

RESOLUTION NO. 23969

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS, RECREATION, ARTS & CULTURE TO EXECUTE A LEASE AGREEMENT WITH KEN DeFOOR PROPERTIES, IN THE FORM ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, RELATIVE TO A SITE LOCATED AT 1001 RING ROAD FOR USE AS A HIXSON CIVIC CENTER.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That the Administrator of the Department of Parks, Recreation, Arts & Culture be and is hereby authorized to execute a Lease Agreement with Ken DeFoor Properties, in the form attached hereto and made a part hereof by reference, relative to a site located at 1001 Ring Road for use as a Hixson Civic Center.

ADOPTED: November 18, 2003

/pm

Lease Agreement

BETWEEN

KEN DEFOOR PROPERTIES, A TENNESSEE GENERAL PARTNERSHIP
(Landlord)

AND

THE CITY OF CHATTANOOGA, A MUNICIPAL CORPORATION

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") is made and entered into as of the _____ day of _____, 2003, by and between KEN DEFOOR PROPERTIES, a Tennessee general partnership, (the "Landlord"), and THE CITY OF CHATTANOOGA, A MUNICIPAL CORPORATION ("Tenant").

ARTICLE I DEFINITIONS

1.1 (a) Building:

The building being located at and being known as 1001 Ring Road, Chattanooga, TN 37343, and being part of THE CORPORATE IMAGE AT NORTHGATE. For purposes of this Lease, the term "Building" shall be deemed to include the land upon which the Building is located.

(b) Premises: Suite B of 1001 Ring Road, Chattanooga, TN 37343, consisting of 5,400 (Five Thousand Four Hundred) square feet of first floor area, being outlined in EXHIBIT "A", attached to this Lease (the "Premises").

(c) Lease Term:

10 years, beginning on the March 1, 2004. There shall be an additional period (the time from the Lease Commencement Date, as defined in (d) below, to March 1, 2004) during which no rent shall be due; however, Tenant shall pay all CAM Charges (as defined in paragraph (f), below) during this additional period.

(d) Lease Commencement Date: The latter of November 30, 2003, or the substantial completion of the premises. Substantial Completion means that (i) the leasehold improvements have been substantially completed according to the construction documents, except for items which will not materially affect the use of the premises if which customarily are deemed to be "punch list work"; (ii) ingress and egress to the leased premises is free and unobstructed; (iii) the builder or architect for the project have certified that the construction of the leasehold improvements is in compliance with applicable building codes; (iv) the building has been completed in conformity with applicable building codes; and (v) a temporary certificate of occupancy has been issued (so long as there are no conditions to such certificate which cause material interference with Tenant's use of the leased premises.)

(e) Base Rent: \$14.50 per square foot/annually - due monthly on the first day of each month for Sixty (60) consecutive months, with the first payment due March 1, 2004.

(i) \$6,525.00 monthly
\$78,300.00 annually

(ii) Escalation: Tied to the Consumer Price Index on March 1, 2009 with a minimum of a 2% increase and a maximum of a 5% increase over the Base Rent. It shall be due monthly on the first day of each month for Sixty (60) consecutive months, with the first payment due March 1, 2009.

(f) Common Area Maintenance ("CAM") Charges: In addition to the Base Rent payable during the term, Tenant shall pay its triple net expenses. For the initial term of the Lease, these charges are \$2.75 per foot/year.

(i) \$1,237.50 monthly
\$14,850.00 annually

(ii) Escalation: Tied to the Consumer Price Index on March 1, 2009 with a minimum of a 2% increase and a maximum of a 5% increase over the initial term rate. It shall be due monthly on the first day of each month for Sixty (60) consecutive months, with the first payment due March 1, 2009.

(g) Utilities: To be paid by Tenant.

(h) Permitted Use of the Premises: A community center and related activities, including, but limited to public meetings and events during the day or in the evenings.

(i) Late Fees: Tenant will be given written notice if payment is late. In the event the payments including additional rent (tax, insurance, CAM, etc.) are not received by the fifteenth (15th) of each month, an eighty (\$80.00) dollar penalty will be charged, with a five dollar (\$5.00) per day fee thereafter until the 30th day, at which time tenant shall be in default.

ARTICLE 2

PREMISES

Tenant leases the Premises from Landlord for the term and upon the conditions and covenants set forth in this Lease. Tenant also will have the non-exclusive right to use the common and public areas of the Building.

ARTICLE 3

TERM

- 3.1 The Lease Term shall commence on the Lease Commencement Date.
- 3.2 Landlord shall be responsible for delivering the premises to Tenant ready for occupancy, in "turn key" condition satisfactory to Tenant, at Landlord's sole cost and expense.
- 3.3 Tenant shall submit to Landlord, within twenty-one (21) days after the date of this Lease, plans and specifications in such detail as Landlord may request covering the work to be performed by Landlord, including the work specified in EXHIBIT "B", and any other work which Tenant proposes that Landlord perform in the premises pursuant to such plans and specifications, with said plans and specifications being mutually approved by Landlord and Tenant ("Landlord's Work"). All space planning, design, permits and construction drawings shall be included with the "turn key" build out.

Landlord represents and warrants that, upon delivery of the Premises to Tenant with Landlord's Work complete, the Premises will be in compliance with all applicable laws, rules and regulations. Landlord shall be responsible for any defects in the building. Tenant shall have no right to enter or occupy the Premises until the Premises are ready for occupancy.

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") is made and entered into as of the _____ day of _____, 2003, by and between KEN DEFOOR PROPERTIES, a Tennessee general partnership, (the "Landlord"), and THE CITY OF CHATTANOOGA, A MUNICIPAL CORPORATION ("Tenant").

ARTICLE I DEFINITIONS

1.1 (a) Building:

The building being located at and being known as 1001 Ring Road, Chattanooga, TN 37343, and being part of THE CORPORATE IMAGE AT NORTHGATE. For purposes of this Lease, the term "Building" shall be deemed to include the land upon which the Building is located.

(b) Premises: Suite B of 1001 Ring Road, Chattanooga, TN 37343, consisting of 5,400 (Five Thousand Four Hundred) square feet of first floor area, being outlined in EXHIBIT "A", attached to this Lease (the "Premises").

(c) Lease Term:

10 years, beginning on the March 1, 2004. There shall be an additional period (the time from the Lease Commencement Date, as defined in (d) below, to March 1, 2004) during which no rent shall be due; however, Tenant shall pay all CAM Charges (as defined in paragraph (f), below) during this additional period.

(d) Lease Commencement Date: The latter of November 30, 2003, or the substantial completion of the premises. Substantial Completion means that (i) the leasehold improvements have been substantially completed according to the construction documents, except for items which will not materially affect the use of the premises if which customarily are deemed to be "punch list work"; (ii) ingress and egress to the leased premises is free and unobstructed; (iii) the builder or architect for the project have certified that the construction of the leasehold improvements is in compliance with applicable building codes; (iv) the building has been completed in conformity with applicable building codes; and (v) a temporary certificate of occupancy has been issued (so long as there are no conditions to such certificate which cause material interference with Tenant's use of the leased premises.)

(e) Base Rent: \$14.50 per square foot/annually - due monthly on the first day of each month for Sixty (60) consecutive months, with the first payment due March 1, 2004.

(i) \$6,525.00 monthly
\$78,300.00 annually

(ii) Escalation: Tied to the Consumer Price Index on March 1, 2009 with a minimum of a 2% increase and a maximum of a 5% increase over the Base Rent. It shall be due monthly on the first day of each month for Sixty (60) consecutive months, with the first payment due March 1, 2009.

replacement of the HVAC unit(s), except for the periodic replacement of air filters, as set for in Section 6.2, above.

- 6.4 If the Owner's Association, as defined in the Master Deed, hires the services of a security firm for nightly monitoring purposes, Tenant shall pay its proportionate share of the fees. These fees are not part of the CAM Charges.

ARTICLE 7

REAL ESTATE TAXES

- 7.1 This section intentionally left blank.

ARTICLE 8

LANDLORD'S INSURANCE

- 8.1 Tenant shall not conduct any activity or place any item in or about the building, which may increase the rate of any insurance on the Building. If any increase in the rate of such insurance is due to any activity or item (whether or not Landlord has consented to such activity or item), then Tenant shall pay as additional rent hereunder the amount of such increase.
- 8.2 Landlord shall carry adequate fire and other casualty insurance on the premises but not on the personal property of Tenant.

ARTICLE 9

UTILITIES

Tenant shall pay all bills for all utilities and other energy furnished to or used on or about the Premises and all sewage costs and service charges for the Premises.

ARTICLE 10

SECURITY DEPOSIT

Tenant shall not pay and is not obligated to pay a security deposit.

ARTICLE 11

ASSIGNMENT AND SUBLETTING

- 11.1 Tenant shall have the right at any time to sublease or assign all or any portion of the Premises to any related entity or affiliate of Tenant, or to any successor corporation, whether by merger or consolidation, without Landlord's approval or consent. Tenant shall keep any profits derived from such sublease or assignment. An affiliate is any corporate or other entity under control of, controlled by, or under common control with (directly or indirectly) Tenant.
- 11.2 Tenant shall not assign this Lease or any of Tenant's rights or obligations hereunder, or sublet or permit anyone to occupy the Premises or any part thereof, without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, subject to the provisions of Section 11.1, above. Tenant shall pay the expenses (including attorneys' fees up to \$500.00) incurred

by Landlord in connection with Tenant's request for Landlord to give its consent to any assignment, occupancy, or sublease. Tenant and Landlord shall split the rent revenue over Tenant's Base Rent and the CAM charges ("Excess Revenue"), after Tenant recoups its costs associated with the procuring the sublease (commissions, etc.) from the Excess Revenue. Landlord shall not have the ability to recapture such sublease space during the term of such a sublease.

- 11.3 Tenant shall not mortgage its rights under this Lease without Landlord's consent, which consent may be granted or withheld in Landlord's sole and absolute discretion. Tenant shall pay the expenses (including attorneys' fees up to \$500.00) incurred by Landlord in connection with Tenant's request for Landlord to give its consent to any mortgage.

ARTICLE 12

MAINTENANCE AND REPAIRS

- 12.1 Landlord shall, at its expense, maintain and keep in good condition all of the structural components of the Premises and the Building. The structural components shall be limited to the foundation, floor, exterior walls, parking lot/sidewalk surfaces and roof of the Premises and the Building, and all utility systems serving the Premises which are under the Landlord's control and located outside the Premises, **but shall not include any such systems which serve Tenant's Premises exclusively.** Landlord, at Landlord's sole cost and expense, shall be 100% responsible for repair of any and all structural and/or latent defects in the Premises and the Building over the term of the Lease and any renewal or holdover period, including earthquake damage. Landlord's costs for repair of any and all structural and/or latent defects shall be excluded from operating costs that would otherwise be passed through to Tenant.
- 12.2 The structural components shall not include interior: **Doors, window glass, HVAC units, interior walls, trim, floor and wall coverings or ceiling of the Premises. These repairs shall not be considered part of the CAM.** The Landlord shall not be obligated to make any repairs which were caused by the act, omission or negligence of the Tenant, or any invitees, agents, employees, subtenants, assignees, contractors, clients, family members, licensees, customers or guests of the Tenant (hereinafter collectively, "Invitees").
- 12.3 Tenant shall have the benefit of all warranties for the HVAC systems, and Landlord shall be responsible for the periodic replacement of air filters, as set for in Sections 6.2 and 6.4, above.
- 12.4 Tenant shall, at its expense, promptly make all repairs, perform all maintenance and make all replacements in and to the Premises that are not the obligation of the Landlord as described above which are necessary or desirable to keep the Premises in first class condition and repair, in a safe and tenable condition and otherwise in accordance with the requirements of this Lease. Tenant shall maintain all fixtures, furnishings and equipment located in, or exclusively serving, the Premises in clean, safe and sanitary condition, shall take good care thereof and make all required repairs and replacements thereto. Tenant shall suffer no waste or injury to any part of the Premises, and shall, at the expiration or earlier termination of the Lease Term, surrender the Premises in an order and condition similar to or better than their order and condition on the Lease Commencement Date, ordinary wear and tear excepted.

ARTICLE 13

ALTERATIONS

- 13.1 The original improvement of the Premises shall be accomplished by Landlord in accordance with EXHIBIT "B". Landlord is under no obligation to make any structural or other alterations, decorations, additions, improvements or other changes (collectively "Alterations") in or to the Premises except as set forth in EXHIBIT "B" or otherwise expressly provided in this Lease.
- 13.2 Tenant shall not make or permit anyone to make any Alterations in or to the Premises or the Building beyond those set forth in EXHIBIT "B" without Landlord's prior written consent, which consent will not be unreasonably withheld, conditioned or delayed.
- 13.3 Landlord agrees that any assessments imposed with respect to Improvements having a useful life of three years or more shall be amortized over the useful life of such improvements.
- 13.4 Tenant covenants and agrees that, during the term of this Lease and any extension hereof, it will pay for all labor performed and materials furnished in any repair, alteration and improvement for which it is responsible under this Lease and will keep the Premises free and clean of any mechanic's or materialman's liens for labor so performed or materials so furnished and will defend at its own cost each and every lien and claim filed against the Premises and will promptly pay each and every final judgment affecting the Premises by reason of work performed, services rendered or materials furnished in any repair, alteration and improvement of the Premises for which Tenant is responsible under this Lease. Upon receipt of written notice from Landlord, Tenant shall bond against or have such claim or lien discharged or otherwise removed from the Premises within sixty (60) days.

ARTICLE 14

SIGNS

No sign, advertisement or notice referring to Tenant shall be inscribed, painted, affixed or otherwise displayed on any part of the exterior or the interior of the Building (including Tenant's windows and doors) without the prior written approval of Landlord. Landlord will provide Tenant with signage on Ring Road, with the size, type, and form to be dictated by Landlord.

ARTICLE 15

INSPECTION

At any reasonable time and upon reasonable notice, Tenant shall permit Landlord and its designees to enter the Premises, without charge therefore and without diminution of the rent payable by the Tenant, to inspect and exhibit the Premises and make such alterations and repairs, as Landlord may deem necessary. Any information, covering oral statements, documents, records, reports and charts, including computer-generated data and other data, regarding the business operations of Tenant which may be viewed during inspection is deemed confidential and is not to be discussed or disclosed by Landlord or its designees to any other party without prior written consent of Tenant.

ARTICLE 16

TENANT'S INSURANCE

Throughout the Lease Term, holdover period, or renewal term, Tenant shall obtain and maintain a policy of:

(a) Broad form comprehensive general public liability insurance. Such comprehensive liability insurance policy shall protect Tenant against situations that may arise from matters against which Tenant is required to indemnify Landlord pursuant to Section 17.2 below. As of the date hereof, such insurance shall be in the minimum amount of four hundred thousand dollars (~~\$400,000.00~~) combined single limit per occurrence.

(250,000)

(b) All-risk casualty insurance insuring Tenant's Work, all Alterations, inventory, fixtures, equipment, personal property, floor coverings and furnishings installed in and located on the Premises. Such policy shall name Landlord and the holder of each mortgage as additional insureds and loss payees and shall include a full replacement cost endorsement. So long as this Lease shall remain in effect, any and all proceeds of such insurance shall be paid to Landlord and Tenant jointly to be used only to repair or replace the insured items.

ARTICLE 17

LIABILITY

- 17.1 Tenant or Landlord, and their employees and agents shall not be liable to other Tenants, their Invitees or any other person or entity for any damage (including claims for the interruption of or loss to business) based on or arising out of any cause whatsoever excluding Landlord's or Tenant's negligence or wrongful act (except as otherwise provided in this Lease). Any property stored or placed by Tenant or its Invitees in or about the Premises or the Building shall be at the sole risk of Tenant, and Landlord shall not in any manner be held responsible therefore except for Landlord's negligence or wrongful act, for which Landlord shall indemnify Tenant.
- 17.2 intentionally omitted
- 17.3 Tenant shall not have the right to offset or deduct the amount allegedly owed to Tenant pursuant to any claim against Landlord from any rent or other sum payable to Landlord. Tenant's sole remedy for recovering upon such claim shall be to institute an independent action against Landlord.
- 17.4 If Tenant or any Invitee is awarded a money judgment against Landlord, then recourse for satisfaction of such judgment shall be limited to execution against those assets titled in the name of Landlord. No partner of Landlord shall be available to satisfy or be subject to such judgment, nor shall such partner be held to have personal liability for satisfaction of any claim or judgment against Landlord. Landlord will maintain a general liability insurance policy in the amount of \$1,000,000.00.

ARTICLE 18

RULES

Tenant and its Invitees shall at all times abide by and observe any reasonable rules that Landlord may promulgate from time to time for the operation and maintenance of the Building (see "Exhibit D"), provided such does not conflict with the terms of this Lease Agreement.

ARTICLE 19

DEFAULT

- 19.1 Each of the following shall constitute an event of Default: (a) Tenant's failure to make, after Ten (10) business days written notice, any payment of the Base Rent,

additional rent or other sums payable by Tenant under the terms of this Lease (Landlord shall mail, to the address set forth in paragraph 20.09 and to be received by the 15th of each month, an invoice for the following month's rent.), or (b) Tenant's or Landlord's violation or failure to perform or observe any other covenant or condition of this Lease following thirty (30) days prior written notice & failure of Tenant or Landlord to reasonably cure such default.

- 19.2 If there shall be an event of Default, including an event of Default prior to the Lease Commencement Date, then the provisions of this Section shall apply. Landlord or Tenant shall have the right, at its sole option, to terminate this Lease. In addition, with or without terminating this Lease, Landlord may re-enter and terminate Tenant's right of possession and take possession of the Premises. The provisions of this Article shall operate as a notice to quit, any other notice to quit or of Landlord's intention to re-enter the Premises being expressly waived. Landlord may re-let the Premises or any part thereof for such term and on such terms and conditions as Landlord, in its sole discretion, may determine: but Landlord shall not be liable for, nor shall Tenant's obligations be diminished by reason of Landlord's failure to re-let the Premises or collect any rent due upon such re-letting. Regardless of which party terminates the Lease, Landlord shall seek in good faith to re-let the premises. Whether or not this Lease is terminated, Tenant nevertheless shall remain liable for any Base Rent, additional rent or damages which may be due or sustained prior to such default, all costs, fees and expenses (including without limitation reasonable attorney's fees, brokerage fees and expenses incurred in placing the Premises in first class rentable condition) incurred by Landlord in pursuit of its remedies and in renting the Premises to others from time to time. In the event Landlord terminates before Date of Commencement, Landlord shall reimburse Tenant for any expenses incurred in preparing the Premises for occupancy.
- 19.3 Landlord and Tenant's rights and remedies set forth in this Lease are cumulative and in addition to Landlord's and Tenant's other rights and remedies at law or in equity. Landlord's or Tenant's exercise of any such right or remedy shall not prevent the concurrent or subsequent exercise of any other right or remedy. Landlord's or Tenant's delay or failure to exercise or enforce any of Landlord's or Tenant's other rights or remedies or Landlord's or Tenant's obligations shall not constitute a waiver of any such rights, remedies or obligations. Landlord or Tenant shall not be deemed to have waived any default unless such waiver is expressly set forth in an instrument signed by Landlord or Tenant.

ARTICLE 20

GENERAL PROVISIONS

- 20.1 Tenant acknowledges that neither Landlord nor any broker, agency or employee of Landlord has made any representations or promises with respect to the Premises or the Building except as herein expressly set forth, and no right, privilege, easement or license is being acquired by Tenant except as herein expressly set forth.
- 20.2 Tenant may hold evening functions on or about the Premises which may require Tenant to utilize more than its allotted share of parking spaces. During these functions, Tenant may use more than its allotted share of parking spaces, provided that said use does not unreasonably interfere with other Owners/Tenants. When said functions produce excessive garbage/trash/waste, Tenant shall have the Premises and surrounding affected areas cleared of all garbage/trash/waste by 10:00 a.m. the following day.
- 20.3 The provisions of this Lease shall be binding upon and inure to the benefit of the parties and each of their respective representatives, successors and assigns, subject to the provision herein restricting assignment or subletting.

- 20.4 This Lease contains and embodies the entire agreement of the parties hereto and supersedes all prior agreements, warranties, understandings and discussions between the parties hereto. Any representations, inducement, warranty, understanding or agreement that is not contained in this Lease shall be of no force or effect. This Lease may be modified or changed in any manner only by an instrument signed by both parties.
- 20.5 The laws of the jurisdiction in which the Building is located shall govern this Lease.
- 20.6 Time is of the essence with respect to each of Landlord's and Tenant's obligations hereunder.
- 20.7 In the event that any action, suit, or other proceeding is instituted concerning or arising out of this Lease, the prevailing party shall recover from the non-prevailing party, all of the prevailing party's costs and attorney's fees incurred in each and every such action, suit, or other proceeding, including any and all appeals or petitions therefrom. As used herein, "attorneys' fees" shall mean the full and actual costs of any legal services actually rendered in connection with the matters involved, calculated on the basis of the usual fee charged by the attorneys performing such services.
- 20.8 During the term of the Lease and any holdover, renewal or extension period thereof, Tenant and its employees shall have the right to park in the Building's parking lot immediately adjacent to the Building in which the Premises are located, within sight of Tenant's store front. Tenant shall have five (5) spaces per 1,000 rentable square feet. Parking shall be free for the term of the Lease and any holdover, renewal or extension period thereof for Tenant and Tenant's client(s).
- 20.09 Notices, requests and demands to or upon the parties to this Lease Agreement shall be deemed to have been given or made when delivered by hand, or when deposited in the U.S. mail, postage prepaid by certified mail, return receipt requested, or overnight courier service and properly addressed as follows or to such other addresses as may be hereinafter designated in writing by one party to the other:
- | | |
|-----------|--|
| Landlord: | Ken DeFoor Properties
P.O. Box 1832
Collegedale, TN 37315 |
| Tenant: | Mr. Jerry Mitchell
City of Chattanooga Parks and Recreation Dept.
Suite 216
Chattanooga, TN 37402 |
- 20.10 Provided tenant performs and observes all of the terms, conditions and agreements herein contained, Tenant shall have the quiet possession of the Premises during the full term of the Lease, including any extensions thereof. Tenant shall have access 24 hours a day, 7 days per week.

ARTICLE 21

DAMAGE OR DESTRUCTION BY FIRE OR OTHER CASUALTY

- 21.1 If at any time, the Premises become totally untenantable (determined to be more than 50% untenantable) by reason of damage or loss by fire or other casualty and such fire or other casualty shall not have been caused by the negligence or wrongful act or omission of Tenant, Tenant's servants, agents, licensees, or invitees, the rent, including Common Area Maintenance Charges shall abate

immediately until the Premises shall have been restored to tenantable condition. If the Premises are damaged, but not to the extent that they are totally untenable, Tenant shall continue to occupy same, or the tenantable portion thereof, and the rent shall abate proportionately in the ratio that the portion unusable bears to the entire Premises. No damage or destruction shall allow Tenant to surrender possession of the Premises, nor affect Tenant's liability for the payment of rent, except as may be specifically provided in this Lease.

Notwithstanding the foregoing, in the event the demised premises are not fully restored within 120 days, then tenant may terminate this Lease at Tenant's option.

- 21.2 EMINENT DOMAIN. The parties mutually agree that in the event the whole or any part of the Premises shall be taken for any public or quasi-public use under any statute, or by right of eminent domain, or by private purchase and conveyance in lieu thereof or in connection therewith, any compensation shall be paid to Landlord and Tenant separately, as their respective interests and rights are established, and in the event Tenant determines that the portion of the Premises remaining after such taking or conveyance is insufficient to continue its business (i.e., fifteen percent (15%) or more of the Premises is taken or conveyed), this Lease shall terminate at the exclusive judgment and determination of Tenant. Landlord agrees that if Tenant elects to continue this Lease after such a partial taking or conveyance, Landlord shall repair and restore the Premises as nearly as possible to the condition that existed prior to such taking and a pro-rata abatement of rent including Common Area Maintenance Charges for the balance of the term of this agreement shall be effective as of the date of such taking. The parties further mutually agree that in the event of a substantial taking during the last six (6) months of the original term hereof, Landlord shall have no obligation to restore unless Tenant exercises its option to extend the term hereof as provided in EXHIBIT "C", incorporated herein, and in any event, Landlord shall not be required to expend an amount for the restoration which is greater than the compensation award it receives.
- 21.3 Landlord shall be responsible for, and shall indemnify and save Tenant harmless from and against any and all liability, damages, losses, claims, suits, and other costs (including reasonable attorney's fees) arising out of, or connected with the presence on, in, or under the building or the Premises, of any asbestos, mold, mildew, PCB's, or any other hazardous substance or hazardous waste existing prior to the commencement of the Lease, or resulting from any cause other than Tenant's occupancy in, or use of, the Premises.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the day and year first above written.

"LANDLORD"

KEN DEFOOR PROPERTIES

"LANDLORD"

By: _____
Kenneth J. DeFoor
Title: GENERAL PARTNER

THE CITY OF CHATTANOOGA, A MUNICIPAL CORPORATION

"TENANT "

By: _____

Title: _____

STATE OF TENNESSEE
COUNTY OF HAMILTON

On this _____ day of _____, 200__, before me personally appeared
KENNETH J. DEFOOR, with whom I am personally acquainted (or proved to m on the basis
of satisfactory evidence) and who upon oath acknowledged himself/herself to be the **General
Partner** of **KEN DEFOOR PROPERTIES, a Tennessee General Partnership**. the within
named bargainor, and the he/she as such **General Partner**, being authorized so to do, executed
the foregoing instrument for the purposes therein contained by signed the name of **KEN
DEFOOR PROPERTIES, a Tennessee General Partnership**, by himself/herself as such
General Partner.

NOTARY PUBLIC

My Commission Expires: _____

STATE OF _____
COUNTY OF _____

On this _____ day of _____, 200__, before me personally appeared.
_____, with whom I am personally acquainted (or proved to m on the
basis of satisfactory evidence) and who upon oath acknowledged himself/herself to be the
_____ of **THE CITY OF CHATTANOOGA, A MUNICIPAL
CORPORATION**, the within named bargainor, and the he/she as such
_____, being authorized so to do, executed the foregoing instrument for
the purposes therein contained by signed the name of **THE CITY OF CHATTANOOGA, A
MUNICIPAL CORPORATION**, by himself/herself as such _____.

NOTARY PUBLIC

My Commission Expires: _____

EXHIBIT "A"
DESCRIPTION OF THE BUILDING AND THE PREMISES

EXHIBIT "B"

DESCRIPTION OF LANDLORD'S AND TENANT'S WORK

1. WALLS – Landlord will furnish and install at its expense 3-3/8" metal studs on 24" center, with 1/2" gypsum board (hung, taped, filled and sanded) to a height of Ten feet (10).
2. WALL COVERING – Landlord shall furnish at its expense labor and material to primer the perimeter walls within the Premises with one (1) coat of flat interior-grade primer, plus one (1) coat semi-flat latex, tenant to pick color.
3. DOORS – Landlord shall furnish and install at its expense _____ 3'-0" x 6'-8" x 1-1/4" pre-hung solid core wood doors with frame and hardware, painted with one (1) coat of interior-grade primer if requested, plus one (1) coat latex enamel.
4. CEILING – Landlord shall furnish and install at its expense a 24" x 48" x 5/8" acoustical lay-in panel ceiling with an exposed grid system throughout the Premises.
5. ELECTRICAL – Landlord shall furnish and install at its expense 24" x 48" drop-in fluorescent ceiling lights and duplex outlets in the Premises on the perimeter and partition walls as per original drawing. Furnish and install electrical wiring to six locations for tenants modular furniture.
6. HVAC – Landlord shall furnish and install at its expense a complete heating, ventilating and air conditioning system for the Premises, including equipment, duct, grills, and thermostats.
7. EXTRAS – All other work necessary to finish the interior of the Premises shall be negotiated between Landlord and Tenant.
8. TENANT'S FINISH ALLOWANCE – Upon completion of the finish work on the Premises, the Landlord shall allow to the Tenant, as a credit against the finish work performed at the Tenant's expense, an amount equal to \$20.00 per square foot of the Premises. Any excess of the amount of this credit over the cost of the finish work performed at the Tenant's expense shall be forfeited and shall not be paid to the Tenant in cash or otherwise credited to the rent or other amounts payable to the Landlord or others.
9. Carpet to be commercial grade, color to be picked by Tenant.
10. ARCHITECTURAL DRAWINGS - To be furnished by Landlord per Tenants specifications.
11. TENANT'S TOTAL ALLOWANCE - \$ N/A
12. ALARM SYSTEM - Landlord shall furnish and install at its expense an alarm system with door and motion sensors. Any monthly monitoring fees shall be paid by the Tenant.

EXHIBIT "C"

SPECIAL PROVISION RIDER

This Rider is attached to and made a part of that certain Lease Agreement dated as of the _____ day of _____, 2003, (the "Lease"), by and between KEN DEFOOR PROPERTIES, a Tennessee general partnership (The "Landlord") and THE CITY OF CHATTANOOGA, A MUNICIPAL CORPORATION, (the "Tenant").

Unless the context otherwise requires, the terms used in this Rider that are defined in the Lease shall have the same meanings as provided in the Lease.

The following terms and provisions are hereby made a part of the Lease as fully and to the same extent as if set forth fully therein:

1. "HOLDING OVER": If the Tenant remains within the Premises beyond the termination or expiration date of the Lease Term or any renewal period, then said holdover period shall be deemed to create a month to month tenancy with the same terms and conditions herein. At commencement of the holdover period, base rent shall increase 20%. If Tenant desires to terminate the holdover period, then Landlord is to be given thirty (30) days notice before such termination. Landlord shall have the right to terminate the holdover period by giving Tenant thirty (30) days written notice.

2. **OPTION TO PURCHASE:** Landlord hereby grants to **Tenant** the absolute option to purchase the leased premises and the underlying fee. This option to purchase may be exercised at any time during the term of the Lease, provided that the Lessee is not in default of the Lease, and the option shall expire at the termination or expiration of the Lease. The closing of the sale/purchase shall occur within 30 days of Landlord's receipt of Tenant's written notice to exercise the option to purchase. The purchase price of the property shall be the price, as set forth below, as of the date Landlord receives Tenant's written notice to exercise the option to purchase. The purchase price of the Leased Premises and underlying fee shall be as follows:

From the Lease Commencement date until March 1, 2014: \$675,000.00.

Upon the payment of all sums due hereunder, Lessor will convey the property to Lessee by warranty deed with the property being subject only to restrictions and easements of record.

EXHIBIT "D"
RULES

This Exhibit is attached to and made part of that certain Lease Agreement dated as of the _____ day of _____, 2003, (the "Lease"), by and between KEN DEFOOR PROPERTIES, a Tennessee general partnership ("Landlord") and THE CITY OF CHATTANOOGA, A MUNICIPAL CORPORATION (the "Tenant").

1. Throughout the Lease Term, holdover period, and renewal term, Tenant shall:
 - (a) Keep the Premises (including without limitation, the interior and exterior portions of all windows, doors, all other glass, the building front and the walkways immediately in front of and adjoining the Premises) in a neat, clean and sanitary condition (including, subject to any necessary approvals of Landlord and the other requirements of this Lease, all painting and decoration necessary to maintain a clean and sightly appearance), free from litter, food, grease, oil or other stains, vermin and escaping offensive odors;
 - (b) Not use any equipment, machinery or advertising medium, which may be heard outside the Premises;
 - (c) Not use the plumbing facilities for any purpose other than that for which they were constructed;
 - (d) Not operate its business in a manner which is commonly known as a "schlock house," "wholesale house," "cut-rate store" or "outlet store," and not conduct any "fire sale," "going out of business sale," "bankruptcy sale" or auction within the Premises;
 - (e) Not use or permit the use of any portion of the Premises as sleeping apartments or lodging rooms or for any unlawful purpose or purposes;
 - (f) Keep the display windows in the Premises well lighted during the normal hours of operation of the Premises and such other hours as are specified by Landlord;
 - (g) Not solicit business in the common or public areas of the Premises, nor distribute or display any handbills or other advertising matters or devices in such common or public areas;
 - (h) Conduct its business in all respects in a dignified manner in accordance with building operations consistent with the quality of operation of the Premises as determined by Landlord;
 - (i) Keep any garbage, trash, rubbish or other refuse in rat-proof containers within the interior of the Premises; deposit daily such garbage, trash, rubbish and refuse in receptacles designated by Landlord; and inspect regularly the sidewalks and other areas adjacent to the Premises and remove all garbage, trash and rubbish from there;
 - (j) Not sell, display or offer for sale any roach clip, water pipe, bong, coke spoon, cigarette papers, hypodermic syringes or other paraphernalia which in Landlord's opinion are commonly used for the ingestion of illegal drugs, or any pornographic, lewd, suggestive or "adult" newspaper, book, magazine, film, picture or merchandise of any kind;
 - (k) Not discriminate in the conduct of its business at the Premises against any person because of such person's race, creed, color, sex, national origin or ancestry;

- (l) Provide adequate lighting and security for Tenant's employees, agents, licensees, invitees, assignees, subtenants, concessionaires, customers, clients, family members or guests;
 - (m) Not obstruct or encumber any sidewalks, entrances, passages, courts, elevators, vestibules, stairways, corridors, halls or any other part of the Premises;
 - (n) Not permit any awnings, signs, placards and the like or any projections of any kind whatsoever to be attached to the outside walls of the Premises without the prior written consent of Landlord;
 - (o) Not permit any drapes, blinds, shades or screens to be attached or allowed to be hung or used in connection with any window or door relating to the Premises without the prior written consent of Landlord;
 - (p) Not permit any showcases, mats or other articles to be placed or allowed to remain in front of, in the proximity of, or affixed to any part of the exterior of the Premises. Tenant acknowledges that it is Landlord's intention that the Premises be operated in a manner, which is consistent with the highest standards of cleanliness, decency and morals in the community, which it serves. Toward that end, Tenant shall not sell, distribute, display or offer for sale any item, which, in Landlord's judgment, is inconsistent with the quality or operation of the Premises or may tend to impose or detract from the moral character or image of the Premises.
2. Tenant shall not install or operate in the Premises any electrically operated equipment or machinery that operates on greater than 110-volt power without obtaining the prior written consent of Landlord. Landlord may condition such consent upon Tenant's payment of additional rent in compensation for the excess consumption of electricity or other utilities and for the cost of any additional wiring or apparatus that may be occasioned by the operation of such equipment or machinery. Tenant shall not install any equipment of any type or nature that will or may necessitate any changes, replacements or additions to, or changes in the use of, the water system, heating system, plumbing system, air conditioning system or electrical system of the Premises or the Premises without obtaining Landlord's prior written consent, which consent may be granted or withheld in Landlord's sole and absolute discretion. If any machine or equipment of Tenant causes noise or vibration that may be transmitted to such a degree as to be objectionable to Landlord or any tenant in the Premises, then Landlord shall have the right to install, at Tenant's expense, vibration eliminators or other devices sufficient to reduce such noise and vibration to a level satisfactory to Landlord or to require Tenant to do the same.
 3. Landlord may, upon request of Tenant, waive Tenant's compliance with any of the rules, provided that (a) no waiver shall be effective unless signed by Landlord, (b) no waiver shall relieve Tenant from the obligation to comply with such rule in the future unless otherwise agreed in writing by Landlord, (c) no waiver granted to any Tenant shall relieve any other Tenant from the obligation of complying with these rules and regulations, and (d) no waiver shall relieve Tenant from any liability for any loss or damage resulting from Tenant's failure to comply with any rule.