; mechanic's lien affidavit; originals of those assignable service and maintenance contracts that will be assumed by Buyer after the Closing Date and letters to each service contractor from Seller advising each of them of the sale of the Property and, if applicable, the transfer of its contract, and any assignable warranties or guarantees received or held by Seller from any manufacturer, contractor, subcontractor, or material supplier in connection with the Property; current copies of the condominium documents, if applicable; assignments of leases, updated rent roll; tenant and lender estoppels letters; tenant subordination, non-disturbance and attornment agreements (SNDAs) required by the Buyer or Buyer's lender; assignments of permits and licenses; corrective instruments; and letters notifying tenants of the change in ownership/rental agent. If any tenant refuses to execute an estoppel letter, Seller will certify that information regarding the tenant's lease is correct. If Seller is an entity, Seller will deliver a resolution of its Board of Directors authorizing the sale and delivery of the deed and certification by the appropriate party certifying the resolution and setting forth facts showing the conveyance conforms to the requirements of local law. Seller will transfer security deposits to Buyer. Buyer will provide the closing statement, mortgages and notes, security agreements, and financing statements.

(d) Taxes and Prorations: Real estate taxes, personal property taxes on any tangible personal property, bond payments assumed by Buyer, interest, rents (based on actual collected rents), association dues, insurance premiums acceptable to Buyer, and operating expenses will be prorated through the day before closing. If the amount of taxes for the current year cannot be ascertained, rates for the previous year will be used with due allowance being made for improvements and exemptions. Any tax proration based on an estimate will, at request of either party, be readjusted upon receipt of current year's tax bill; this provision will survive closing.

(e) Special Assessment Liens: Certified, confirmed, and ratified special assessment liens as of the Closing Date will be paid by Seller. If a certified, confirmed, and ratified special assessment is payable in installments, Seller will pay all installments due and payable on or before the Closing Date, with any installment for any period extending beyond the Closing Date prorated, and Buyer will assume all installments that become due and payable after the Closing Date. Buyer will be responsible for all assessments of any kind which become due and owing after Closing Date, unless an improvement is substantially completed as of Closing Date. If an improvement is substantially completed as of the Closing Date but has not resulted in a lien before closing, Seller will pay the amount of the last estimate of the assessment. This subsection applies to special assessment liens imposed by a public body and does not apply to condominium association special assessments.

(f) Foreign Investment in Real Property Tax Act (FIRPTA): If Seller is a "foreign person" as defined by FIRPTA, Seller and Buyer agree to comply with Section 1445 of the Internal Revenue Code. Seller and Buyer will complete, execute, and deliver as directed any instrument, affidavit, or statement reasonably necessary to comply with the FIRPTA requirements, including delivery of their respective federal taxpayer identification numbers or

Buyer () and Seller () acknowledge receipt of a copy of this page, which is Page 4 of 8 Pages.

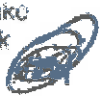
182 Social Security Numbers to the closing agent. If Buyer does not pay sufficient cash at closing to meet the
194 withholding requirement, Seller will deliver to Buyer at closing the additional cash necessary to satisfy the
195 requirement.


195 **10. ESCROW AGENT:** Seller and Buyer authorize Escrow Agent or Closing Agent (collectively "Agent") to
197 receive, deposit, and hold funds and other property in escrow and, subject to collection, disburse them in accordance
198 with the terms of this Contract. The parties agree that Agent will not be liable to any person for misdelivery of
199 escrowed items to Seller or Buyer, unless the misdelivery is due to Agent's willful breach of this Contract or gross
200 negligence. If Agent has doubt as to Agent's duties or obligations under this Contract, Agent may, at Agent's option,
201 (a) hold the escrowed items until the parties mutually agree to its disbursement or until a court of competent
202 jurisdiction or arbitrator determines the rights of the parties or (b) deposit the escrowed items with the clerk of
203 the court having jurisdiction over the matter and file an action in interpleader. Upon notifying the parties of such action,
204 Agent will be released from all liability except for the duty to account for items previously delivered out of escrow. If
205 Agent is a licensed real estate broker, Agent will comply with Chapter 475, Florida Statutes. In any suit in which Agent
206 interpleads the escrowed items or is made a party because of acting as Agent hereunder, Agent will recover
207 reasonable attorney's fees and costs incurred, with these amounts to be paid from and out of the escrowed items and
208 charged and awarded as court costs in favor of the prevailing party.

209 **11. CURE PERIOD:** Prior to any claim for default being made, a party will have an opportunity to cure any alleged
210 default. If a party fails to comply with any provision of this Contract, the other party will deliver written notice to the non-
211 complying party specifying the non-compliance. The non-complying party will have ____ days (5 days if left blank) after
212 delivery of such notice to cure the non-compliance. Notice and cure shall not apply to failure to close.

213 **12. RETURN OF DEPOSIT:** Unless otherwise specified in the Contract, in the event any condition of this Contract is
214 not met and Buyer has timely given any required notice regarding the condition having not been met, Buyer's deposit
215 will be returned in accordance with applicable Florida laws and regulations.

216 **13. DEFAULT:**

217 (a) In the event the sale is not closed due to any default or failure on the part of Seller other than failure to make
218 the title marketable after diligent effort, Buyer may either (1) receive a refund of Buyer's deposit(s) or (2) seek
219 specific performance. ~~If Buyer elects a deposit refund, Seller will be liable to Broker for the full amount of the~~
220 ~~brokerage fee.~~ 

221 (b) In the event the sale is not closed due to any default or failure on the part of Buyer, Seller may either (1) retain
222 all deposit(s) paid or agreed to be paid by Buyer as agreed upon liquidated damages, consideration for the
223 execution of this Contract, and in full settlement of any claims, upon which this Contract will terminate or (2) seek
224 specific performance. ~~If Seller retains the deposit, Seller will pay the Brokers named in Paragraph 20 fifty percent~~
225 ~~of all forfeited deposits retained by Seller (to be split equally among the Brokers) up to the full amount of the~~
226 ~~brokerage fee. If Buyer fails to timely place a deposit as required by this Contract, Seller may either (1) terminate~~
227 ~~the Contract and seek the remedy outlined in this subparagraph or (2) proceed with the Contract without waiving~~
228 ~~any remedy for Buyer's default.~~ 

229 **14. ATTORNEY'S FEES AND COSTS:** In any claim or controversy arising out of or relating to this Contract, the
230 prevailing party, which for purposes of this provision will include Buyer, Seller and Broker, will be awarded reasonable
231 attorneys' fees, costs, and expenses.

232 **15. NOTICES:** All notices will be in writing and may be delivered by mail, overnight courier, personal delivery, or
233 electronic means. Parties agree to send all notices to addresses specified on the signature page(s). Any notice,
234 document, or item given by or delivered to an attorney or real estate licensee (including a transaction broker)
235 representing a party will be as effective as if given by or delivered to that party.

236 **16. DISCLOSURES:**

237 (a) **Commercial Real Estate Sales Commission Lien Act:** The Florida Commercial Real Estate Sales
238 Commission Lien Act provides that a broker has a lien upon the owner's net proceeds from the sale of commercial
239 real estate for any commission earned by the broker under a brokerage agreement. The lien upon the owner's net

240 Buyer (____) (____) and Seller  acknowledge receipt of a copy of this page, which is Page 3 of 8 Pages.

proceeds is a lien upon personal property which attaches to the owner's net proceeds and does not attach to any interest in real property. This lien right cannot be waived before the commission is earned

(b) Special Assessment Liens Imposed by Public Body: The Property may be subject to unpaid special assessment lien(s) imposed by a public body. (A public body includes a Community Development District.) Such liens, if any, shall be paid as set forth in Paragraph B.1c;

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

(d) Energy-Efficiency Rating Information: Buyer acknowledges receipt of the information brochure required by Section 552.996, Florida Statutes.

17. RISK OF LOSS:

(a) If, after the Effective Date and before closing, the Property is damaged by fire or other casualty, Seller will bear the risk of loss and Buyer may cancel this Contract without liability and the deposit(s) will be returned to Buyer. Alternatively, Buyer will have the option of purchasing the Property at the agreed upon purchase price and Seller will credit the deductible, if any and transfer to Buyer at closing any insurance proceeds, or Seller's claim to any insurance proceeds payable for the damage. Seller will cooperate with and assist Buyer in collecting any such proceeds. Seller shall not settle any insurance claim for damage caused by casualty without the consent of the Buyer.

(b) If, after the Effective Date and before closing, any part of the Property is taken in condemnation or under the right of eminent domain, or proceedings for such taking will be pending or threatened, Buyer may cancel this Contract without liability and the deposit(s) will be returned to Buyer. Alternatively, Buyer will have the option of purchasing what is left of the Property at the agreed upon purchase price and Seller will transfer to the Buyer at closing the proceeds of any award, or Seller's claim to any award payable for the taking. Seller will cooperate with and assist Buyer in collecting any such award.

18. ASSIGNABILITY; PERSONS BOUND: This Contract may be assigned to a related entity, and otherwise ☒ is not assignable ☐ is assignable. If this Contract may be assigned, Buyer shall deliver a copy of the assignment agreement to the Seller at least 5 days prior to Closing. The terms "Buyer," "Seller" and "Broker" may be singular or plural. This Contract is binding upon Buyer, Seller and their heirs, personal representatives, successors and assigns (if assignment is permitted).

19. MISCELLANEOUS: The terms of this Contract constitute the entire agreement between Buyer and Seller. Modifications of this Contract will not be binding unless in writing, signed and delivered by the party to be bound. Signatures, initials, documents referenced in this Contract, counterparts and written modifications communicated electronically or on paper will be acceptable for all purposes, including delivery, and will be binding. Handwritten or typewritten terms inserted in or attached to this Contract prevail over preprinted terms. If any provision of this Contract is or becomes invalid or unenforceable, all remaining provisions will continue to be fully effective. This Contract will be construed under Florida law and will not be recorded in any public records.

20. BROKERS: Neither Seller nor Buyer has used the services of, or for any other reason owes compensation to, a licensed real estate Broker other than:

(a) Seller's Broker: N/A
(Company Name) (Licensee)
Address, Telephone, Fax, E-mail

who ☐ is a single agent ☐ is a transaction broker ☐ has no brokerage relationship and who will be compensated by ☐ Seller ☐ Buyer ☐ both parties pursuant to ☐ a listing agreement ☐ other (specify) _____

Buyer () () and Seller () () acknowledge receipt of a copy of this page, which is Page 6 of 8 Pages.

288* (b) Buyer's Broker: The Knight Group, LLC James W. Knight
289 (Company Name) (Licensee)
290* 10 SE 1st Ave 2nd fl, Delray Bch, FL 561-756-2833 jim@knightgroupfl.com
291 (Address, Telephone, Fax, E-mail)

292* who ☐ is a single agent ☒ is a transaction broker ☐ has no brokerage relationship and who will be compensated
293* by ☐ Seller's Broker ☒ Seller ☐ Buyer ☐ both parties pursuant to ☐ an MLS offer of compensation ☐ other (specify)
294* 2% of the gross selling price

295 (collectively referred to as "Broker") in connection with any act relating to the Property, including but not limited to
296 inquiries, introductions, consultations, and negotiations resulting in this transaction. Seller and Buyer agree to
297 indemnify and hold Broker harmless from and against losses, damages, costs and expenses of any kind, including
298 reasonable attorneys' fees at all levels, and from liability to any person, arising from (1) compensation claimed which is
299 inconsistent with the representation in this Paragraph, (2) enforcement action to collect a brokerage fee pursuant to
300 Paragraph 10, (3) any duty accepted by Broker at the request of Seller or Buyer, which is beyond the scope of
301 services regulated by Chapter 475, Florida Statutes, as amended, or (4) recommendations of or services provided and
302 expenses incurred by any third party whom Broker refers, recommends, or retains for or on behalf of Seller or Buyer.

303 21. OPTIONAL CLAUSES: (Check if any of the following clauses are applicable and are attached as an addendum to
304 this Contract):

305* <input type="checkbox"/> Arbitration	<input type="checkbox"/> Seller Warranty	<input type="checkbox"/> Existing Mortgage
306* <input checked="" type="checkbox"/> Section 1031 Exchange	<input type="checkbox"/> Coastal Construction Control Line	<input type="checkbox"/> Buyer's Attorney Approval
307* <input type="checkbox"/> Property Inspection and Repair	<input type="checkbox"/> Flood Area Hazard Zone	<input type="checkbox"/> Seller's Attorney Approval
308* <input type="checkbox"/> Seller Representations	<input type="checkbox"/> Seller Financing	<input type="checkbox"/> Other _____

309 22. ADDITIONAL TERMS:

310* Seller and Buyer acknowledge the following:

311* 1. That the City of Delray Beach is not putting up a deposit on this contract and can walk away for any reason or no
312* reason and all parties will be released of any and all obligations.

313* _____
314* 2. That this contract is subject to approval by a majority of the Delray Beach City Commission.

315* _____
316* 3. That once the Seller executes this contract that it will cease to market the property and not entertain or enter into
317* any further discussions for sale with any third party until after the Delray Beach City Commission has taken this
318* matter up for consideration.

319* _____
320* 4. The contract is subject to the lease dated 8/31/15 & lease addendum dated 8/24/17 (both attached)

321 THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, SEEK THE
322 ADVICE OF AN ATTORNEY PRIOR TO SIGNING. BROKER ADVISES BUYER AND SELLER TO VERIFY ALL
323 FACTS AND REPRESENTATIONS THAT ARE IMPORTANT TO THEM AND TO CONSULT AN APPROPRIATE
324 PROFESSIONAL FOR LEGAL ADVICE (FOR EXAMPLE, INTERPRETING CONTRACTS, DETERMINING THE
325 EFFECT OF LAWS ON THE PROPERTY AND TRANSACTION, STATUS OF TITLE, FOREIGN INVESTOR
326 REPORTING REQUIREMENTS, ETC.) AND FOR TAX, PROPERTY CONDITION, ENVIRONMENTAL AND OTHER
327 ADVICE. BUYER ACKNOWLEDGES THAT BROKER DOES NOT OCCUPY THE PROPERTY AND THAT ALL
328 REPRESENTATIONS (ORAL, WRITTEN OR OTHERWISE) BY BROKER ARE BASED ON SELLER
329 REPRESENTATIONS OR PUBLIC RECORDS UNLESS BROKER INDICATES PERSONAL VERIFICATION OF
330 THE REPRESENTATION. BUYER AGREES TO RELY SOLELY ON SELLER, PROFESSIONAL INSPECTORS
331 AND GOVERNMENTAL AGENCIES FOR VERIFICATION OF THE PROPERTY CONDITION, SQUARE FOOTAGE
332 AND FACTS THAT MATERIALLY AFFECT PROPERTY VALUE.

333* Buyer () () and Seller () () acknowledge receipt of a copy of this page, which is Page 7 of 8 Pages.

334 Each person signing this Contract on behalf of a party that is a business entity represents and warrants to the other
335 party that such signatory has full power and authority to enter into and perform this Contract in accordance with its
336 terms and each person executing this Contract and other documents on behalf of such party has been duly authorized
337 to do so.

338* _____ Date: _____
339 City of Delray Beach

340* _____ City of Delray Beach
341 (Typed or Printed Name of Buyer) Tax ID No: _____

342* Title: _____ Telephone: _____

343* _____ Date: _____

344 _____

345* _____ Tax ID No: _____

346 (Typed or Printed Name of Buyer)

347* Title: _____ Telephone: _____

348* Buyer's Address for purpose of notice: _____ 100 NW 1st Ave., Delray Beach, FL 33444

349* Facsimile: _____ Email: _____

350* _____ Date: 10-30-17
351 10th ST Storage, LLC

352* _____ 10th ST Storage, LLC Tax ID No: 47-3196484

353 (Typed or Printed Name of Seller)

354* Title: Managing Partner Telephone: 561.301.6184

355* _____ Date: _____

356 _____

357* _____ Tax ID No: _____

358 (Typed or Printed Name of Seller)

359* Title: _____ Telephone: _____

360* Seller's Address for purpose of notice: _____ 12906 Inshore Drive, Palm Beach Gardens, FL 33410-2022

361* Facsimile: _____ Email: asjason@bellsouth.net

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362* Buyer () () and Seller () () acknowledge receipt of a copy of this page, which is Page 8 of 8 Pages.



Greater Fort Lauderdale REALTORS®

1031 SELLER EXCHANGE ADDENDUM

SELLER: 10th ST Storage LLC

BUYER: City of Delray Beach

PROPERTY ADDRESS: 15 SE 10th ST and parcel on SE 1st AVE, Delray Beach, FL
33444

ADDENDUM is made to the Contract between the parties referred to above. In consideration of the mutual promises and covenants contained in the Contract and this Addendum the parties agree as follows:

Notwithstanding anything in this Agreement of Sale to the contrary, at the Seller's option and at no loss, cost, liability or expense to Buyer, Buyer agrees to cooperate with Seller in closing this transaction as a like-kind exchange under Section 1031 of the Internal Revenue Code. This Agreement of Sale may be assigned to a qualified intermediary, solely for the purposes of completing the exchange. Buyer will be notified in writing when this assignment is made. Buyer agrees to execute any and all documents necessary to effectuate the 1031 exchange provided the Buyer shall be held harmless and no additional expense or liability will be incurred by the Buyer as a result of cooperating in this like-kind exchange.

Notwithstanding the above, all representations, warranties and conditions set forth in the Agreement of Sale by the Seller shall remain in full force and effect as to Seller and shall survive the closing.

10th ST Storage
SELLER _____ DATE _____

Anthony J. Jr 10-30-17
SELLER _____ DATE _____

BUYER _____ DATE _____

BUYER _____ DATE _____

12-43-46-21-01-015-0101



October 24, 2017

1-4.514

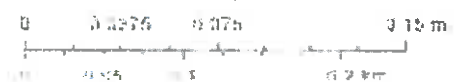


Exhibit A

Legal Description of Property

Parcel A:

Triangular Strip West of Block 14, OSCEOLA PARK, according to the Plat thereof, as recorded in Plat Book 3, Page 2, of the Public Records of Palm Beach County, Florida.

Parcel B:

An unnumbered and irregular shaped lot in OSCEOLA PARK, Delray Beach, Florida, lying between the Florida East Coast Railroad right-of-way on the West, Currie Street on the East, Nelson Street on the North and Rousseau Street on the South, as shown on the Plat of OSCEOLA PARK, according to the Plat thereof, as recorded in Plat Book 3, Page 2, of the Public Records of Palm Beach County, Florida.

Parcel C:

That portion of S.E. 1st Avenue (now vacated) running between S.E. 9th Street and S.E. 10th Street, as shown on the Plat of OSCEOLA PARK, according to the Plat thereof, as recorded in Plat Book 3, Page 2, of the Public Records of Palm Beach County, Florida.

Parcel D:

Lots 10 through 18, inclusive, Block 13, Osceola Park, according to the Plat thereof, as recorded in Plat Book 3, Page 2, of the Public Records of Palm Beach County, Florida, LESS the East 50 feet thereof.

Parcel Control No.: 12-43-46-21-01-015-0101
and

Parcel Control No.: 12-43-46-21-01-014-0190

LEASE AGREEMENT
(15 S.E. 10th St.)

THIS LEASE AGREEMENT ("Lease") is made and entered into as of the 31st day of August 2015 ("Date of Lease"), by and between **10TH ST.STORAGE LLC**, a Florida limited liability company ("Landlord") and **Westinghouse Air Brake Technologies Corporation**, a Delaware corporation ("Tenant").

Subject to and on the terms and conditions of this Lease, Landlord leases the Premises to Tenant.

1. **BASIC LEASE INFORMATION AND DEFINED TERMS.** The key business terms of this Lease and the defined terms used in this Lease are as follows:

1.1 **Landlord: 10th St. Storage LLC**, a Florida limited liability company, whose principal address is: 12906 Inshore Dr., Palm Beach Gardens, FL 33410.

1.2 **Tenant: Westinghouse Air Brake Technologies Corporation**, a Delaware corporation, whose principal address is: 1001 Air Brake Avenue, Wilmerding, PA 15148.

1.3 **"Landlord's Notice Address":** 12906 Inshore Dr., Palm Beach Gardens, FL 33410, email address: asm@10thststorage.net.

1.4 **"Tenant's Notice Address":** c/o Railroad Controls 7471 Benbrook Parkway, Benbrook, TX 76126, email address: mchouda@wabtec.com; with a copy to Westinghouse Air Brake Technologies Corporation, 1001 Air Brake Avenue, Wilmerding, PA 15148 email address rlavett@wabtec.com.

1.5 **"Buildings":** The structures located at 15 S.E.10th Street, Delray Beach, Florida 33444. The Buildings are located within the Property.

1.6 **"Property" or "Premises":** The Buildings and the parcel of land on which it is located as legally described in Exhibit "A" and all of the other improvements located on such land and located at 15 S.E. 10th Street, Delray Beach, Florida 33444, subject to the easements and restrictions of record.

1.7 **Rentable Area of the Premises:** Approximately 125,888+- square feet of land, along with Buildings consisting of approximately 8,089+- square feet as more particularly described on the survey attached hereto as Exhibit "A".

1.8 **Commencement Date:** shall be September 1, 2015. Payments of Base Rent, plus all applicable taxes, shall commence on September 1, 2015. All other provisions of this Lease shall commence on the Date of Lease.

1.9 **"Lease Term":** A term commencing on the Commencement Date and continuing for Two (2) years from the date thereof, as extended or sooner terminated under the terms of this Lease.

1.10 **"Base Rent":** The following amounts constitute monthly and annual rents to be paid under this Lease, exclusive of applicable taxes and other charges under this Lease:

	<u>Monthly Rent</u>	<u>Annual Rent</u>
Year 1	\$12,000.00	\$144,000.00
Year 2	\$12,000.00	\$144,000.00

1.1 **"Deposit":** Tenant shall deliver to Landlord within three (3) business days after the date of this Lease, the sum of \$28,000.00 as a "Security Deposit" (subject to the conditions expressed in Section 20 below).

2. **TERM.**

2.1 **General.** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises for the Lease Term upon the terms, covenants and conditions provided in this Lease. Tenant shall have and hold the Premises for the Lease Term. The Lease Term shall commence on the Commencement Date.

2.2 **Delay in Delivery.** If the Commencement Date is delayed because of the holding over of any prior tenant or Landlord's inability to otherwise timely deliver the Premises to the Tenant, Tenant shall not be required to commence payment of rent until Landlord has delivered possession of the Premises to Tenant, and the Commencement Date shall become the date Landlord delivers possession to the Tenant.

3. **USE.** Tenant shall continuously use and occupy the Premises only for the operation of railroad improvement facility or any other lawful business. Tenant shall comply with all zoning and operational requirements as set forth by the City of Delray Beach, Palm Beach County and the State of Florida. Tenant shall conform to the Rules and Regulations as expressed in attached Exhibit "B".

4. **RENT.**

4.1 **Base Rent.** The total Base Rent for the Lease Term is \$288,000.00. The Tenant shall pay to Landlord in lawful United States currency the Base Rent, plus applicable sales or use tax thereon as follows: On the Commencement Date, Tenant shall pay to Landlord the initial installment of Base Rent, plus applicable sales or use taxes, for the first month of the Lease Term, pro rata as applicable. All subsequent installments of Base Rent shall be payable in equal monthly installments of \$12,000.00, plus applicable sales or use tax thereon, paid in advance, beginning on October 1, 2015 and continuing on the first (1st) day of each and every calendar month thereafter during the Lease Term. Unless otherwise expressly provided, all monetary obligations of Tenant to Landlord under this Lease, of any type or nature, other than Base Rent, shall be denominated as Additional Rent.

4.2 **Additional Rent.** Unless otherwise expressly provided, all monetary obligations of Tenant to Landlord under this Lease, of any type or nature, other than Base Rent, shall be denominated as "Additional Rent". Except as otherwise provided, all Additional Rent payments are due ten (10) days after delivery of an invoice, and shall include sales or use tax thereon, as applicable.

4.3 **General.** The term "rent" when used in this Lease shall include Base Rent and all forms of Additional Rent. All rent shall be paid to Landlord without demand, setoff, or deduction whatsoever, except as specifically provided in this Lease, at Landlord's Notice Address, or at such other place as Landlord shall designate in writing to Tenant.

4.4 **Taxes on Rent.** Tenant shall pay monthly to Landlord any sales, use, or other tax (excluding state and federal income tax) now or hereafter imposed by the United States of America, the State of Florida or Palm Beach County, on any form of rent due under this Lease (including but not limited to Base Rent and Tenant's Share of Operating Expenses), or in substitution for any rent, notwithstanding the fact that the law imposing the tax may endeavor to impose it on Landlord. To the extent that Tenant may be exempt from payment of any sales, use or other tax as described above or otherwise, Tenant shall provide to Landlord all documents evidencing proof of such exemption. Regardless of any exemption Tenant may be entitled to, until Tenant provides proof of exemption to Landlord, Tenant is responsible for and must pay all Additional Rent.

5. **REAL ESTATE TAXES/INSURANCE.**

5.1 **Real Estate Taxes.** The term "Real Estate Taxes" shall mean the total of all taxes, assessments, and other charges by any governmental or quasi-governmental authority, including real and personal property taxes, transit and other special district taxes, franchise taxes, and solid waste assessments that are assessed.

levied, or in any manner imposed on the Property. If a tax shall be levied against Landlord in substitution in whole or in part for the Real Estate Taxes or otherwise as a result of the ownership of the Property, then the other tax shall be deemed to be included within the definition of "Real Estate Taxes". "Real Estate Taxes" shall also include all costs incurred by Landlord in contesting the amount of the assessment of the Property made for Real Estate Tax purposes, including attorneys', consultants', and appraisers' fees. To the extent that Tenant may be exempt from payment of any Real Estate Taxes as described above or otherwise, Tenant shall provide to Landlord all documents evidencing proof of such exemption. Regardless of any exemption Tenant may be entitled to, until Tenant provides proof of exemption to Landlord, Tenant is responsible for and must pay all Additional Rent.

5.2 **Insurance Costs.** Except as otherwise provided by this Lease, Tenant shall solely be responsible for all costs of required insurance as expressed in Paragraph 7.1 below. Tenant shall add the Premises to its existing property insurance policies at Tenant's sole cost and expense.

5.3 **Payment of Operating Expenses.** Tenant shall be responsible for the payment of Real Estate Taxes.

6. **ASSIGNMENT OR SUBLETTING.** Tenant may not transfer or sublease any of its rights under this Lease, voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law, or any other manner, and may not assign, mortgage, encumber, permit the transfer of ownership or control of the business entity comprising Tenant, or permit any portion of the Premises to be occupied by third parties without Landlord's consent, which consent shall not be unreasonably withheld by Landlord. Consent by Landlord to a transfer or sublease shall not relieve Tenant from the obligation to obtain Landlord's consent to any further transfer. Tenant shall remain fully liable for all obligations under this Lease following any permitted license, sublease, or similar transaction. The joint and several liability of Tenant, and any successor in interest of Tenant (by assignment or otherwise) under this Lease shall not in any way be affected by any agreement that modifies any of the rights or obligations of the parties under this Lease or any waiver of, or failure to enforce, any obligation under this Lease. If Landlord consents to any transfer or sublease, Tenant shall pay to Landlord, on demand, an administrative fee of \$1,000 to reimburse Landlord for all of Landlord's reasonable attorneys' fees and costs associated with Landlord's consent. Any successor in interest of Tenant by sublease shall not use the sublease Premises for any use other than as provided in Section 3 above or a substantially similar or related use. Any transfer by Tenant in violation of this Section shall, at Landlord's option, be void. This Section 6 shall not be applicable to the transfer of all or part of the Premises, or use of the Premises, by any entity which is a subsidiary, affiliate or under common control of the same ultimate parent organization as the Tenant, so long as such entity's use and/or occupancy of the Premises is disclosed to Landlord prior to such entity's use and/or occupancy of the Premises and such entity agrees in writing to be bound by the terms and conditions of this Lease.

7. **INSURANCE.**

7.1 **Tenant's Insurance.** Tenant shall obtain and keep in full force and effect the following insurance coverage:

(a) Commercial general liability insurance, including contractual liability, on a claims made basis, on the then most current Insurance Services Office ("ISO") form in the amount of \$2 million per occurrence or such greater amount as required by law or any governmental department or authority that regulates Tenant's business and operations.

(b) A wind, storm and hail policy insuring the full replacement value of all structures situate on the Property.

(c) To the extent Tenant is responsible for transporting employees or any other individuals with vehicles owned, leased, rented or used by Tenant or any of Tenant's employees or agents, Tenant shall maintain insurance on all such vehicles and drivers thereof, in an amount of not less than \$300,000.00 and \$100,000.00 per occurrence. All such policies shall name Landlord as an additional insured.

7.2 **Insurance Requirements.** All of Tenant's insurance policies shall be written with insurance companies and shall have coverage limits and deductibles acceptable to Landlord and having a

policyholder rating of at least "A-" and a financial size category of at least "Class XII" as rated in the most recent edition of "Best's Key Rating Guide" for insurance companies. The commercial general liability insurance policy shall name Landlord and Landlord's members, managing members, managers, agents, employees, and mortgagee, if any, as additional insured. Coverage amounts for the commercial general liability insurance may be increased periodically in accordance with industry standards for similar properties and business operations. Tenant's insurance shall provide primary coverage to Landlord when any policy issued to Landlord provides duplicate or similar coverage, and in such circumstance, Landlord's policy will be excess over Tenant's policy.

7.3 Evidence of Insurance Coverage. Within ten (10) days after the Commencement Date, Tenant shall furnish evidence to Landlord, in the form of a Certificate of Insurance, along with all applicable endorsements indicating that Tenant has obtained and maintains all insurance coverage(s) required under this Lease and that Landlord has been named and included as an additional insured.

7.4 Landlord's Insurance. During the Lease Term, Landlord may obtain and keep in full force and effect, special form commercial property insurance insuring the Buildings (excluding any property which Tenant is obligated to insure under this Section 7), for the full replacement value, as such value may change from time to time at landlord's sole cost and expense. Upon Landlord's written request, Tenant agrees to deliver to Landlord its contractor's estimate of the value of any improvements or alterations made to the Premises by Tenant during the Lease Term, whether made with or without the required consent of Landlord.

7.5 Waiver of Subrogation. Landlord and Tenant each expressly, knowingly, and voluntarily waive and release any claims that they may have against the other or the other's employees, agents, or contractors (specifically including loss of rent by Landlord and business interruption by Tenant) as a result of the acts or omissions of the other party or the other party's employees, agents, or contractors (specifically including the negligence of either party or its employees, agents, or contractors and the intentional misconduct of the employees, agents, or contractors of either party), to the extent any such claims are covered by the worker's compensation, employer's liability, property, rental income, business income, or extra expense insurance described in this Lease, or other property insurance that either party may carry at the time of an occurrence. Landlord and Tenant shall each, on or before the earlier of the Commencement Date or the date on which Tenant first enters the Premises for any purpose, obtain and keep in full force and effect at all times thereafter a waiver of subrogation from its insurer concerning the workers' compensation, employer's liability, property, rental income, and business interruption insurance maintained by it for the Property and the property located in the Property. This Section shall control over any other provisions of this Lease in conflict with it and shall survive the expiration or sooner termination of this Lease.

8. DEFAULT.

8.1 Events of Default. Each of the following shall be an event of default under this Lease: (a) Tenant fails to make any payment of rent within five (5) days after the date when due; or (b) Tenant fails to perform any other obligation under this Lease and fails to cure within five (5) days after written notice thereof to Tenant; or (c) Tenant becomes bankrupt or insolvent or makes an assignment for the benefit of creditors or takes the benefit of any insolvency act, or if any debtor proceedings be taken by or against Tenant; or (d) Tenant vacates the Premises or abandons possession of the Premises; or (e) Tenant transfers this Lease in violation of the Assignment or Subletting Section.

8.2 Remedies. In addition to all remedies provided by law, if Tenant defaults, Landlord may terminate this Lease or Tenant's right of possession of the Premises (without terminating this Lease) by notice to Tenant. In addition, Landlord may declare the entire balance of all forms of rent due under this Lease for the remainder of the Term, to be forthwith due and payable and may collect the then present value of the rents (calculated using a discount rate equal to the discount rate of the branch of the Federal Reserve Bank closest to the Premises in effect as of the date of the default). Notwithstanding anything in this Lease to the contrary, Landlord shall use its best efforts to relet the Premises using commercially reasonable efforts.

8.3 Landlord's Right to Perform. If Tenant defaults, Landlord may, but shall have no obligation to, perform the obligations of Tenant, and if Landlord, in doing so, makes any expenditures or incurs any

obligation for the payment of money, including reasonable attorneys' fees, the sums so paid or obligations incurred shall be paid by Tenant to Landlord within five (5) days of rendition of a bill or statement to Tenant therefor.

8.4 Late Charges. If any payment due Landlord under this Lease shall not be paid within five (5) days after the date when due, Tenant shall pay, in addition to the payment then due, an administrative charge equal to \$250.00. The paid date shall be the date any payment is received by Landlord.

8.5 Limitations. None of Landlord's officers, employees, agents, directors, shareholders, partners, members, managing members, managers, or affiliates shall ever have any personal liability to Tenant. No person holding Landlord's interest shall have any liability after such person ceases to hold such interest, except for any liability accruing while such person held such interest. **TENANT SHALL LOOK SOLELY TO LANDLORD'S ESTATE AND INTEREST IN THE PREMISES AND AVAILABLE INSURANCE PROCEEDS FOR THE SATISFACTION OF ANY RIGHT OR REMEDY OF TENANT UNDER THIS LEASE, AND NO OTHER ASSETS OF LANDLORD SHALL BE SUBJECT TO LEVY, EXECUTION, OR OTHER ENFORCEMENT PROCEDURE FOR THE SATISFACTION OF TENANT'S RIGHTS OR REMEDIES, OR ANY OTHER LIABILITY OF LANDLORD TO TENANT OF WHATEVER KIND OR NATURE.** No act or omission of Landlord or its agents shall constitute an actual or constructive eviction of Tenant or a default by Landlord as to any of its obligations under this Lease unless Landlord shall have first received written notice from Tenant of the claimed default and shall have failed to cure it after having been afforded reasonable time in which to do so, which in no event shall be less than 30 days. Further, Tenant waives any claims against Landlord that Tenant does not make in writing within 30 days of the onset of the cause of such claim. Landlord and Tenant each waive all rights (other than rights under the End of Term Section) to consequential damages, lost profits, punitive damages, or special damages of any kind. The foregoing does not apply to damages suffered by Tenant as a result of the gross negligence, willful misconduct or fraud of the Landlord.

8.6 Presumption of Abandonment. It shall be conclusively presumed that Tenant has abandoned the Premises if Tenant fails to keep the Premises open for business during regular business hours for five (5) consecutive days while in monetary default. Any grace periods set forth in this Section shall not apply to the application of this presumption. In addition to all other rights of Landlord in the event of an abandonment of the Premises by Tenant, Landlord may reenter and repossess the Premises without legal process, without releasing Tenant of any liability, and with no liability for any claims of wrongful eviction or otherwise by Tenant, if Tenant is presumed to have abandoned the Premises as specified above and fails to object in writing within five (5) days after a notice from Landlord that it so intends to reenter.

9. ALTERATIONS. "Alterations" shall mean any alteration, addition, or improvement in or on or to the Premises of any kind or nature, including any improvements made prior to Tenant's occupancy of the Premises. Tenant shall make no Alterations without the prior written consent of Landlord, which consent may not be unreasonably withheld. Except as expressly set forth in this Lease, Landlord has made no representation or promise as to the condition of the Premises. Landlord shall not perform nor is Landlord required to perform any alterations, additions, or improvements in order to make the Premises suitable and ready for occupancy and use by Tenant, and provided that Landlord has satisfied its obligations in Section 11.2 below, Tenant shall accept possession of the Premises in its then "as-is", "where-is" condition, without representation or warranty of any kind by Landlord. Except for work to be performed by Landlord, before any Alterations are undertaken by or on behalf of Tenant, Tenant shall require any contractor performing work on the Premises to obtain and maintain, at no expense to Landlord, workers' compensation insurance as required by law, builder's risk insurance in the amount of the replacement cost of the applicable Alterations (or such other amount reasonably required by Landlord), and commercial general liability insurance written on an occurrence basis with minimum limits of \$2 million per occurrence limit, \$2 million general aggregate limit, \$2 million personal and advertising limit, and \$2 million products/completed operations limit; which coverage limits may be effected with umbrella coverage (including contractual liability, broad form property damage and contractor's protective liability coverage). Any insurance required under this section shall name Landlord as an additional insured.

Except as set forth above, Tenant shall, at its sole cost and expense, perform all work necessary or desirable for Tenant's occupancy of the Premises (the "Tenant Improvements"). Tenant shall furnish to Landlord, for Landlord's written approval, a permit set (final construction drawings) of plans and specifications for the Tenant Improvements (the "Plans"). The Tenant Improvements shall be performed in accordance with the Plans and shall

be done in a good and workmanlike manner using new materials. All work shall be done in compliance with all other applicable provisions of this Lease and with all applicable laws, ordinances, directives, rules, regulations, and other requirements of any governmental authorities having or asserting jurisdiction over the Premises. Before the commencement of any work by Tenant, Tenant shall furnish to Landlord certificates evidencing the existence of builder's risk, commercial general liability, and workers' compensation insurance complying with the requirements set forth in the Insurance Section of this Lease. Any damage to any part of the Premises that occurs as a result of the Tenant Improvements shall be promptly repaired by Tenant.

10. **LIENS.** The interest of Landlord in the Premises shall not be subject in any way to any liens, including construction liens, for Alterations made by or on behalf of Tenant. This exculpation is made with express reference to Section 713.10, Florida Statutes. Tenant represents to Landlord that any improvements that might be made by Tenant to the Premises are not required to be made under the terms of this Lease and that any improvements which may be made by Tenant do not constitute the "pith of the lease" under applicable Florida case law. If any lien is filed against the Premises for work or materials claimed to have been furnished to Tenant, Tenant shall cause it to be discharged of record or properly transferred to a bond under Section 713.24, Florida Statutes, within ten (10) days after notice to Tenant. Further, Tenant shall indemnify, defend, and save Landlord harmless from and against any damage or loss, including reasonable attorneys' fees, incurred by Landlord as a result of any liens or other claims arising out of or related to work performed in the Premises by or on behalf of Tenant. Tenant shall notify every contractor making improvements to the Premises that the interest of the Landlord in the Premises shall not be subject to liens.

11. **ACCESS TO PREMISES.**

11.1. **Landlord's Access to Premises.** Landlord and persons authorized by Landlord shall have the right, at all reasonable times, to enter and inspect the Premises and to make repairs and alterations Landlord deems necessary, with reasonable prior notice, except in cases of emergency.

11.2. **Tenant's Access to Premises.** Provided Tenant has delivered to Landlord all required documents and has met all of the provisions of Sections 1.11, 7 and 9 above, then Tenant may enter the Premises at any time after the date of Lease and shall be permitted to make any alterations to the Premises as permitted by and in accordance with the terms and conditions of this Lease. Landlord shall deliver the Premises to Tenant in broom clean condition and remove all debris from the Property.

12. **CASUALTY DAMAGE.** If the Buildings on the Premises shall be partially damaged by casualty during the Lease Term, and the estimated cost of repair exceeds 25% of the Base Rent then remaining to be paid by Tenant for the balance of the Lease Term, Landlord may, within 90 days after the casualty, give notice to Tenant of Landlord's election to terminate this Lease, and the balance of the Lease Term shall automatically expire on the fifth (5th) day after the notice is delivered. If Landlord does not elect to terminate this Lease, Landlord shall proceed with reasonable diligence to restore the Property and the Premises to substantially the same condition they were in immediately before the happening of the casualty. However, Landlord shall not be required to restore any unleased premises in the Property or any portion of Tenant's property, including but not limited to any structures, buildings or other alterations Tenant may have placed on or made to the Premises. Rent shall abate in proportion to the portion of the Premises not useable by Tenant as a result of any casualty, as of the date on which the Premises becomes unusable. Landlord shall not otherwise be liable to Tenant for any delay in restoring the Premises or any inconvenience or annoyance to Tenant or injury to Tenant's business resulting in any way from the damage or the repairs, Tenant's sole remedy being the right to an abatement of rent.

13. **CONDEMNATION.** If the whole or any substantial part of the Premises shall be condemned by eminent domain, this Lease shall terminate on the date on which possession of the Premises is delivered to the condemning authority and rent shall be apportioned and paid to that date. If no portion of the Premises is taken but a substantial portion of the Property is taken, at Landlord's or Tenant's option, this Lease shall terminate on the date on which possession of such portion of the Property is delivered to the condemning authority and rent shall be apportioned and paid to that date. Tenant shall have no claim against Landlord for the value of any unexpired portion of the Lease Term, nor shall Tenant be entitled to any part of the condemnation award or private purchase price. If this Lease is not terminated as provided above, rent shall abate in proportion to the portion of the Premises or Property condemned.

14. REPAIR AND MAINTENANCE.

14.1 Landlord's Obligations. Landlord has delivered the property in "as is" and "where is" condition. Except as set forth herein, Landlord has no obligation to pay the cost of any repairs or maintenance necessary to maintain the buildings and/or premises. Landlord shall be solely responsible for the repair and replacement of roof and exterior structural portions of the Buildings. All replacements shall be of equal quality and class to the original items replaced. Landlord is currently repairing and/or replacing certain light fixtures in the Buildings, which work shall continue until complete at Landlord's sole cost and expense even if occurring after Tenant's occupancy of the Premises.

14.2 Tenant's Obligations. Except to the extent Landlord is obligated to repair and maintain the Premises as provided in the Landlord's Obligations section of this Section, Tenant shall, at its sole cost provide routine maintenance and repairs on the Premises (including walls, storefronts, plate and window glass, ceilings, and floors in the Premises and electrical, plumbing, mechanical, fire protection, life safety, and HVAC systems), and upon termination of this Lease, return the Premises and all of its contents in the same condition as received from the Landlord, subject to reasonable wear and tear. All replacements shall be of equal quality and class to the original items replaced. Tenant shall not commit or allow to be committed any waste on any portion of the Premises. Tenant shall be responsible for any damage to the roof of the Buildings caused by any air conditioning maintenance activities.

14.3 Major Repair and Replacement. To the extent it is necessary to replace or conduct extensive repairs to any of the electrical, plumbing and/or HVAC systems on the Premises due to normal operation of such systems, Tenant's obligations under this Section 14.3 for repair or replacement of such systems shall be limited to \$1,000.00 per system (electrical, plumbing or HVAC) during the first twelve (12) months of the Lease Term and \$1,000.00 per system (electrical, plumbing or HVAC) during the second twelve (12) months of the Lease Term. Landlord shall pay for such repair or replacement, and shall invoice Tenant for Tenant's portion of each repair or replacement. Tenant shall pay Landlord the invoiced amount within fifteen (15) days after Tenant's receipt of the invoice. If repair or replacement of any electrical, plumbing or HVAC system shall be caused by any act or inaction, whether or not intentional or negligent by Tenant, or any of Tenant's officers, executives, employees, agents, bailees or licensees, or as a result of Tenant's failure to properly maintain such systems, then Tenant's obligation to repair or replace such system(s) shall not be limited by the amounts indicated in this Section 14.3.

15. ESTOPPEL CERTIFICATES. From time to time, Tenant, on not less than ten (10) business days' prior notice, shall execute and deliver to Landlord an estoppel certificate in a form agreed to and generally consistent with the requirements of institutional lenders and certified to all or any of Landlord, any mortgagee or prospective mortgagee, or prospective purchaser of the Buildings. Tenant acknowledges that Landlord will suffer substantial damages if Tenant does not provide an estoppel certificate within the time periods provided in and in accordance with this Section. The failure of Tenant to respond, as set forth herein, shall be an acknowledgment by Tenant that the terms of such estoppel certificate are correct.

16. SUBORDINATION. This Lease is and shall be subject and subordinate to all mortgages that may now or hereafter affect the Buildings, and to all renewals, modifications, consolidations, replacements, and extensions of the mortgages. This Section shall be self-operative and no further instrument of subordination shall be necessary. However, in confirmation of this subordination, Tenant shall execute promptly any agreed to certificate that Landlord may reasonably request. If the interest of Landlord under this Lease is transferred by reason of or assigned in lieu of foreclosure or other proceedings for enforcement of any mortgage, or if this Lease is terminated by foreclosure of any mortgage to which this Lease is subordinate, then Tenant will and Landlord or any successor or assignee, purchaser or assignee, (a) attorn to it and will perform for its benefit all the terms of this Lease on Tenant's part to be performed with the same force and effect as if the purchaser or assignee were the Landlord originally named in this Lease provided such successor or assignee, purchaser or assignee of Landlord agrees to be bound by the terms of this Lease, or (b) enter into a new lease with the purchaser or assignee for the remainder of the Lease Term and otherwise on the same terms as provided in this Lease. As a condition the quiet enjoyment of the Premises pursuant to this Lease shall not be diminished or disturbed provided Tenant is not in default of this lease.

17. **INDEMNIFICATION.** Landlord and Tenant shall each indemnify, defend, and save harmless the other party and the other party's employees, agents, invitees, guests, members, customers, and contractors from and against any and all loss, damage, claim, demand, liability, or expense (including reasonable attorneys' fees) resulting from claims by third parties and based on any acts or omissions (specifically including negligence and the failure to comply with this Lease) of the indemnitor, its employees, agents, invitees, guests, members, customers, and contractors in connection with the Property and only to the extent caused in whole or in part by acts or omissions of the indemnitor, its employees, agents, invitees, guests, members, customers, and contractors, regardless of whether or not the claim is caused in part by any of the indemnified parties. When any claim is caused by the joint acts or omissions of the indemnitor and the indemnified parties, the indemnitor's duties under this Section shall be in proportion to the indemnitor's allocable share of the joint liability.

18. **NO WAIVER.** The failure of a party to insist on the strict performance of any provision of this Lease or to exercise any remedy for any default shall not be construed as a waiver. The waiver of any noncompliance with this Lease shall not prevent subsequent similar noncompliance from being a default. No waiver shall be effective unless expressed in writing and signed by the waiving party. No notice to or demand on a party shall of itself entitle the party to any other or further notice or demand in similar or other circumstances. The receipt by Landlord of any rent after default on the part of Tenant (whether the rent is due before or after the default) shall not excuse any delays as to future rent payments and shall not be deemed to operate as a waiver of any then existing default by Tenant or of the right of Landlord to enforce the payment of any other rent reserved in this Lease or to pursue eviction or any other remedies available to Landlord. No payment by Tenant, or receipt by Landlord, of a lesser amount than the rent actually owed under the terms of this Lease shall be deemed to be anything other than a payment on account of the earliest stipulated rent. No endorsement or statement on any check or any letter accompanying any check or payment of rent will be deemed an accord and satisfaction. Landlord may accept the check or payment without prejudice to Landlord's right to recover the balance of the rent or to pursue any other remedy. It is the intention of the parties that this Section modifies the common law rules of waiver and estoppel and the provisions of any statute which might dictate a contrary result.

19. **SERVICES AND UTILITIES.** Landlord shall have no obligation to provide any utilities or services to the Premises, including, but not limited to electrical services, water, sewer, telecommunications, cable television, or any other utilities, janitorial and general cleaning services, security services, trash removal, or pest control, but represents and warrants that there are hookups for water and electrical and utilities. Tenant shall be solely responsible for contracting for and shall promptly pay all charges for water, electricity, or any other utility used or consumed in the Premises. In addition to Tenant's maintenance obligations set forth elsewhere in this Lease, Tenant shall be responsible for repairs and maintenance to exit lighting, emergency lighting, and fire extinguishers for the Premises. Landlord may at any time change the electrical utility provider for the Buildings. In no event shall Landlord be liable for damages resulting from the failure to furnish HVAC, elevator, water, janitor, or other service, unless caused by the negligence or intentional acts of Landlord, and any interruption or failure shall in no manner constitute an eviction of Tenant or entitle Tenant to abatement of any rent due under this Lease.

19.1 **Notice to Landlord.** Within ten (10) business days after the date of this Lease, Tenant shall furnish to Landlord evidence of obtaining utility services at and on the Premises, in the form of a statement, payment receipt, account verification or such other documentation evidencing Tenant's compliance with this Section 19.

19.2 **Failure to Obtain Utility Account(s).** Tenant shall be responsible for and liable to Landlord for any utility service charges imposed upon and/or charged to Landlord subsequent to the date of this Lease through the end of the Lease Term. Tenant shall, reimburse or pay to Landlord, within five (5) days after receipt of an invoice, such utility service charges paid by or imposed upon Landlord.

20. **SECURITY DEPOSIT.** The Security Deposit shall be held by Landlord as security for Tenant's full and faithful performance of this Lease including the payment of rent. The Security Deposit may be commingled with other funds of Landlord and Landlord shall have no liability for payment of any interest on the Security Deposit. To the extent Landlord collects any interest on the Security Deposit, Landlord shall solely be responsible for any and all taxes on such interest earned. Landlord may apply the Security Deposit to the extent required to cure any default by Tenant. If Landlord so applies the Security Deposit, Tenant shall deliver to Landlord the amount necessary to replenish the Security Deposit to its original sum within five (5) days after notice from

Landlord. The Security Deposit shall not be deemed an advance payment of rent or a measure of damages for any default by Tenant, nor shall it be a defense to any action that Landlord may bring against Tenant. Provided that Tenant is not in default at the termination of this Lease, the balance of the Security Deposit remaining after any such application shall be returned by Landlord to Tenant within thirty (30) days after a final walkthrough of the Premises.

21. GOVERNMENTAL REGULATIONS. Tenant shall be responsible for the Premises complying with all laws, codes, and ordinances of governmental authorities, excluding the Americans With Disabilities Act of 1990 and all similar present or future laws, as a result of its occupancy. Landlord warrants that as of the Commencement Date, the Premises complies with all laws, codes, and ordinances of governmental authorities, excluding the Americans With Disabilities Act of 1990.

22. SIGNS.

22.1 Landlord's Consent Required. Tenant will not place or permit to be placed or maintained on any portion of the Premises, including on any exterior door, wall, or window of the Premises, or within the interior of the Premises, if visible from the exterior of the Premises, any signage or advertising matter of any kind, without first obtaining Landlord's written approval and consent, which will not be unreasonably withheld, conditioned or delayed. All signage shall comply with applicable governmental regulations and restrictions affecting the Premises.

22.2 Exterior Alterations. Any signs or other exterior Alterations, including awnings, canopies, decorations, lettering, advertising matters, or other things as may be approved by Landlord shall be maintained by Tenant in good condition and repair at all times. Upon the expiration or sooner termination of this Lease, if Landlord shall so elect, Tenant at its own expense shall remove all signs and restore the exterior of Premises to its original condition. This obligation of Tenant shall survive the expiration or sooner termination of this Lease.

23. END OF TERM. Tenant shall surrender the Premises to Landlord at the expiration or sooner termination of this Lease in the same conditions received from Landlord, except for reasonable wear and tear. Tenant shall be liable to Landlord for all damages, including any consequential damages, that Landlord may suffer by reason of any holding over by Tenant, and Tenant shall indemnify, defend, and save Landlord harmless against all costs, claims, losses, or liabilities resulting from delay by Tenant in so surrendering the Premises, including any claims made by any succeeding tenant founded on any delay. All Alterations, including HVAC equipment, wall coverings, carpeting and other floor coverings, ceiling tiles, blinds and other window treatments, lighting fixtures and bulbs, built in or attached shelving, built in furniture, millwork, counter tops, cabinetry, all doors (both exterior and interior), bathroom fixtures, sinks, kitchen area improvements, and wall mirrors, made by Landlord or Tenant to the Premises shall become Landlord's property on the expiration or sooner termination of the Lease Term. On the expiration or sooner termination of the Lease Term, Tenant, at its expense, shall remove from the Premises all moveable equipment that is installed in the Premises by Tenant without expense to Landlord and that can be removed without damage to the Premises or the Buildings, and all moveable furniture, furnishings, and other articles of moveable personal property owned by Tenant and located in the Premises. Tenant, at its expense, shall also remove all computer and telecommunications wiring and all Alterations that Landlord identified upon initial approval as requiring removal. Tenant shall repair any damage caused by the removal. Any items of Tenant's property that shall remain in the Premises after the expiration or sooner termination of the Lease Term, may, at the option of Landlord, be deemed to have been abandoned, and in that case, those items may be retained by Landlord as its property to be disposed of by Landlord, without accountability to Tenant or any other party, in the manner Landlord shall determine, at Tenant's expense.

24. ATTORNEYS' FEES. The prevailing party in any litigation arising out of or in any manner relating to this Lease shall be entitled to recover from the losing party reasonable attorneys' fees and costs. In addition, if Landlord or Tenant becomes a party to any suit or proceeding affecting the Premises or involving this Lease or Tenant's interest under this Lease, other than a suit between Landlord and Tenant, or if Landlord or Tenant engages counsel to collect any of the amounts owed under this Lease, or to enforce performance of any of the agreements, conditions, covenants, provisions, or stipulations of this Lease, without commencing litigation, then the costs, expenses, and reasonable attorneys' fees and disbursements incurred by such party shall be paid to the other party.

25. **NOTICES.** Any notice to be given under this Lease may be given either by a party itself or by its attorney or agent and shall be in writing and delivered by hand, email, by nationally recognized overnight air courier service (such as FedEx), or by the United States Postal Service, registered or certified mail, return receipt requested, in each case addressed to the respective party at the party's notice address. A notice shall be deemed effective upon receipt or the date sent if it is returned to the addressor because it is refused, unclaimed, or the addressee has moved. Unless otherwise notified in writing, all notices required under this Section and any other Section of this Lease shall be delivered to the parties at the addresses indicated in Sections 1.3 and 1.4 above.

26. **FORCE MAJEURE.** For purposes of this Lease, the term "Unavoidable Delay" shall mean any delays due to strikes, lockouts, civil commotion, war or warlike operations, terrorism, bioterrorism, invasion, rebellion, hostilities, military or usurped power, sabotage, government regulations or controls, inability to obtain any material, utility, or service because of governmental restrictions, hurricanes, floods, or other natural disasters, acts of God, or any other cause beyond the direct control of the party delayed. Notwithstanding anything in this Lease to the contrary, if Landlord or Tenant shall be delayed in the performance of any act required under this Lease by reason of any Unavoidable Delay, then provided notice of the Unavoidable Delay is given to the other party within ten (10) days after its occurrence, performance of the act shall be excused for the period of the delay and the period for the performance of the act shall be extended for a reasonable period, in no event to exceed a period equivalent to the period of the delay. The provisions of this Section shall not operate to excuse Tenant from the payment of rent or from surrendering the Premises at the end of the Lease Term, and shall not operate to extend the Lease Term. Delays or failures to perform resulting from lack of funds or the increased cost of obtaining labor and materials shall not be deemed delays beyond the direct control of a party.

27. **GENERAL PROVISIONS.**

27.1 **Construction Principles.** The words "including" and "include" and similar words will not be construed restrictively to limit or exclude other items not listed. This Lease has been negotiated "at arm's-length" by Landlord and Tenant, each having the opportunity to be represented by legal counsel of its choice and to negotiate the form and substance of this Lease. Therefore, this Lease shall not be more strictly construed against either party because one party may have drafted this Lease. If any provision of this Lease is determined to be invalid, illegal, or unenforceable, the remaining provisions of this Lease shall remain in full force, if the essential provisions of this Lease for each party remain valid, binding, and enforceable. The parties may amend this Lease only by a written agreement of the parties. This Lease shall constitute the entire agreement of the parties concerning the matters covered by this Lease. All prior understandings and agreements had between the parties concerning those matters, including all preliminary negotiations, lease proposals, letters of intent, and similar documents, are merged into this Lease, which alone fully and completely expresses the understanding of the parties. The provisions of this Lease may not be explained, supplemented, or qualified through evidence of trade usage or a prior course of dealings. In entering into this Lease, neither party has relied upon any statement, representation, warranty, or agreement of the other party except for those expressly contained in this Lease. There are no conditions precedent to the effectiveness of this Lease, other than those expressly stated in this Lease. Landlord and Tenant intend that faxed or PDF format signatures constitute original signatures binding on the parties. This Lease shall bind and inure to the benefit of the heirs, personal representatives, and, except as otherwise provided, the successors and assigns of the parties to this Lease. Each provision of this Lease shall be deemed both a covenant and a condition and shall run with the land. Any liability or obligation of Landlord or Tenant arising during the Lease Term shall survive the expiration or earlier termination of this Lease.

27.2 **Exhibits.** The following exhibits are attached to this Lease (all of which are incorporated herein by this reference):

EXHIBIT "A" - Legal Description of the Property
EXHIBIT "B" - Rules and Regulations

27.3 **Severability of Provisions.** If any provision of this Lease shall be invalid or unenforceable, the remainder of this Lease shall not be affected but shall be enforced to the extent permitted by law.

27.4 **Counterparts.** This Lease may be executed in counterpart and, when all counterpart documents are executed, the counterparts shall constitute a single binding instrument.

27.5 **Section Titles.** The captions, headings and titles in this Lease are solely for convenience of reference and shall not affect its interpretation.

27.6 **Terms.** All terms and words used in this Lease, regardless of the number or gender, in which they are used, shall be deemed to include any other number and any other gender as the context may require.

28. **JURY WAIVER; COUNTERCLAIMS.** LANDLORD AND TENANT KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM INVOLVING ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE. TENANT FURTHER WAIVES THE RIGHT TO INTERPOSE ANY PERMISSIVE COUNTERCLAIM OF ANY NATURE IN ANY ACTION TO OBTAIN POSSESSION OF THE PREMISES.

29. **GOVERNING LAW.** This Lease shall be governed by and construed in accordance with the laws of the state of Florida.

30. **QUIET ENJOYMENT.** Tenant, on paying the rent and keeping and performing the conditions and covenants herein contained, shall and may peaceably and quietly enjoy the Premises for the Term. Tenant shall be permitted to terminate this Lease in the event of a breach of this Section 30 only after Landlord's failure to cure such breach within thirty (30) days after Landlord's receipt of written notice of such breach.

31. **RADON GAS.** The following notification is provided under Section 404.056(6), Florida Statutes: "Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department."

IN WITNESS WHEREOF, this Lease has been executed on behalf of Landlord and Tenant as of the Date of this Lease.

WITNESSES:

LANDLORD:



Signature of Witness 1

Mona E. Jason

Print name of Witness 1

Todd Cornwell

Signature of Witness 2



Print name of Witness 2

10th St Storage, LLC, a Florida Limited Liability Company

By:

Name: Arnold S. Jason

Title: Manager

[SEAL]

Date Executed: 08-31-2015

Signature of Witness 1

Print name of Witness 1

Signature of Witness 2

Print name of Witness 2

TENANT:

Westinghouse Air Brake Technologies Corporation,
a Delaware corporation

By: _____
Name: _____
Title: _____

[SEAL]

Date Executed: _____

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

Parcel A: Triangular strip west of block 14, Osceola Park, according to the plat thereof, as recorded in plat book 3, page 2, of the public records of Palm Beach County, Florida.

Parcel B: An unnumbered and irregular shaped lot in Osceola park, Delray Beach, Florida, Lying between the Florida East Coast Railroad right-of-way on the west, Currie Street on the east, Nelson Street on the north and Rousseau Street on the South, as shown on the plat of Osceola Park, according to the plat thereof, as recorded in plat book 3, page 2, of the public records of Palm Beach County, Florida.

Parcel C: That portion of S.E. 1st Avenue (now vacated) running between S.E. 9th street and S.E. 10th street, as shown on the plat of Osceola Park, according to the plat thereof, as recorded in plat book 3, page 2 of the public records of Palm Beach County, Florida

Parcel D: lots 10 through 18 , inclusive, block 15 Osceola Park, According to the plat thereof, as recorded in plat book 3, page 2, of the public records of Palm Beach County, Florida, less the east 50 feet thereof.

EXHIBIT "B"
RULES AND REGULATIONS

1. Whenever Tenant shall submit to Landlord any plan, agreement, assignment, sublease, or other document for Landlord's consent or approval, Tenant shall reimburse Landlord, on demand, for the actual out-of-pocket costs for the services of any architect, engineer, or attorney employed by Landlord to review or prepare the plan, agreement, assignment, sublease, consent, or other document, and pay Landlord a reasonable administrative fee for its services relating to the consent or approval.

2. Landlord shall not be responsible for lost or stolen personal property, equipment, or money occurring anywhere on the Property, regardless of how or when the loss occurs.

3. Landlord may, on request by any tenant, waive compliance by the tenant with any of the Rules and Regulations provided that (a) no waiver shall be effective unless in writing and signed by Landlord or Landlord's authorized agent, (b) a waiver shall not relieve the tenant from the obligation to comply with the rule or regulation in the future unless expressly consented to by Landlord, and (c) no waiver granted to any tenant shall relieve any other tenant from the obligation of complying with the Rules and Regulations unless the other tenant has received a similar waiver in writing from Landlord.

4. Tenant will take all steps necessary to prevent: inadequate ventilation, emission of chemical contaminants from indoor or outdoor sources, or both, or emission of biological contaminants. Tenant will not allow any unsafe levels of chemical or biological contaminants (including volatile organic compounds) in the Premises, and will take all steps necessary to prevent the release of contaminants from adhesives (for example, upholstery, wallpaper, carpet, machinery, supplies, and cleaning agents).

5. Tenant shall comply with any and all applicable zoning regulations and building codes and operational regulations governing businesses and charter schools administered by the City of Delray Beach, Palm Beach County, the State of Florida, and the United States of America.

6. Whenever these Rules and Regulations directly conflict with any of the rights or obligations of Tenant under this Lease, this Lease shall govern.

Lease Addendum

Re: Landlord: 10 th St. Storage LLC.

Tenant: Westinghouse Air Brake Technologies Corporation

Property: 15 S.E. 10 th St. Delray Beach, Florida 33444

The parties to that certain Lease Agreement dated August 31, 2015, relating to the above referenced property agree to amend said Lease as follows:

6 month extension at the monthly rate of \$11,000 + sales tax (\$770.00)

September 1, 2017 ~~to~~ February 28, 2018, tenant may go month to month after February 28, 2018 at the rate of \$12,000 a month + taxes, either party may terminate the lease after February 28, 2018 with a 30 day notice.

ALL OTHER TERMS OF LEASE REMAIN IN EFFECT.

No other provisions are amended.

Addendum supersedes the Lease: The provisions of this Addendum are made a part of the subject Lease and shall supersede, govern and control all Lease provisions in conflict therewith. A facsimile or electronic copy of this Addendum and any signatures hereon shall be considered for all purposes as originals. This Addendum may be executed in several counterparts, each of which shall be construed as an original, but all of which shall constitute one instrument. References herein to "Landlord" and "Tenant" shall include singular or plural as context so requires or admits.

LANDLORD:

10 St Storage LLC.

By: 

Dated: 08-23-2017

TENANT:

Westinghouse Air Brake Technologies Corporation

By: 

Dated: 8/24/17