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# **REQUEST FOR PROPOSALS**

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## **Ground Lease for Hotel/Conference Center Development**

Located in:  
**Knoxville, Tennessee**

### **CHEROKEE FARM DEVELOPMENT CORPORATION**

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**RFP Release Date:  
January 7, 2024**

## **1. INTRODUCTION**

### **1.1. Statement of Purpose**

Cherokee Farm Development Corporation, hereinafter referred to as “CFDC” or “Landlord,” is seeking proposals from qualified developers or development teams to plan, design, finance, construct, and operate a hotel/conference center. The hotel/conference center will be referred to as the “Development” and would be built on leased property at the UT Research Park (“Research Park”), Knoxville, Tennessee (“Leased Premises”). The Leased Premises will be used for the construction and operation of the hotel/conference center along with other such uses as may be related or incidental thereto such as the operation of a restaurant and/or coffee shop.

CFDC has issued this Request for Proposals (“RFP”) to define leasing requirements; solicit proposals; detail proposal requirements; and outline CFDC’s process for evaluating proposals and selecting a Proposer to enter into an agreement to lease the Leased Premises and design, construct, operate, and maintain the Development.

The RFP process will include three phases – Phase I will include an initial response from proposers providing information on qualifications, experience, financial capability, preliminary schedule, and conceptual design; Phase II will include the submittal of a more detailed program and site plan, refined schedule, and operating and financial plan including rent or other consideration to CFDC; Phase III will include finalist negotiation with the best evaluated proposer.

Through this RFP, CFDC seeks to lease the Leased Premises to the Proposer: with the best proposal for the design, financing, construction, and operation of the Development; who will meet the functional requirements outlined in this RFP; who will best meet the needs of CFDC; and who will provide financial benefit to CFDC; while giving ALL qualified Proposers (each individually, a “Proposer” and collectively, the “Proposers”), including those who are or are owned by minorities, women, and Tennessee service-disabled veterans, opportunity to do business with CFDC as Landlord.

**PROPOSALS INCLUDING OR REFERENCING TERMS AND CONDITIONS OTHER THAN THOSE REFERENCED BY CFDC IN THIS RFP MAY BE REJECTED.**

The original and revised 2021 UT Research Park Master Plan and Development Guidelines contemplated the construction of a hotel/conference center at the Research Park. Planning for the Research Park was incorporated into the UT Knoxville Master Plan approved by the UT Board of Trustees in February 2023. The scope of this RFP is a hotel/conference center at the Research Park and is not associated with any other hotel(s) contemplated in the UT Knoxville Master Plan. If and when a decision is made to move forward with those hotel(s), a separate RFI and/or RFP will be issued in accordance with University and State Building Commission guidelines and policies.

### **1.2. Disclaimer of Subjectivity**

Proposers shall be conclusively deemed to understand and accept that by responding to this RFP they are willingly participating in a subjective evaluation process. Proposers should be aware and shall be conclusively deemed to agree that the proposal determined to best meet the needs of CFDC may not necessarily be the proposal offering the highest financial benefit.

### **1.3. Property Information**

The 150-acre Research Park sits on a bend in the Tennessee River a mile-and-a-half southwest of downtown Knoxville. Alcoa Highway (US Highway 129), a state scenic highway that forms the eastern property boundary, links the Research Park to the greater Knoxville region and to McGhee Tyson Airport, which is ten miles to the South. Major improvements are underway to reconfigure the Alcoa Highway interchange that will serve the Research Park and The University of Tennessee Medical Center (“UTMC”).

UTMC is located directly across Alcoa Highway from the Research Park and is the region's Level 1 Trauma Center. UTMC has 710 patient beds and more than 6,000 employees. Last year, UTMC reported over 34,000 patient admissions and more than 370,000 outpatient visits.

#### **1.4. Description of Development.**

The Development will serve as a principal feature of the Research Park. The University of Tennessee, Knoxville ("UTK") through CFDC is developing the 150-acre Research Park, a state-of-the-art science, technology, and medical, innovation campus. The Research Park serves as a gateway for collaboration between UTK and both public and private sector partners, leveraging UTK's strongest research and innovation assets, its incredible faculty and student talent and world-class research prowess.

The Research Park is home to a growing number of privately developed commercial office, laboratory and medical buildings. Major research foci include advanced materials and manufacturing, mobility, clean energy, translational medicine, and artificial intelligence.

Now in the 11<sup>th</sup> year of UTK's 100-year commitment to the development of the Research Park, the continued and accelerating growth and maturation of the Research Park create demand for additional gathering/meeting spaces and a place for stakeholders and partners to stay overnight or for more extended periods as they collaborate with UTK and other colleagues. The nearest existing accommodations are either on the other side of the river or 8 miles down Alcoa Highway toward the Airport.

To address this need, CFDC is issuing this RFP to invite responses from private developers to finance, design, construct, operate and maintain the Development. The Research Park is interested in creating gathering places for academic, industry and other partner colleagues to meet, and a place for collaborators/visitors to spend their evenings, for periods of one night to several weeks.

Building hotels and appropriately sized conference rooms for collaboration is a growing trend among leading university-affiliated research parks across the country, many of which are embracing the notion of transitioning from traditional office parks to live - work - learn - play environments that nurture a sense of community and establish and sustain trusted partnerships. These contemporary research parks support the development of dynamic research, workforce and community development programs that create inclusive economic opportunities for the regions they serve.

Additional information on the Research Park is available at <https://www.tnresearchpark.org/>.

The UT Research Park Master Plan and Development Guidelines Plan can be found at <http://www.tnresearchpark.org/wp-content/uploads/2022/07/UT-Research-Park-Master-Plan-Guidelines.pdf>.

#### **1.5. Knoxville Overview**

Knoxville is the county seat of Knox County in the State of Tennessee. As of July 1, 2019, Knoxville's population was 187,603, making it the largest city in the East Tennessee Grand Division, and the State's third largest city after Nashville and Memphis. Knoxville is the principal city of the Knoxville Metropolitan Statistical Area, which had an estimated population of 869,046 in 2019. The Knoxville MSA is home to Oak Ridge National Laboratory, a multiprogram basic sciences research laboratory managed by UT-Battelle for the US Department of Energy. The laboratory is located on the Oak Ridge Reservation, a 30,000-acre tract of land about 20 miles west of the Research Park.

Knoxville is the home of UTK, the University of Tennessee's ("University's") flagship campus, whose sports teams, the Tennessee Volunteers, are popular in the surrounding area and throughout the region. Knoxville is also home to the headquarters of the Tennessee Valley Authority and houses the corporate headquarters of several national and regional companies. As one of the

largest cities in the Appalachian region, Knoxville has positioned itself in recent years as a repository of Appalachian culture and is one of the gateways to the Great Smoky Mountains National Park.

Knoxville has high demand for hotel rooms and meeting space and ranks in the top three for revenue per available room index growth from 2022 to 2019 in the top 50 supply market.<sup>1</sup>

Knoxville is also an increasingly popular tourist attraction. According to Visit Knoxville, Knoxville had 6.8 million overnight visitors in 2021 and a 2022 occupancy rate of 68%.<sup>2</sup>

## **1.6. Summary of Terms & Conditions**

Below is a summary of certain required terms and conditions associated with this opportunity. (See Attachment 6.4, Ground Lease Agreement, for additional terms and conditions, not all of which are specifically summarized below). Nevertheless, CFDC and the best evaluated Proposer shall negotiate the final comprehensive development deal and, therefore, various other terms and conditions are at this time unknown and should be offered by the Proposer.

### **1.6.1. DEVELOPMENT OPPORTUNITY**

Finance, plan, design, develop, construct, manage and operate a hotel/conference center on the Leased Premises with an optional retail and office space component. Amenities could include extended stay options with kitchenettes in some rooms, conference/meeting space, a full-service restaurant, possibly with a rooftop lounge to serve not just guests but Research Park employees and visitors, a fitness center and a business center. At the Proposer's option, professional office space co-located with the Development may be offered. The developer will be responsible for leasing of the retail or professional office space, subject to CFDC approval of uses.

CFDC believes it is desirable to allow a Proposer's market study to determine the configuration and number of units. The design of the Development is subject to University approval (see Section 3.1 of the Research Park's Master Plan and Development Guidelines) and will reflect a design and ambiance congruent with the Research Park and aesthetic objectives.

The Development should provide for all parking onsite.

Permission for any use in the Development of UTK's or University's names or logos must be obtained directly from UTK or University and are not implied by the CFDC ground lease.

While the preferred arrangement is described above, CFDC will consider other alternatives that meet the objectives outlined in this RFP. CFDC may request additional information from those providing responses to this RFP.

The Development should be recognized as offering quality and functionality at a competitive price and should project a positive image for the Research Park. The Development should reflect the quality of the University as a leader in the region in a visible way.

### **1.6.2. INITIAL TERM**

CFDC requests proposals for the lease of the Leased Premises for a period of thirty (30) years, with two (2) fifteen (15) year options for renewal. The renewal options may be exercised by the Proposer by providing CFDC with written notice of its desire to renew at

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<sup>1</sup> Industry Health Dashboard — Kalibri Labs | Revenue Strategy | Next-Gen Hotel Benchmarking | Real Estate Investment Report

<sup>2</sup> [https://assets.simpleviewinc.com/simpleview/image/upload/v1/clients/knoxville/Dashboard\\_2022\\_2023\\_c8fac991-1756-458a-8983-14e002610487.pdf](https://assets.simpleviewinc.com/simpleview/image/upload/v1/clients/knoxville/Dashboard_2022_2023_c8fac991-1756-458a-8983-14e002610487.pdf)

least one (1) year prior to the expiration of the original term. No term, as renewed, shall extend beyond December 31, 2112.

1.6.3. TERM COMMENCEMENT

The lease shall commence on the date the Lease Agreement is fully executed and the term will commence once the Development has received a certificate of occupancy, subject to Developer's diligent prosecution of construction.

1.6.4. THE SITE

1.6.4.1 PARCEL

Respondents have the option to propose the Development on either site 1, site 22, or site 24. The Research Park is adjacent to Alcoa Highway, which is a Tennessee Scenic Highway and therefore has restrictions on the heights of buildings that can be constructed within 1,000 feet of the highway. (See Attachments A and B).

1.6.4.2 EXISTING CONDITIONS

The Leased Premises are being leased as-is for development and long-term management without any representation regarding the environmental condition of the site. No representations or warranties whatsoever are made as to Leased Premises condition, state or characteristics. Expressed warranties and implied warranties of fitness for a particular purpose or use and habitability are hereby disclaimed. Existing improvements and facilities located on the Leased Premises that will not be retained as a part of the proposed Development are to be demolished by the Developer. Proposers will have an opportunity to inspect the Leased Premises and will acknowledge prior to submitting a proposal to have had full opportunity to inspect the Leased Premises and make an evaluation of the Leased Premises for any and all purposes. Failure or omission of Proposer to acquaint themselves with the existing conditions of the Leased Premises shall in no way relieve Proposer of any obligation with respect to the Lease. The Proposer shall be responsible for the removal or remediation of hazardous materials that are required by law to be removed or remediated for the Development, if any.

Testing, audits, appraisals, inspections, or other non-invasive testing that is necessary or desired to submit a proposal, shall be at the sole expense of the Proposer.

1.6.5. FORM OF LEASE PAYMENT

The Development will be expected to provide a financial return to CFDC in the form of ground rent or other equally-attractive fair market value remuneration. Proposals may offer lease rental, profit sharing, or other similar market revenue streams to CFDC as such may pertain to the Development. The successful Proposer, if any, will enter into a contract with CFDC that provides for the performance of all terms and conditions set forth in this RFP and a lease. If Proposer offers remuneration in a form other than straight rent, CFDC reserves the right to make available the Leased Premises through its taxable subsidiary, Cherokee Farm Properties Inc. ("CFPI").

1.6.6. OCCUPANCY

Neither CFDC nor the University intend to provide guarantees for minimal occupancy levels of the hotel/conference center or otherwise financially subsidize the Development.

1.6.7. LEASE AGREEMENT

The RFP Attachment 6.4, Ground Lease Agreement details CFDC's desired terms and conditions and substantially represents the lease terms that the successful Proposer must

sign. If alternative lease terms and conditions are proposed, these shall be identified as a red-line document of the RFP Attachment 6.4, Ground Lease Agreement or in a separate lease document. While CFDC is willing to consider alternative terms and conditions, CFDC has no obligation to consider or to agree to any proposed alterations. CFDC accepts no obligation to seek approval through UTK from the Tennessee State Building Commission ("SBC") for non-standard terms offered by any Proposer and, without seeking SBC review, may refuse offers that in CFDC's sole judgment would require such SBC approval.

CFDC will take all reasonable suggested alternative or supplemental contract language changes by Proposers under advisement during the "Questions and Comments" period, subject to any mandates or restrictions imposed by applicable state or federal law. The revised version of the Ground Lease Agreement will be released concurrently with the State's Response to "Questions and Comments".

*Note: When preparing the redline draft of the Ground Lease Agreement for submission during the Question & Comments period, DO NOT include any cost, revenue, or other financial information. If any financial information is included in any part of the redline Ground Lease Agreement, CFDC may reject the redline entirely and/or consider it as unauthorized communication about the RFP, which may result in disqualification from consideration under this procurement process.*

1.6.8. QUALIFICATION OF PROPOSER

As evidence of its financial ability, each Proposer (no brokers or realtors) shall submit with its Phase II proposal, a copy of each of the Proposer's last three (3) fiscal years' annual financial statements reviewed or audited by a chartered accountant or certified public accountant. The proposal must include the financial statements of any and all relevant parties involved in this endeavor. Failure to conform to this section may be grounds for rejection of the proposal. If any information provided is believed to be confidential and proprietary, please mark it accordingly [and transmit it separately].

In addition, the Phase II proposal must include a letter of intent (or equivalent) from a bank or other financial institution or source indicating willingness to finance the construction and operation of the Development in the appropriate stated amount.

1.6.9. EXPERIENCE

Respondents to this RFP must demonstrate experience in designing, constructing, operating and managing hotel/conference centers. Experience working with university-affiliated Research Parks or equivalent is desirable.

1.6.10. SUBMITTAL OF PROPOSAL

Proposals must be made in the official name of a firm or individual (no lease brokers) under which the Development will occur (showing official business physical address) and must be signed by a person or persons authorized to legally bind the person, partnership, company, or corporation submitting the proposal.

1.6.13. UNIVERSITY AND CFDC PARTICIPATION

The University is not a participant in the Development.

CFDC's participation in the Development is limited to the property to be leased, the Leased Premises, under negotiated terms and conditions. CFDC may assist the Proposer in obtaining the pertinent documentation for the financing of the Development contemplated by this RFP, as may be determined appropriate during negotiations.

Proposals that are contingent on receiving financial assistance in any form from CFDC or the University shall not be considered. The selected Proposer shall be required to provide

all financing for the construction of the Development and operating expense and to provide deposits or surety to guarantee required performance.

1.6.14. **RELATIONSHIP OF THIS RFP AND RESPONSE TO RFP TO LEASE**

The terms and conditions described in this RFP shall survive the execution of the lease agreement between the parties (the "Lease Agreement"). The RFP and the response to RFP that is selected will be incorporated by reference into the Lease Agreement. Where there is a conflict between the terms of the Lease Agreement and/or RFP and the terms of the response to the RFP, the terms of the Lease Agreement shall govern.

**1.7. Nondiscrimination**

No person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of a lease pursuant to this RFP or in the employment practices of CFDC under such lease, on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The successful Proposer pursuant to this RFP shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

**1.8. RFP Communications**

**1.8.1. Unauthorized contact about this RFP with employees, officials, or consultants of CFDC except as detailed below may result in disqualification from consideration under this procurement process.**

1.8.1.1. Potential Proposers must direct communications relating to this RFP to the following person designated as the RFP Coordinator during the proposal process:

Cherokee Farm Development Corporation  
UT Research Park  
Attn: Rickey McCallum, Vice President of Business Development  
2641 Osprey Vista Way  
Knoxville, TN 37920  
Phone: (865) 974-8210  
Email: [rickey@tnresearchpark.org](mailto:rickey@tnresearchpark.org)

1.8.2. Only CFDC's official, written responses and communications (including e mail) will be binding with regard to this RFP. All oral communications of any type will be unofficial and non-binding.

1.8.3. Proposers must ensure that CFDC receives all written comments, including questions and requests for clarification, no later than the Written Questions and Comments Deadline detailed in the RFP Section 2, Schedule of Events.

1.8.4. Proposers assume the risk of the method of dispatching any communication or proposal to CFDC. CFDC assumes no responsibility for delays or delivery failures resulting from the method of dispatch. Actual or digital "postmarking" of a communication or proposal to CFDC by a specified deadline date will not substitute for CFDC's actual receipt of a communication or proposal.

- 1.8.5. CFDC will convey all official responses and communications related to this RFP to the potential Proposers from whom CFDC has received a Notice of Intent to Propose (RFP Section 1.12).
- 1.8.6. CFDC reserves the right to determine, at its sole discretion, the method of conveying official, written responses and communications related to this RFP. Such written communications may be transmitted by mail, hand-delivery, facsimile, electronic mail, Internet posting, or any other means deemed reasonable by CFDC.
- 1.8.7. CFDC reserves the right to determine, at its sole discretion, the appropriate and adequate responses (or to refuse to respond) to written comments, questions, and requests related to this RFP. CFDC's official, written responses will constitute an amendment of this RFP.
- 1.8.8. Any data or factual information provided by CFDC (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. CFDC will make reasonable efforts to ensure the accuracy of such data or information; however, it is within the responsibility of Proposers to independently verify any information before relying thereon.

**1.9. Proposer Required Review of Waiver of Objections**

- 1.9.1. Each Proposer must carefully review this RFP, including but not limited to, attachments, the RFP Attachment 6.4., Form of Ground Lease Agreement, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively, "Questions and Comments").
- 1.9.2. Any Proposer having Questions and Comments concerning this RFP must provide such in writing to CFDC no later than the Written Questions and Comments Deadline detailed in the RFP Section 2, Schedule of Events.

**1.10. Pre-Proposal Conference**

A Pre-Proposal Conference will be held at the time and date detailed in the RFP Section 2, Schedule of Events. Pre-Proposal Conference attendance is not mandatory, and potential Proposers may be limited to a maximum number of attendees depending upon overall attendance and space limitations.

The conference will be held at:

UT Research Park  
Institute of Advanced Materials and Manufacturing  
2641 Osprey Vista way,  
Knoxville, TN, 37920  
Conference Room TBD

The purpose of the conference is to review the terms of the RFP and Lease. CFDC will entertain questions; however potential Proposers must understand that CFDC's response to any question at the Pre-Proposal Conference shall be tentative and non-binding. Potential Proposers should submit questions concerning the RFP in writing and must submit them prior to the Written Questions and Comments Deadline date detailed in the RFP Section 2, Schedule of Events. CFDC will send the official response to all questions to all potential Proposers as indicated on the date detailed in the RFP Section 2, Schedule of Events.

**1.11. Notice of Intent to Propose**

Before the Notice of Intent to Propose Deadline detailed in the RFP Section 2, Schedule of Events, potential Proposers are requested to submit to the RFP Coordinator a Notice of Intent to Propose (in the form of a simple e-mail or other written communication). Such notice should include the following information:



- the business or individual's name (as appropriate)
- a contact person's name and title
- the contact person's mailing address, telephone number, facsimile number, and e-mail address.

**A Notice of Intent to Propose creates no obligation to make a proposal relating to this RFP.**

**A person or entity who does not file a Notice of Intent to Propose is not precluded from making a Proposal; however, CFDC shall be under no obligation to provide amendments to the RFP or other communications to persons or entities who do not file a Notice of Intent to Propose.**

#### **1.12. Proposal Deadline**

A Proposer must ensure that CFDC receives a proposal no later than the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events. The proposal must respond, as required, to this RFP (including its attachments), as may be amended. CFDC will not accept late proposals, and a Proposer's failure to submit a proposal no later than the deadline will result in disqualification of the proposal. Proposals may be delivered in person, by United States mail, or other couriers. Facsimile and electronically transmitted (email) Proposals are not acceptable. It is the Proposer's responsibility to ensure that its proposal is mailed or delivered in sufficient time to arrive at CFDC by the submission deadline.

#### **1.13. Developer Selection Process**

This RFP includes a three-phase selection process. Proposers must propose a financing, development, management and operation plan, clearly identifying any third-party manager operator.

In Phase I, CFDC will accept proposals that address the Proposer's team composition, organizational approach to the project, financial capabilities, conceptual master plan with examples of comparable completed projects and a preliminary schedule.

Phase II will provide CFDC with the opportunity to receive additional materials from and to interview a select group of the most qualified Proposers from Phase I. In this phase, a group of selected finalists will be invited to submit and present detailed proposals.

The final phase of this process will be when CFDC and the best evaluated Proposer negotiate the terms of the ground lease.

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## **2. SCHEDULE OF EVENTS**

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### **2.1. RFP Schedule of Events**

<b>EVENT</b>	<b>TIME</b>	<b>DATE</b> <b>(all dates are CFDC business days)</b>
1. RFP Advertised		January 7, 2024

2. Pre-proposal Conference	1:00 pm ET	January 18, 2024
3. Property Viewing/Inspection	1:30 pm ET (immediately following Pre-proposal conference)	January 18, 2024
4. Notice of Intent (NOI) to Propose (optional)	4:00pm ET	January 19, 2024
5. Written "Questions & Comments" Deadline	4:00pm ET	January 30, 2024
6. CFDC Response to Written "Questions & Comments"	4:00pm ET	February 8, 2024
7. Proposers' due diligence period including final request for property viewing/inspection		February 8-23, 2024
8. <b>Phase I Proposal Deadline</b>	4:00 p.m. ET	March 7, 2024
9. CFDC Opening of Phase I Proposals		March 8, 2024
10. CFDC Completion of Phase I Evaluations and Notice of Proposers Selected for Phase II Evaluations and Interviews Issued		March 29, 2024
11. <b>Phase II Proposal Deadline</b>	4:00 p.m. ET	May 1, 2024

12. CFDC Opening of Phase II Proposals	a.m. ET	May 2, 2024
13. Interviews of Phase II Proposers		May 6-10, 2024
14. CFDC Completion of Phase II Evaluations, Evaluation Notice Issued		May 17, 2024
15. Begin Lease Negotiations with selected Proposer.		May 20, 2024
16. UTK Vice Chancellor for Research and CFDC and UTRF Board Approvals		June 14, 2024
17. If applicable, CFDC Completion of Final Negotiations		June 21, 2024
18. Request and Recommendation for Approval, through UTK Chancellor, to UT System President		June 28, 2024
19. CFDC Notice of Intent to Award Issued		July 1, 2024
16. Lease Agreement is circulated to successful Proposer for signature		July 2, 2024
17. Lease Agreement is circulated for Landlord signature		July 9, 2024

**2.2. CFDC reserves the right, at its sole discretion, to adjust the RFP Schedule of Events as it deems necessary.** Any adjustment of the Schedule of Events prior to issuance of the Evaluation Notice shall

constitute an RFP amendment, and CFDC will communicate such to potential Proposers from whom CFDC has received a Notice of Intent to Propose (refer to RFP Section 1.12).

### **3. GENERAL INFORMATION**

#### **3.1. Statement of Financial Interests**

A statement listing the names of any and all persons financially interested in the available space must be included in the proposal response. This requirement includes the interests of the owner/agent, any lienholders or any known future purchasers or lienholders. This information is to be provided in RFP Attachment 6.3 and shall be updated as necessary for changes that occur during the RFP process.

#### **3.2. Proposal & Proposer Prohibitions**

3.2.1. A Proposal must not result from any collusion between Proposers. CFDC will reject any Proposal that was not prepared independently without collusion, consultation, communication, or agreement with any other Proposer. Regardless of the time of detection, CFDC will consider any such actions to be grounds for proposal rejection or Lease Agreement termination.

3.2.2. A Proposer shall not provide, for consideration in this RFP process or subsequent lease negotiations, incorrect information that the Proposer knew or should have known was materially incorrect. If CFDC determines that a Proposer has provided such incorrect information, CFDC may deem the Proposer's proposal non-responsive and reject it or terminate the Lease Agreement.

#### **3.3. Proposal Errors & Revisions**

A Proposer is liable for any and all proposal errors or omissions. A Proposer will not be allowed to alter or revise proposal documents after the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events unless such is formally requested, in writing, by CFDC in its sole discretion.

#### **3.4. Proposal Withdrawal**

A Proposer may withdraw a submitted proposal at any time before the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events by submitting a written request signed by an authorized Proposer representative. After withdrawing a proposal, a Proposer may submit another proposal at any time before the Proposal Deadline.

#### **3.5. Proposal Preparation**

This RFP does not commit CFDC to proceed with the Development, to award a lease or to pay any costs associated with the preparation, submittal, or presentation of any proposal incurred by any Proposer or Proposers

### **4. GENERAL LEASING INFORMATION & REQUIREMENTS**

#### **4.1. RFP Amendment**

CFDC reserves the right to amend this RFP at any time prior to award, provided that it is amended in writing. However, prior to any such amendment, CFDC will consider whether it would negatively impact the ability of potential Proposers to meet the proposal deadline and will revise the RFP Section 2, Schedule of Events if deemed appropriate. If an RFP amendment is issued, CFDC will convey it to potential Proposers who submitted a Notice of Intent to Propose (RFP Section 1.12). A Proposer must respond, as required, to the RFP, including all attachments and amendments.

#### **4.2. RFP Cancellation**

CFDC reserves the right, at its sole discretion, to cancel or to cancel and reissue this RFP in accordance with applicable laws and regulations.

**4.3. Right of Rejection**

4.3.1. Subject to applicable laws and regulations, CFDC reserves the right to reject, at its sole discretion, any and all proposals.

4.3.2. CFDC may deem as non-responsive and reject any proposal that does not comply with all terms, conditions, and performance requirements of this RFP.

**4.4. Disclosure of Proposal Contents**

4.4.1. Each proposal and all materials submitted to CFDC in response to this RFP become the property of CFDC. Selection or rejection of a proposal does not affect this ownership right. If any information provided is believed to be confidential and proprietary, please mark it accordingly [and transmit it separately].

4.4.2. CFDC will hold all proposal information in confidence during the evaluation process.

**4.5. Severability**

If any provision of this RFP is declared by a court to be illegal or in conflict with any law, said decision will not affect the validity of the remaining RFP terms and provisions, and the rights and obligations of CFDC and Proposers will be construed and enforced as if the RFP did not contain the particular provision held to be invalid.

**4.6. Proposal Evaluation Team**

The Proposal Evaluation Team will be made up of three (3) or more employees and will evaluate each proposal that meets the Mandatory Requirements (See RFP Attachment 6.2).

**5. PROPOSAL REQUIREMENTS, EVALUATION & LEASE AWARD**

**5.1. Evaluation Process**

The proposal evaluation process is designed to award the Lease Agreement to the Responsive and Responsible Proposer offering the best combination of attributes based upon the evaluation criteria. The term "Responsive" means a person or entity which has submitted a proposal which in CFDC's sole judgment conforms in all material respects to the RFP. The term "Responsible" means a person or entity which in CFDC's sole judgment has the capacity in all material respects to perform fully the Lease Agreement requirements, and the integrity and reliability that will assure good faith performance.

**5.2. Clarifications**

CFDC reserves the right, at its sole discretion, to request Proposer clarify information and/or to conduct clarification discussions with any or all Proposers. Any such clarification or discussion will be limited to specific sections of the proposal identified by CFDC and shall be in accordance with all policies of CFDC.

**5.3 Phase I Requirements & Evaluation**

To be considered, a Phase I proposal must be received by the date specified in Section 2.1, RFP Schedule of Events. CFDC will not accept Phase I proposals received after the deadline. Phase I proposals should be submitted to the RFP Coordinator at the address listed on page 7. A cover letter (RFP Attachment 6.1), which will be considered an integral part of the Phase I proposal, must be signed by an individual who is authorized to bind the Proposer contractually and must certify that all statements in the proposal are true and correct. The letter must indicate the title or position that the individual holds in the firm and also must include the Proposer's federal tax I.D. number. RFP Attachment 6.2, Mandatory Requirements must be also completed.

Responses to Phase I of this RFP should be clear, concise and organized; meet the Mandatory Requirements; and be organized in the six major areas described below.

- 5.3.1. Mandatory Requirements. The RFP Coordinator will review each Phase I Proposal to determine compliance with RFP Attachment 6.2., Mandatory Requirements. If the RFP Coordinator determines that a proposal may have failed to meet one or more of the mandatory requirements, the RFP Coordinator shall seek the advice of an attorney who will review the proposal and document his/her determination of whether:
  - a. the proposal adequately meets requirements for further evaluation;
  - b. CFDC will request clarifications or corrections for consideration prior to further evaluation; or,
  - c. CFDC will determine the proposal non-responsive to the RFP and reject it.
- 5.3.2. Organizational Qualifications/Experience (30 points). Proposers must provide detailed information that demonstrates their organizational ability to undertake a project of the magnitude of the Development. At a minimum, the response to this RFP in Phase I must include the following:
  - 5.3.2.1 Development Team (9 points): The proposed development team must be identified, including the legal nature of the business entity, all joint venture partners and the nature of their interests. The names and addresses of the principal members of the development team must be provided, including architects, engineering firm(s), space planners, construction manager(s), general contractor(s), major sub-contractor(s), financial consultants, and the hotel/conference center facility operator/manager; if the Development will be part of a franchise hotel chain, the identity of the franchisor and hotel chain must be disclosed. The roles and responsibilities of each member of the development team must be clearly described and an organizational chart must be included.
  - 5.3.2.2 Experience (16 points): A summary portfolio for each principal member of the development team must be provided. The summary should focus on the development of projects (if any) that are comparable in size, complexity, quality and scope, including a list of all such projects started and completed during the past five years and identification of any joint venture partners. The proposal must include photographs and brief descriptions of the projects, including the date of completion, location, concept, land uses, size and construction costs; the name of the current owner of the project and the date of sale should be included if applicable. The selected Proposer will be required to use architects and other team members who are familiar with the design and construction of hotel/conference centers. Describe experience working with similar clients (e.g., research parks affiliated with a university).
  - 5.3.2.3 Organizational Approach to the Project (6 points): Discuss approach to design, construction and operation. Discuss coordination and compliance with the UT Research Park Master Plan and Development Guidelines, building siting, building massing, landscaping, site development, and any other general planning consideration normally associated with a project of this size and nature. The organizational and management approach utilized by the development team in prior projects of similar scope must be outlined, as well as the proposed relationship with CFDC during the design and construction of the Development.

- 5.3.3. Financial Capability (25 points). The response must demonstrate clearly the Proposer's financial capability to construct, operate and maintain the Development. Additionally, each proposal must detail previous experience in financing projects of similar nature and magnitude, bank and credit references, annual reports, percentage of ownership, statement of net worth and such other references as the Proposer deems relevant in response to this item. Include a letter of intent from a bank or financial institution source willing to provide the loans required.
- 5.3.4. Preliminary Schedule (15 points). In this phase, the Proposer must provide a schedule indicating at a minimum the preliminary dates for the following: completion of design development and outline specifications; dates for review and approval by the Research Park Project Review Committee; start of construction of shell; completion of construction of shell; start of construction of interior improvements; and completion of the Development.
- 5.3.5. Management and Operating Plan (15 points). The Proposer must provide a summary of how the Development will be operated and managed once construction is complete. Provide examples of previous experience with developments of similar size, complexity, quality and scope.
- 5.3.6. Conceptual Design (15 points). The proposal must provide a conceptual Master Plan for the Research Park site selected by the Proposer, listing required adjacencies, proposing a general design for the buildings (including a proposed number of floors) and gross square feet; bubble diagrams and the like should be used to illustrate the proposed conceptual plan. A site plan sketch must be included indicating possible density, site coverage, circulation patterns, service vehicle access, and provisions for parking, whether on-grade or in a parking structure.

Proposal Evaluation Team members will independently evaluate each Phase I Proposal (that the RFP Coordinator has determined satisfies the Mandatory Requirements) and rank them in order from best evaluated to lowest evaluated providing a score for each proposal on a 1-100 point scale based on the evaluation criteria that has been determined prior to the release of this RFP and deposited with CFDC for safekeeping until the completion of the evaluation of the Phase I responses. The RFP Coordinator may call the references provided by the Proposer in response to RFP Attachment 6.2, Mandatory Requirements and will share all information provided by the references with the Proposal Evaluation Team for their consideration as part of the Phase I evaluation.

The Proposal Evaluation Team will then meet to discuss the results of their evaluations. At this meeting, the Proposal Evaluation Team will discuss their evaluations of the merits of each proposal based on the criteria listed above and will select no more than the five (5) highest evaluated proposals based on each member of the Proposal Evaluation Team's final scoring of each proposal to continue on to Phase II of the evaluation processes. The selected Proposers will then be notified that they have been chosen to continue on to Phase II of the evaluation processes. No Proposer offering a proposal that the Proposal Evaluation Team determines does not set forth the basis for a Development that will be acceptable to CFDC will be selected to continue to Phase II of the evaluation process.

#### **5.4. Phase II Requirements & Evaluation**

To be considered, a Phase II proposal must be received by the date specified in Section 2.1, RFP Schedule of Events. CFDC will not accept Phase II proposals received after the deadline. Phase II proposals should be submitted to the RFP Coordinator at the address listed on page 7.

In this phase, each Proposer will make any updates (due to shifts in team composition, plans, fiscal abilities, etc.) to its Phase I proposal, and address the following issues in the Phase II proposal submittal. Proposers selected for Phase II evaluation will also participate in an interview with the Proposal Evaluation Team, its technical advisors and the RFP Coordinator. The purpose of the interview is to more fully understand the Proposer's plans for the Development. The RFP Coordinator will schedule Proposer interviews during the period indicated by the RFP Section 2, Schedule of Events. CFDC will maintain an accurate record of each Proposer's interview session.

5.4.1. Functional and Space Program (15 points). Proposals must include a list of spaces indicating the configuration and number of units. An estimate of the parking requirements for guests, employees and service vehicles must be provided and planned for. Total outside gross square footage for all components and the Development must be provided.

5.4.2. Refined Design (25 points). In this second phase, the Proposer will present a refined master plan design of the site that addresses key features. These features include, but are not limited to: traffic circulation, building heights, footprints, adjacencies, open and public spaces, amenities, links to Research Park paths, greenways and common areas, a proposed structural system and construction methods, finish options, exterior appearance, and interior appearance of public spaces and typical units.

During the Phase II discussions, and in its sole discretion, CFDC may seek modifications to the plans and specifications. The plans and specifications submitted by the selected Proposer, and any modifications thereto, would become part of the lease between CFDC and the Proposer.

5.4.3. Schedule (15 points). Proposers must provide a refined schedule indicating at a minimum the dates for the following: site plan submittal; completion of design development and outline specifications; dates for review by Research Park Project Review Committee; start of construction of shell; completion of construction of shell; start of construction of interior improvements; and completion of Development. CFDC shall have the right to modify this schedule, which would become a part of the lease or other agreement(s) between CFDC and the Proposer.

5.4.4. Capital Financing Plan (20 points). Proposals must include a complete and detailed plan for the financing of the Development. Data must include a preliminary (but itemized) cost schedule, including all soft or indirect costs, and the source and terms of the projected financing.

5.4.5. Operating and Financial Plan (25 points). Developers must identify clearly the planned management and organizational structure for the operation of the Development. This identification, in the form of an organizational chart and supporting materials, must indicate clearly the relationship of the operating organization to the Proposer, including any partnership or lease assignment arrangements. The Proposer must provide information on how maintenance and repair of the Development will be handled and a planned schedule for renewal of the Development.

Detailed financial pro forma for the project must be provided identifying projected volume, revenues, construction capital requirements, working capital requirements, operating costs, management fees, debt-service requirements and net income/profits. The pro forma must cover the first 10 years of operation. Additionally, a copy of the Proposer's last three fiscal year annual financial statements reviewed or audited by a chartered accountant or certified public accountant; similarly audited financial statements of members of the



Proposer's partners, parent corporation or members; or other such evidence must be provided.

Proposals must specify: (1) proposed ground-rent amounts; (2) other proposed remuneration to CFDC; and (3) the proposed initial and future room rate schedule.

5.4.6. Lease Mark-Up. Proposers should submit a marked-up version of RFP Attachment 6.4, Form of Ground Lease Agreement for review by the Proposal Evaluation Team. The mark-up will serve as the basis for negotiations of a lease if the Proposer is selected as the best evaluated Proposer.

5.4.7. Additional Information. During the evaluation of the proposals, CFDC reserves the right to request additional information from Proposers.

Proposal Evaluation Team members will independently evaluate each Phase II Proposal and rank them in order from best evaluated to lowest evaluated. In performing such independent evaluation, Proposal Evaluation Team members will take into account the following criteria, among others: (1) a high-quality use of the Leased Premises; (2) design, development, construction management, and operations capability and experience; (3) a functional and conceptual program and design that fits the purpose and environment of the Research Park and its UTK and other tenants and users; (4) proposed business terms (land rent on ground lease and/or other remuneration); (5) ability to finance the Development; and (6) quality of anticipated relationship between the Proposer and CFDC over the term of the lease.

The Proposal Evaluation Team will then meet to discuss the results of their independent evaluations (the "Phase II Meeting"). At the Phase II Meeting, the Proposal Evaluation Team will discuss their evaluations of the merits of each proposal based on the criteria listed above, comparing the advantages and disadvantages of each proposal and will determine collectively the proposal deemed to be in the best interest of CFDC (the "Best Evaluated Proposal") and ranking in order the other proposals. The RFP Coordinator will attend the Phase II Meeting to take notes and the RFP Coordinator will place a written summary of the discussion of the Proposal Evaluation Team at the Phase II Meeting in the procurement file. Upon determination of the Best Evaluated Proposal, in consultation with CFDC's officers and Board, CFDC will issue an Evaluation Notice to all Proposers identifying the Proposer selected to proceed to Phase III of the evaluation process.

CFDC reserves the right to accept or reject any and all proposals, to waive any informalities in a proposal, and, unless otherwise specified in writing by the Proposer, to accept any items in the proposal.

**NOTICE: The Evaluation Notice shall not create rights, interests, or claims of entitlement in either the Proposer with apparent best-evaluated proposal or any other Proposer.**

## **5.5. Phase III – Finalist Negotiation**

In this final phase of the RFP, the Proposer having the Best Evaluated Proposal shall enter into negotiations with CFDC regarding the terms of the lease between the parties. CFDC may request that the Proposer make modifications to its proposal and the parties will act in good faith to reach a mutually acceptable agreement. If CFDC and the Proposer having the Best Evaluated Proposal cannot agree to terms, then CFDC may negotiate with the Proposer having the second best evaluated proposal and so on.

## **5.6. Lease Award Process**

- 5.6.1. After completion of Phase III of the evaluation process, the RFP Coordinator will issue a Notice of Intent to Award to all Proposers naming the recommended Proposer and forward the lease to the proper officials of CFDC and others. **The Notice of Intent to Award shall not create rights, interests, or claims of entitlement in either the Proposer with the recommended proposal or any other Proposer**
- 5.6.2. The Proposer identified in the Notice of Intent to Award must sign a lease drawn by CFDC pursuant to this RFP. The lease shall be substantially the same as the RFP Attachment 6.4., Form of Ground Lease Agreement except as modified by CFDC after considering the results of the negotiations, if any. The Proposer must sign the lease no later than Lease Signature Deadline detailed in the RFP Section 2, Schedule of Events. If the Proposer fails to provide the signed lease by the deadline, CFDC may determine that the Proposer is non-responsive to this RFP and reject the proposal.

## **5.7. Lease Approval and Lease Payments**

- 5.7.1. This RFP and its Proposer selection processes do not obligate CFDC and do not create rights, interests, or claims of entitlement in either the Proposer with the apparent best-evaluated proposal or any other Proposer. CFDC obligations pursuant to a lease award shall commence only after the lease is approved by the appropriate officials, as required by CFDC and applicable laws and regulations, and signed by CFDC and the Proposer.
- 5.7.2. No payment will be obligated or made, and no work on the Leased Premises shall begin, until the relevant lease is approved as required by applicable rules of CFDC and University.

## **Attachment A: Tennessee Scenic Highway Provisions**

The following statutory provisions are included for reference; Proposers must assure themselves of their effectiveness and that cited provisions are current; Proposers are responsible for interpretation and application of these rules, and all applicable law, to the Development.

T. C. A. § 54-17-115. Building restrictions Effective: August 14, 2008 Currentness (a)(1) The exposed portion of buildings constructed or erected on property located within one thousand feet (1,000') of a scenic highway shall not exceed a height of thirty-five feet (35') above the level of the highway on property located below the level of the highway, or a height of thirty-five feet (35') above the ground line on property located above the level of the highway. (2) The restriction on buildings shall apply to the scenic highway, notwithstanding the route being located inside or outside a municipality and notwithstanding any law or ordinance to the contrary. (b) It is the legislative intent of this section, in part, that possession of a building permit at the time a road or highway is designated a scenic highway shall not allow any future construction based on that permit. (c)(1) This section shall not apply to any building in existence at the time a road or highway is designated a part of the system. (2) Silos and buildings designed for agricultural use are exempted from the application of this section. (3) Any geographic area designated by state law and managed by a development authority authorized to promote and regulate technology-based economic development is exempt from the application of this section. (4) Section 54-17-113 shall not apply to this section.

T. C. A. § 54-17-114. Designated scenic highways Effective: July 1, 2015 Currentness (a) For the purposes of this part, the following are initially designated scenic highways: (1) CLASS I -- URBAN ROADS. (A) That portion of Kingston Pike bearing the designation of State Highway 1 and United States Highway 11-70 in Knox County from its intersection with Concord Street and Neyland Drive in the City of Knoxville westward to the intersection of Kingston Pike with Lyons View Drive; (B) That portion of Lyons View Drive from its intersection with Kingston Pike, westward to its intersection with Northshore Drive; (C) That portion of United States Highway 70 South (West End Avenue) in Nashville from one hundred feet (100') west of Elmington Avenue westward to its intersection with Ensworth Avenue; (D) All of Cherokee Boulevard located in the city of Knoxville; (E) Two Rivers Parkway in Davidson County; (F) Those portions of State Highway 100 in Davidson County from its intersection with Cheekwood Terrace south to its intersection with the Harpeth River and from its intersection with McCrory Lane south to its intersection with the South Harpeth River, and all of State Highway 251 in Davidson County, and that portion of State Highway 254 (Old Hickory Boulevard) from its intersection with State Highway 100 east to its intersection with Granny White Pike; (G) South Knoxville Boulevard between the relocated Sevier Avenue and Chapman Highway in Knoxville; § 54-17-114. Designated scenic highways, TN ST § 54-17-114 © 2023 Thomson Reuters. No claim to original U.S. Government Works. 2 (H) That segment of United States Highway 41 (Cummings Highway) in Hamilton County, beginning at the underpass at the current entrance to the Chattem property in St. Elmo, where that route is also designated as South Broad Street, running westward around the foot of Lookout Mountain to the railroad overpass on the east side of the Tiftonia business district; (I) On or after April 16, 2015, that segment of State Route 169 (Middlebrook Road, which is commonly referred to as Middlebrook Pike) in Knox County from that route's intersection with Weisgarber Road in the City of Knoxville westward to its terminus at that route's intersection with Hardin Valley Road, but excluding any part of that segment of State Route 169 that has property fronting on the route that was zoned on April 16, 1996, with the commercial designation of CA, CB, or C3, or the industrial designation of I or I-3 under the Knox County or City of Knoxville zoning ordinances; provided, further, that the height restrictions on buildings imposed by, and any other restrictions as to property use contained in this part shall not apply to Parcel ID Numbers 106KC017, 106KC016, and 106DA008 in the City of Knoxville, Knox County, consisting of property on the south side of State Route 169 (Middlebrook Pike) and on the southwest side of Old Weisgarber Road; (J) That segment of State Route 385 (Nonconnah Parkway) in Shelby County from its intersection with United States Highway 72 to Interstate 240, but excluding any part of the segment of Route 385 that has property fronting on the route that is zoned on June 13, 1997, with the commercial designation of CL, CH or CP or the industrial designation of IL or IH under the Shelby County or city of Memphis zoning ordinances; and (K) All of State Route 475, Knoxville Parkway, a proposed project connecting I-40 / I-75 southwest of Knoxville to I-75 north of Knoxville, in Knox, Anderson and Loudon counties; (2) CLASS II -- RURAL ROADS. (A) The portion of United States Highway 41 from its intersection with Interstate Highway

24 in Hamilton County westward through the Tennessee River Gorge, Jasper and on to the junction of that highway with State Highway 27 at Kimball (Marion County) and south along State Highway 27 to Interstate 24; (B) That portion of State Highway 66 from the French Broad River to Interstate 40, in Sevier County, except for the first two thousand one hundred fifty feet (2,150') north of state bridge number 78-66-4.95 toward Interstate 40 in the north-bound lane only; (C) That portion of the Pellissippi Parkway (State Highway 162) in Knox County from its intersection with Interstate 40, to Melton Hill Lake; (D) The John Sevier Highway, in Knox County, from the Alcoa Highway (United States Highway 129) to the Chapman Highway (United States Highway 411/441); (E) That portion of Northshore Drive in Knox County from its intersection with Lyons View Drive and Westland Drive west to Loudon County; provided, that the height restrictions on buildings imposed by § 54-17-115 shall not apply to that property along Northshore Drive within Knox County that is now or, subsequent to April 22, 2005, zoned "TC-1 (Town Center)", or zoned C-6 from the east right-of-way line of Keller Bend Road at Northshore to the east right-of-way line of Pellissippi Parkway, or any similar zoning category, under the zoning ordinances of the city of Knoxville; § 54-17-114. Designated scenic highways, TN ST § 54-17-114 © 2023 Thomson Reuters. No claim to original U.S. Government Works. 3 (F) That portion of United States Highway 70 North beginning east of Cookeville at the Falling Water Bridge and extending approximately five (5) miles toward Monterey through the Dry Valley Community and ending at the Sand Springs Community; (G) That portion of State Highway 73 from the city of Maryville to the city of Townsend; (H) That portion of Westland Drive in Knoxville from its intersection with Northshore Drive to its intersection with Northshore Drive at the western end; (I) All of United States Highway 411 in Blount County and that portion of United States Highway 411 in Sevier County from the Blount County boundary to the intersection of United States Highway 411 with the Chapman Highway (United States Highway 441); (J) That portion of new State Highway 95 in Loudon and Blount counties from the Fort Loudon Dam to its intersection with United States Highway 129 at Morganton Road; (K) That portion of United States Highway 129 in Blount County, known as the 129 Bypass, from its intersection with State Highway 73 and Hall Road in the city of Alcoa to its intersection with United States Highway 411 in the city of Maryville; (L) All of Lyons Bend Road in Knox County; (M) That portion of Pittman Center Road from the intersection of Pittman Center Road with State Highway 73 East to the intersection of Pittman Center Road with United States Highway 411, east of Sevierville, but excluding those portions of Pittman Center Road that are within the boundaries, as of January 1, 1982, of incorporated municipalities; (N) That portion of United States Highway 321 from the intersection of United States Highway 321 with Interstate 40 in Loudon County through Blount and Sevier counties to the intersection of United States Highway 321 with Interstate 40 in Cocke County, but excluding those portions of United States Highway 321 that are within the boundaries, as of January 1, 1982, of incorporated municipalities; (O) Hardin Valley Road in Knox County; (P) That portion of State Highway 58 in Hamilton County from the city limits of Chattanooga, as of July 1, 1987, to the Hamilton County boundary; (Q) That portion of Pellissippi Parkway (State Highway 162) that has been or will be constructed in Blount and Knox Counties after January 1, 1987; provided, that the height restrictions on buildings imposed by § 54-17-115 and sign restrictions referred to in § 54-17-109 that are applicable to [former] § 54-17-109(1) and (10) shall not apply to that property along the Pellissippi Parkway within Knox County that is located between Kingston Pike and Interstate 75/40, all of which shall be regulated by the zoning ordinances and regulations of the appropriate county or municipal government; and provided, further, that the § 54-17-114. Designated scenic highways, TN ST § 54-17-114 © 2023 Thomson Reuters. No claim to original U.S. Government Works. 4 height restrictions on buildings imposed by § 54-17-115 shall not apply to that property along the Pellissippi Parkway within Knox County that is now or, subsequent to April 22, 2005, zoned "TC-1 (Town Center)", or any similar zoning category, under the zoning ordinances of the city of Knoxville; and provided, further, that the height restrictions on buildings imposed by § 54-17-115 shall not apply to that property along Pellissippi Parkway within the corporate limits of the city of Alcoa, that is now or hereafter zoned for planned commercial zones or any similar zoning category under the zoning ordinances of the city of Alcoa; (R) All of the Natchez Trace Parkway, except for those portions within the boundaries of incorporated municipalities; (S) All of the Foothills Parkway, except for those portions within the boundaries of incorporated municipalities; (T) That portion of Alcoa Highway from the intersection of Alcoa Highway and Kingston Pike in Knox County to the intersection of Alcoa Highway and Singleton Station Road in Blount County; provided, that the height restrictions on buildings imposed by § 54-17-115 shall not apply to that property along Alcoa Highway being situated in District 9 in Knox County and Ward 24 of the City of Knoxville and being more particularly bounded and described as Tract 1, the University of Tennessee Medical Center, at the intersection of Alcoa Highway and Cherokee Trail, and regulated by the zoning ordinances and regulations of the City of Knoxville; (U) The 9.141 mile

segment of the Charles H. Coolidge Medal of Honor Highway beginning with its intersection with Signal Mountain Road to State Route 153; (V) The 9.33 mile segment of the Bill Carter Causeway beginning with its intersection with State Route 153 to north of Soddy Lake in Soddy-Daisy; (W) That portion of Highway 70 South from Murfreesboro to Woodbury; (X) All of United States Highway 27/State Route 29 in Rhea County; (Y) That portion of United States Highway 411 in Sevier County from the city limits of Sevierville to the Jefferson County boundary; (Z) That portion of United States Highway 411 in Sevier County from its intersection with United States Highway 441 at Newell Station west to the Blount County boundary; (AA) That segment of state route 416 in Sevier County from its intersection with United States Highway 411 to its intersection with United States Highway 321; (BB) That portion of State Highway 70 in Hawkins and Hancock counties from the intersection of State Highway 94 at Alumwell to the intersection of State Highway 33 at Kyles Ford, eleven and three-tenths (11.3) miles; § 54-17-114. Designated scenic highways, TN ST § 54-17-114 © 2023 Thomson Reuters. No claim to original U.S. Government Works. 5 (CC) All of the highway known as The Trace located in Land Between the Lakes National Recreational Area in Stewart County; (DD) That portion of United States Highway 441 (Newfound Gap Road) in Sevier County from the city limits of the city of Gatlinburg to the Tennessee-North Carolina state line; and (EE) Powell Drive (State Route 131) in Knox County from the intersection with Clinton Highway (State Route 9) to the intersection with Emory Road. (b) No state or local governmental entity, agency or department shall take any action that undermines the scenic and historical qualities of roads designated as scenic highways under subdivision (a)(1).

## Attachment B: Optional Sites on which to Propose



Note: None of these 3 candidate sites have yet been platted, so proposers should specify approximately how much acreage they would need to lease for their project.

RFP ATTACHMENT 6.1

PROPOSAL PACKAGE COVER SHEET

**Ground Lease for Hotel/Conference Center Development**

Located in:  
**Knoxville, Knox County, Tennessee**

**RFP TRANSACTION NUMBER: UTRP01-2024**  
**UT RESEARCH PARK at CHEROKEE FARM**



***Any blank spaces may cause Proposal to be unacceptable and rejected.***

**Proposer Identification:**

Proposer \_\_\_\_\_

Address \_\_\_\_\_

**The Proposer received the following amendments to the RFP, and this Proposal reflects the Proposer's consideration of these amendments:** [list amendments received, if any]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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## RFP ATTACHMENT 6.1

### PROPOSAL STATEMENT OF CERTIFICATIONS AND ASSURANCES

The Proposer must sign and complete the Proposal Statement of Certifications and Assurances below as required, and it must be included in the Proposal (as required by RFP Attachment 6.2., Proposal Evaluation Guide, Section A, Item A.1.).

---

**The Proposer does, hereby, expressly affirm, declare, confirm, certify, and assure ALL of the following:**

1. The Proposer will comply with all of the provisions and requirements of the RFP.
2. The Proposer will perform pursuant to the terms of the lease agreed to by the parties, if applicable, for the total lease term.
3. The Proposer will comply with:
  - (a) the laws of the State of Tennessee;
  - (b) Title VI of the federal Civil Rights Act of 1964;
  - (c) Title IX of the federal Education Amendments Act of 1972;
  - (d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government; and,
  - (e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government.
4. To the knowledge of the undersigned, the information detailed within the proposal submitted in response to the RFP is accurate.
5. The proposal submitted in response to the RFP was independently prepared, without collusion, under penalty of perjury.
6. No amount shall be paid directly or indirectly to an employee or official of the University of Tennessee or Cherokee Farm Development Corporation as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Proposer in connection with the RFP or any resulting lease.
7. The Phase I and Phase II proposals submitted in response to the RFP shall remain valid for at least 90 days subsequent to the date of the Phase II Proposal opening and thereafter in accordance with any lease entered into pursuant to the RFP.
8. By submission of this response, each Respondent and each person signing on behalf of any Respondent certifies, and in the case of a joint response each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each Respondent is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

**By signing this Proposal Statement of Certifications and Assurances, below, the signatory also certifies legal authority to bind the proposing entity to the provisions of this RFP and any lease awarded pursuant to it. If the signatory is not the Proposer (if an individual) or the Proposer's company *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to bind the proposing entity.**

**DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO BIND THE PROPOSING ENTITY**

**Signature:** \_\_\_\_\_

**PRINTED NAME AND TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**PROPOSER LEGAL ENTITY NAME:** \_\_\_\_\_

**PROPOSER FEDERAL ID NUMBER OR SSN:** \_\_\_\_\_



## RFP ATTACHMENT 6.2

**SECTION A: MANDATORY REQUIREMENTS.** The Proposer must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Proposer must also detail the proposal page number for each item in the appropriate space below.

The RFP Coordinator will review the proposal to determine if the Mandatory Requirement Items are addressed as required and mark each with pass or fail. For each item that is not addressed as required, the Proposal Evaluation Team must review the proposal and attach a written determination. In addition to the Mandatory Requirement Items, the RFP Coordinator will review each proposal for compliance with all RFP requirements.

<b>PROPOSER LEGAL ENTITY NAME AND MAILING ADDRESS:</b>			
<b>PROPOSER EMAIL ADDRESS &amp; PHONE NUMBER:</b>			
Proposal Page # (Proposer completes)	Item Ref.	Section A— Mandatory Requirements	Pass/Fail (CFDC Use ONLY)
		The Phase I Proposal must be delivered to CFDC no later than the Phase I Proposal Deadline specified in the RFP Section 2, Schedule of Events.	
		The Phase I Proposal should NOT contain information regarding the ground rent, profit sharing or other financial remuneration that may be proposed to be paid.	
		The Phase I Proposal must address all matters set forth in Section 5.3 of the RFP.	
	<b>A.1.</b>	<b>Cover Sheet &amp; Statement of Certifications and Assurances:</b> Provide the Cover Sheet and Proposal Statement of Certifications and Assurances (RFP Attachment 6.1) completed and signed by an individual empowered to bind the Proposer to the provisions of this RFP and any resulting lease. The document must be signed without exception or qualification.	
	<b>A.2.</b>	<b>Conflict of Interest:</b> Provide a statement, based upon reasonable inquiry, of whether the Proposer or any individual who shall perform work under the lease has a possible conflict of interest (e.g., employment by the University of Tennessee or Cherokee Farm Development Corporation) and, if so, the nature of that conflict.  NOTE: Any questions of conflict of interest shall be solely within the discretion of CFDC, and the CFDC reserves the right to cancel any award.	

	<b>A.3.</b>	<b><u>Financial Interested Parties:</u></b> Complete Attachment 6.3.	
	<b>A.4.</b>	<b><u>Prior Experience:</u></b> Proposer must provide contact information for references who can certify that Proposer has completed at least 2 Hotel/Conference Center projects.	
<b>CFDC Use – RFP Coordinator Signature, Printed Name &amp; Date:</b>			

**RFP Attachment 6.3**

**A. Financial Interested Parties:** The names of any and all persons financially interested in the Lease are as follows:

Name \_\_\_\_\_

Telephone Number \_\_\_\_\_

Address \_\_\_\_\_

Name \_\_\_\_\_

Telephone Number \_\_\_\_\_

Address \_\_\_\_\_

Name \_\_\_\_\_

Telephone Number \_\_\_\_\_

Address \_\_\_\_\_

Name \_\_\_\_\_

Telephone Number \_\_\_\_\_

Address \_\_\_\_\_

Name \_\_\_\_\_

Telephone Number \_\_\_\_\_

Address \_\_\_\_\_

**PLEASE NOTE: THIS SECTION MUST BE COMPLETED.**

**RFP Attachment 6.4**  
**FORM OF GROUND LEASE AGREEMENT**  
**(see attached)**

**LEASE**

**between**

**CHEROKEE FARM DEVELOPMENT CORPORATION**

**as Landlord**

**and**

**LESSEE**

**as Tenant**

## LEASE

THIS LEASE (the “**Lease**”) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_ (the “**Effective Date**”), by and between **CHEROKEE FARM DEVELOPMENT CORPORATION**, a Tennessee not-for-profit public benefit corporation (“**Landlord**”), and **LESSEE**, \_\_\_\_\_ a [Tennessee limited liability company] (“**Tenant**”).

## RECITALS

A. The University of Tennessee (“**University**”) is the owner of certain real property located in the City of Knoxville, County of Knox, State of Tennessee, commonly known as “University of Tennessee Research Park” which is legally described on **Exhibit A** (the “**Land**”).

B. University leased a portion of the Land, subject to and together with all easements, appurtenances and other rights belonging thereto (collectively, the “**Master Leased Premises**”), to University of Tennessee Research Foundation (“**UTRF**”), pursuant to that certain Master Ground Lease dated December 13, 2012, as amended (the “**Master Lease**”), and subject to the terms and conditions and procedures set out in The University of Tennessee Cherokee Farm Master Plan and Development Guidelines dated February 2020 (the “**Development Standards**”).

C. Effective March 1, 2012, University and UTRF entered into an Agreement for Development Management Services, as amended, (collectively, the “**UTRF Development Agreement**”), pursuant to which the University and UTRF made certain agreements and established certain guidelines, directions and restrictions relating to UTRF’s use and development of the Master Leased Premises.

D. Pursuant to that certain Sublease, dated March 15, 2016, as amended (the “**Master Lease Sublease**”), UTRF subleased its right, title and interest in and to the Master Leased Premises to Landlord, and Landlord accepted the sublease and assumed all of the obligations of UTRF under the Master Lease with respect to the Master Leased Premises, including a certain portion of the Master Leased Premises, as legally described on **Exhibit B-1** (the “**Lessee Land**”).

E. Effective September 1, 2012, UTRF and Landlord entered into an Agreement for Development Management Services, as amended (collectively, the “**CFDC Development Agreement**”), pursuant to which Landlord took the lead as UTRF’s subcontractor in performing UTRF’s obligations under the UTRF Development Agreement relating to use and development of the Master Leased Premises (both the UTRF Development Agreement and the CFDC Development Agreement being herein referred to as “**Development Agreement**”).

F. Landlord desires to lease the Lessee Land to Tenant, and Tenant desires to lease the Lessee Land from Landlord, pursuant to the terms and conditions of this Lease.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises of the parties, the parties hereto agree as follows:

1. Master Lease.

1.1 Lease Subordinate. Tenant acknowledges that this Lease is a sublease, and pursuant to the Master Lease Sublease, Landlord is the tenant of the Lessee Land under the Master Lease Sublease. This Lease is subject and subordinate in all respects to the Master Lease, the Master Lease Sublease, and the matters to which the Master Lease is subject and subordinate, including but not limited to, the Development Agreement, the Development Standards, and the NDA (as defined in Section 1.4 hereof). This Lease shall also be subject to any future amendments and supplements to the Master Lease and Master Lease Sublease hereafter made among University, UTRF, and Landlord pertaining to the Premises (as hereinafter defined); provided however that Landlord shall not enter into any agreement or contract with the University or UTRF that would materially conflict with Landlord's or Tenant's rights or obligations under this Lease or which would cause this Lease, the Master Lease or the Master Lease Sublease to be cancelled, terminated or forfeited or have any material, adverse impact on Tenant's rights, obligations or liabilities hereunder. Landlord represents to Tenant that (a) Landlord has delivered to Tenant full and complete copies of the Master Lease and Master Lease Sublease, Development Agreement and Development Standards, and (b) all of the foregoing are, as of the date hereof, in full force and effect.

1.2 Compliance with Master Lease. Subject to compliance of any future amendments or supplements of the Master Lease or the Master Lease Sublease with the provisions of Section 1.1 hereof, Tenant covenants and agrees not to do or suffer or permit any act or thing to be done or suffered which is not permitted under the Master Lease or Master Lease Sublease, or that would cause the Master Lease or Master Lease Sublease or the rights of Landlord as tenant under the Master Lease Sublease to be cancelled, terminated or forfeited or cause Landlord to become liable for any damages, claims or penalties thereunder.

1.3 Services Provided under Master Lease. Landlord hereby grants to Tenant the right to receive all of the services and benefits with respect to the Premises that are to be provided by University under the Master Lease. Landlord shall have no responsibility for or shall not be liable to Tenant for any default, failure or delay on the part of University in the performance or observance by University of any of its obligations under the Master Lease, nor shall such default by University affect this Lease or waive or defer the performance of any of Tenant's obligations hereunder except to the extent that such default by University excuses performance by Landlord under the Master Lease or the Master Lease Sublease. Notwithstanding the foregoing, the parties contemplate that University shall, in fact, perform its obligations under the Master Lease and in the event of any default or failure of such performance by University, Landlord agrees that it will, upon notice from Tenant, make demand upon University to perform its obligations under the Master Lease. If Landlord fails to use reasonable efforts to enforce the terms of the Master Lease or the Master Lease Sublease, Landlord hereby assigns to Tenant Landlord's rights to directly enforce the terms of the Master Lease or the Master Lease Sublease.

1.4 Non-Disturbance Agreement. Landlord agrees to use reasonable efforts to cause the University and UTRF to execute, acknowledge and deliver from time to time to Tenant and any of Tenant's subtenants or sublessees of such tenants on the Lessee Land (each a, "**Subtenant**") a Non-Disturbance and Recognition Agreement ("**NDA**") substantially in the

form attached hereto as **Exhibit D-1** within thirty (30) days following receipt of written request from Tenant or any Subtenant. Tenant shall have the right to terminate this Lease without liability or penalty if it has not received the first such NDA from the University and UTRF on or before sixty (60) days after the receipt of the first such written request from Tenant.

2. Premises. Landlord, for and in consideration of the rents herein reserved and of the covenants and agreements herein contained on the part of Tenant to be performed, hereby subleases to Tenant, and Tenant accepts from Landlord, the Lessee Land, together with (a) all buildings and other improvements now or hereafter located thereon; (b) the non-exclusive right to use all roadways, alleys, access drives and curb cuts located on the Land for the purpose of ingress and egress, including both pedestrian and vehicular travel, to and from the Lessee Land and the nearest public rights-of-way; (c) all easements for ingress and egress for pedestrian and vehicular travel and the installation, maintenance, operation and use of utilities provided to the owners and occupants of the Land provided by those instruments described and set forth on **Exhibit B-2** attached hereto; (d) the non-exclusive right to use the Land for the installation, maintenance, repair and replacement of utilities (in locations approved by Landlord) and as otherwise may be necessary for construction, operation, maintenance, repair and replacement of the Project (as hereinafter defined), subject to the terms and conditions of this Lease; and (e) all other easements, licenses, rights, privileges and appurtenances to or for the benefit of the Lessee Land or any portion thereof. The Lessee Land together with all the matters set forth in clauses (a) through (f) are collectively referred to as the “**Premises.**”

3. Delivery of Possession; As-Is Condition. Tenant represents that it has made or caused to be made a thorough examination and inspection of the Premises and is familiar with the condition thereof. Tenant agrees that it enters into this Lease without any representations or warranties by Landlord, its agents, representatives, employees or any other person as to the condition of the Premises, other than those warranties and representations of Landlord expressly set forth in Section 15.3 of this Lease. Landlord shall deliver possession of the Lessee Land to Tenant on the Effective Date, and Tenant shall accept the Premises in their current, “as is” condition.

4. Term.

4.1 Initial Term. The term of this Lease (the “**Term**”) shall commence on the Effective Date and shall continue until 11:59 pm on the date (the “**Expiration Date**”) that is thirty (30) years after the date of completion of the Project as described in Section 6.1 (“**Project Completion Date**”), unless sooner terminated or extended as otherwise provided elsewhere in this Lease. Promptly following completion of the Project, Landlord and Tenant shall enter into an Addendum to this Lease to confirm the Project Completion Date and the Expiration Date.

4.2 Renewal Options. Provided that (i) there is no ongoing Event of Default (as defined in Section 16.1) at the time and (ii) Tenant gives Landlord at least one (1) year written notice prior to the Expiration Date, the Term of the Lease, and the Expiration Date, shall be serially extended for up to two (2) additional successive and separate periods of fifteen (15) years each (“**Extended Term**”). Except for the duration of the Term, all of the terms and conditions that apply during the initial Term shall apply during any Extended Term, unless otherwise specifically provided herein to the contrary. If the initial Term is extended as herein



provided, then the word “**Term**,” as and where used herein, shall mean and include the initial Term and any Extended Term, as applicable, unless specifically provided herein to the contrary.

4.3 Master Lease Term. Notwithstanding anything herein to the contrary, and except as provided in the NDA, the Term of this Lease shall not exceed the term of the Master Lease or the Master Lease Sublease; provided, however, Landlord shall, and shall cause UTRF and/or the University to, exercise such rights or options to extend the term of the Master Lease and the Master Lease Sublease as are necessary or required to cause the terms of the Master Lease and the Master Lease Sublease to equal or exceed the Term of this Lease, including all Extended Terms.

## 5. Rent and Utilities.

5.1 Rent Schedule. The base rent (the “**Base Rent**”) payable by Tenant during the Term shall be as set forth on Schedule 1 attached hereto, all of the terms of which are incorporated herein by reference. Base Rent, together with any additional rent or other sums payable by Tenant hereunder are sometimes hereinafter collectively referred to as “**Rent**.” Base Rent shall be payable by Tenant in successive equal monthly installments, in advance, beginning on the Project Completion Date and thereafter on the first day of each calendar month during the Term of this Lease. Base Rent shall be prorated for any partial month during the Term and, should the Project Completion Date be other than the first day of a calendar month, prorated Base Rent for such initial partial month shall be paid to Landlord on the Project Completion Date.

5.2 Rent Payment; Address. Tenant shall make Rent checks payable to Cherokee Farm Development Corporation, Tax ID # 46-1180603, and mail them to the following address: c/o University of Tennessee Research Foundation, Attn: Budget Director, 505 Summer Pl # 961A, Knoxville, Tennessee 37902-2807 or such other location as may be designated by Landlord in writing from time to time in accordance with this Lease.

5.3 Late Fees; Interest. Tenant’s failure to make any payment due under this Lease, including, without limitation, the payment of any Rent due hereunder and all other costs, charges and expenses provided for in this Lease, shall have the same effect as the failure to pay Base Rent. If any installment of Rent or any other sums due from Tenant shall not be received by Landlord within ten (10) days of the date when due, Tenant shall pay to Landlord a late charge equal to fifteen percent (15%) of such overdue amount. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant’s default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted under this Lease. Further, any amount payable by Tenant to Landlord, if not paid when due, shall bear interest per annum from the date due until paid at the lesser of the highest rate permitted by applicable law or fifteen percent (15%). Payment of interest shall not excuse or cure any default by Tenant.

5.4 Utilities. Tenant shall pay or cause to be paid all charges for water, heat, gas, electricity, cable, data, telecommunications, trash disposal, sewers and any and all other utilities used on the Lessee Land throughout the Term, including without limitation, any connection and servicing fees, permit fees, inspection fees, and fees to reserve utility capacity for the Lessee

Land. Landlord shall take no action that would prevent or impair the provision of such utilities. Landlord shall exercise reasonable diligence to remedy any such interruption, discontinuance or diminishment of such utilities.

6. Construction of Project.

6.1 Covenants Regarding Construction. Tenant covenants and agrees to construct certain improvements, which shall include a \_\_\_\_\_-story building, containing approximately \_\_\_\_\_ square feet, with parking, landscaping and similar related improvements to be used as a hotel/conference center and for related retail [or professional office] uses as permitted pursuant to Section 7 hereof, (collectively, the “**Project**”), all within the boundaries of the Lessee Land. Subject to the terms and conditions of this Lease, Tenant shall commence construction of the Project within twelve (12) months from the Effective Date and prior to the commencement of construction shall keep Lessee Land in reasonably neat, clean and grass-covered condition that is kept mowed and free of waste and debris. In the event Tenant fails to commence construction of the Development within twelve (12) months of the Effective Date, then Landlord may, by written notice to Tenant, at Landlord’s option, subject to the terms of Section \_\_\_\_\_, terminate this Lease. Once Tenant commences construction of the Project, Tenant shall diligently prosecute construction of the Project to completion in accordance with the Tenant Final Approved Plans, as described in Exhibit C attached hereto and otherwise in accordance with all applicable laws, rules, ordinances, regulations and standards. Tenant shall use commercially reasonable, diligent efforts to cause the Project to be completed within eighteen (18) months from the commencement of construction (the “**Completion Deadline**”). The failure of Tenant to complete construction of the Project by the Completion Deadline, subject to extension due to events of Force Majeure (as defined in Section 19.18 hereof), shall be deemed to be a default by Tenant under this Lease to which the conditions of Section 16.1(b) and (d) hereof shall apply at Landlord’s option. The Completion Deadline shall be extended on a day-to-day basis for each day that any event of Force Majeure causes a delay in completion of construction of the Project.

As used in this Section 6.1, “**completion**” shall be deemed to mean completion of the Project as determined in Section 5 of the Construction Requirements set forth in Exhibit C attached hereto.

Construction shall be deemed to have commenced on the Lessee Land at such time as Tenant or its Contractor (as defined in Section 6.3) has begun grading or excavation activities on the Lessee Land. Promptly following beginning of grading or excavation, Landlord and Tenant shall confirm in writing the actual date of commencement of construction.

6.2 Plans, Specifications and Other Requirements. The Project shall be constructed on the Lessee Land consistent with such plans, specifications, schedule and other requirements set forth herein, including the requirements (i) described in Exhibit C attached hereto, (ii) in the Development Agreement (so long as it remains in full force and effect), and (iii) in accordance with the Development Standards.

The parties acknowledge and agree that, as of the Effective Date, all the plans and specifications for the construction of the Project have not been completed and all approvals have not been obtained. The parties covenant and agree to continue to cooperate with one

another, as well as all other applicable entities and agencies, to have the plans and specifications for the Project completed and approved by Landlord, University, UTRF, the Cherokee Farm Project Review Committee (the “CFPRC”), and all applicable governmental authorities as soon as reasonably possible after the Effective Date. The parties acknowledge that, once the plans and specifications for the Project have been approved by the CFPRC, that the CFPRC will issue a written statement evidencing such approval (the “CFPRC Certificate”). Upon the issuance of the same, Landlord shall (i) promptly execute the same (or a document similar to it) to evidence its approval and (ii) submit the CFPRC Certificate to University and UTRF for either their execution of the same or a similar document evidencing their approval of the plans and specifications. Upon obtaining the foregoing, Landlord shall promptly deliver the original CFPRC Certificate (and, if applicable, all other documents evidencing the approval of the plans and specifications by Landlord, University, and UTRF) to Tenant. Landlord also agrees to execute and deliver such other reasonable documents which Tenant, its Subtenants, and/or the Leasehold Mortgagees may request from time to time to confirm approval of the plans and specifications for the Project by Landlord, University, and UTRF.

6.3 Contractor Bonds and Insurance. Tenant shall require any contractor or subcontractor engaged for the construction of the Project on the Lessee Land (each, a “Contractor”) to comply with the bonding and insurance requirements described in the Development Agreement as may be amended, or as may be prescribed by University, in each event which are in effect as of the date construction of the Project commences, including the following:

(a) Prior to commencement of any work on the Lessee Land, Contractor shall furnish a payment bond and a performance bond in the amount of the cost to complete the work issued by a bonding company acceptable both to Landlord and University, licensed in the State of Tennessee, wherein Tenant, Landlord, UTRF and University are named as co-obligees.

(b) Contractor shall purchase and maintain insurance as follows:

- 1) Worker’s Compensation:  
Applicable Federal and State Statutory      Minimum Statutory-  
Employer’s Liability      Required Limits
- 2) Comprehensive General Liability, including Products and Completed Operations Broad Form Property Damage Liability, Contractual, Personal Injury and XCU Coverage (if applicable)
  - (i) Bodily Injury Limits of: \$1,000,000.00  
Annual Aggregate of: \$2,000,000.00
  - (ii) Property Damage Limits of: \$1,000,000.00  
Annual Aggregate of: \$2,000,000.00  
OR Combined Single Limits equal to: \$2,000,000.00

- 3) Automobile Liability to include Owned, Non-owned, and Hired;  
Bodily Injury and Property Damage  
Combined Single Limit \$500,000.00

(c) Such insurance shall be underwritten by a company or companies authorized to do business in the State of Tennessee. A Certificate of Insurance evidencing the coverage required above shall name Landlord, Tenant, UTRF and University as additional insureds on the face of the Certificate and shall include the provision that Landlord, Tenant, UTRF and University shall be notified of any changes, deletions, or cancellation of coverage(s) at least thirty (30) days prior to such action.

(d) Contractor shall also procure and maintain Builder's Risk Insurance to the full completed value on a non-reporting basis on the Lessee Land. This insurance shall include Landlord, Tenant, UTRF and University as named insureds, as well as the Contractor. The Contractor shall be responsible for any deductible applicable to this insurance coverage. Evidence of such coverage shall be in the form of copies of the original policy signed by the insurer or its authorized representative.

(e) The bonds and certificate(s) described above shall be furnished to Landlord prior to commencement of the work.

(f) Contractor shall be responsible, to the maximum extent permitted by applicable law, from the time of its execution of the construction contract or from the time of the beginning of the first work, whichever shall be earlier, for any and all injuries to persons or damages to property resulting from the work. In addition, the Contractor shall assume the obligation to defend, indemnify, and hold Landlord, UTRF and University harmless from and against all losses, damages, suits and claims for damages to property and injuries to persons at any place in which work is located arising out of or suffered through any act or omission of the construction or any subcontractor, or (a) anyone either directly or indirectly employed by or (b) under the supervision of any of them in the prosecution of the work.

(g) Subject to the rights of Tenant's lender to take an assignment of the construction contract and complete construction of the Project, Contractor shall agree that, in the event the Lease is terminated prior to the construction of the Project, the construction contract shall, at University's election, be assigned to University (or UTRF or Landlord) and Contractor shall perform the balance of Contractor's obligations thereunder as if University (or Landlord or UTRF, as the case may be) were an original party to the contract.

Notwithstanding the foregoing, Tenant acknowledges and agrees that University reserves the right, upon prior written notice, to increase the amounts of insurance described above or require additional types of coverage, or to otherwise modify the foregoing insurance requirements, between the Effective Date and the commencement of construction of the Project, as it deems appropriate.

6.4 Licensure. All of Tenant's Contractors shall be licensed, where required, pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all such licenses.

6.5 Use of Illegal Immigrants. In compliance with the requirements of Tenn. Code Ann. § 12-4-124, Tenant shall not knowingly utilize the services of an illegal immigrant in the performance of work upon the Lessee Land and shall not knowingly utilize the services of any Contractor who will utilize the services of an illegal immigrant in the United States in the performance of any services under this Agreement.

6.6 Landlord Cooperation with Development. Subject to Tenant's reimbursement of those reasonable expenses incurred by Landlord after the Effective Date, Landlord shall cooperate with and execute from time to time any and all applications, permits, plats, easements and other documents as are reasonably satisfactory to Landlord in form and substance and as are reasonably necessary or proper for Tenant (i) to be afforded necessary zoning classifications for the Lessee Land for the construction and operation of the Project, (ii) to obtain any required governmental approvals for obtaining permits and other approvals necessary for the demolition, construction, improvement, maintenance, use and enjoyment of any improvements now existing or to be erected on the Lessee Land, or (iii) to otherwise obtain utility services at the Lessee Land.

7. Use of Premises.

7.1 Permitted Use. The Premises shall be used solely for the construction, operation and ownership of the Project as described in Section 6.1, along with such other uses as may be related or incidental thereto, including, without limitation, those permitted by the exceptions described in Section 7.3, subject to the terms, conditions and restrictions now or hereafter set forth in the Development Standards. During the Term, no other use shall be made of the Premises without the prior written approval of University and Landlord. Subject to Landlord approval, Tenant will be solely responsible for subleasing space to retail [and professional office] tenants. Tenant shall not use or permit the Premises and Project to be used in a manner that: (i) unreasonably disturbs any other person or entity; (ii) is illegal or immoral; (iii) damages the reputation of Landlord or University; (iv) constitutes a nuisance (public or private); or (v) violates or increases the cost of any insurance policy covering the Premises.

7.2 Compliance with Laws. Tenant shall at all times during the Term ensure that the Lessee Land is in a condition which is in compliance with all local, state, and federal rules, laws, ordinances and regulations including, without limitation, the Americans with Disability Act, 42 U.S.C. 2101, et seq., and all Environmental Laws (as hereinafter defined), applicable to the Lessee Land; provided, that Tenant shall not be responsible for ensuring that the remainder of the Premises is in a condition which is in compliance with the same. The use of the Premises by Tenant, its subtenants, and their invitees shall be in accordance with all applicable local, state, and federal rules, laws, ordinances and regulations.

7.3. Prohibited Uses. Notwithstanding anything herein to the contrary, Tenant, the Subtenants, and their invitees shall not use the Premises for any of the following purposes at any time during the Term: (a) any manufacturing (except for such manufacturing that is

otherwise incidental to a permissible use, including prototype development or assembly of high technology products related to on-site research and development activities), industrial or warehouse (except for storage incidental to the operation of any otherwise permissible use) facilities or operations; or (b) any retail use, except as incidental to any otherwise permissible use (e.g., operation of cafés or coffee shops, day care centers or training institutes for the use of Project occupants). Moreover, Tenant shall not use or permit the Premises and the Project to be used in a manner that: (i) unreasonably disturbs any other person or entity; (ii) is illegal or immoral; (iii) damages the reputation of Landlord or University; (iv) constitutes a nuisance (public or private); or (v) violates or increases the cost of any insurance policy covering the Premises. Without limiting the foregoing, (x) the Prohibited Uses, defined below, are prohibited on the Premises unless consented to in writing by Landlord in its sole and arbitrary discretion, and (y) the Consent Uses, defined below, are allowed at the Premises only with Landlord's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed. If Landlord fails to respond to a written request for a consent to a Consent Use within fifteen (15) business days of actual receipt of the same, it shall be deemed to have consented to the Consent Use.

- (a) For purposes hereof, the Prohibited Uses shall mean and include the following:
  - i. Any so-called "adult" or "XXX" business including, without limitation, any store featuring or specializing in pornography, sexual books or sexual literature, sex toys, or sexual paraphernalia, excluding sales of mass market magazines, books and other products commonly sold in general interest bookstores, grocery stores, convenience stores and drug stores, and which are included in other permitted retail sales.
  - ii. Any so-called "head shop" or similar business including without limitation any store featuring or specializing in recreational or illegal drugs, books or literature oriented towards illegal drugs or the use of such drugs, paraphernalia or clothing associated with recreational or illegal drugs, excluding sales of mass market magazines, books and other products commonly sold in general interest book stores, grocery stores, convenience stores and drug stores, and which are included in other permitted retail sales.
  - iii. Any business or use oriented toward, specializing in, promoting or selling (1) firearms or other weapons (excluding pocket knives or other common household knives or self-defense products such as pepper spray or similar items), or (2) any military cause or militia or paramilitary or similar organization or activity; provided, that this shall not prohibit (x) leasing to any branch of the United States military or armed forces or to any other federal, state or local governmental office or agency.
  - iv. Any bar, nightclub, liquor store, or other business selling exclusively or primarily packaged (or by-the-drink) liquor, wine or beer for on-site consumption or take-out; provided that this shall exclude restaurants or other businesses with liquor, wine or beer sales that are incidental to their sales of food

or other permitted retail sales; nor exclude the operator of the hotel from operating a bar that is physically separated from the restaurant.

- v. Any business selling exclusively or primarily cigar or cigarette or other tobacco products or so-called “vaping” products; provided that this shall exclude businesses (such as groceries, convenience stores and drug stores) with tobacco or “vaping” product sales that are incidental to other permitted retail sales.
  - vi. Any business that operates primarily as a fire or bankruptcy sale or auction house operation; provided that this shall exclude a bona fide going out of business or bankruptcy sale by an otherwise permitted retail sales business.
  - vii. Any pet store or any store that involves in a material way the presence on the premises of any animals, insects or fish (the presence of seeing eye dogs for visually impaired employees, licensees, customers or patients shall not be deemed to violate this restriction); provided that this excludes pet supply stores.
  - viii. Any sexually oriented massage parlor or “strip” club, excluding however the following: (i) first class and reputable massage establishments such as “Massage Envy”; and (ii) massage operations that are incidental to “day spa”, hair salon or similar businesses.
  - ix. Any business or use which (a) creates strong, unusual or offensive odors, fumes, dust or vapors, (b) is a public or private nuisance, (c) emits noise or sounds which are objectionable due to intermittence, beat, frequency, shrillness or loudness (other than from medical equipment), (d) creates unusual fire, explosive or other hazards, or (e) has flashing lights or signs, strobe lights, search lights or loudspeakers.
  - x. An off-track betting parlor.
- (b) For purposes hereof, the “Consent Uses” shall mean and include the following:
- i. Convenience stores (excluding grocery stores and drug stores).
  - ii. Any “second hand” store or resale or used goods shop.
  - iii. Tanning salons, excluding however tanning salon operations that are incidental to “day spa”, hair salon or similar businesses.
  - iv. Any business that operates exclusively or primarily as a bowling alley, billiard parlor, pool hall, amusement gallery, video game arcade, so-called “virtual reality” game or game room; provided that shall exclude any such activities that are incidental to any otherwise permitted retail sales or service business.

(c) Parking at the Development shall be limited to guests, customers, contractors, invitees and employees of the Development, and licensees, vendors and others providing services to the Development. In no event shall Tenant offer parking at the Development in a manner that competes with the parking options offered by the Landlord to students, faculty and visitors of UTHSC.

(d) In no event shall the Leased Premises be used for any purpose which would violate any of the provisions of any permitted encumbrances, any legal requirements or any covenants or restrictions applicable to the Leased Premises. Tenant agrees that with respect to the permitted encumbrances and any such covenants or restrictions existing as of the date of this Lease relating to the Leased Premises, Tenant shall observe, perform and comply with and carry out the provisions thereof required therein to be observed and performed by Landlord.

(e) Tenant shall not permit any unlawful occupation, business or trade to be conducted on the Leased Premises or any use to be made thereof contrary to applicable legal requirements. Tenant shall not use, occupy or permit any of the Leased Premises and Development to be used or occupied, nor do or permit anything to be done in or on any of the Leased Premises and Development, in a manner which would (i) make void or voidable any insurance which Tenant is required hereunder to maintain in force with respect to any of the Leased Premises and Development, (ii) affect the ability of Tenant to obtain any insurance which Tenant is required to furnish hereunder, or (iii) cause any injury or damage to any of the Development.

7.4 Signage. Tenant may, at its own expense, erect and maintain exterior building and occupant identification signs on the Lessee Land, provided such signs comply with all applicable local laws, ordinances, and regulations and are also approved by Landlord as being consistent with the Development Standards, which approval will not be unreasonably withheld, conditioned or delayed. Landlord acknowledges and agrees that it has approved Tenant's exterior signage for the Project as described and shown in the signage plans included in the Plans described in Exhibit C attached hereto. Tenant shall obtain all necessary permits or approvals for its signage and agrees to maintain such signage as approved by Landlord in good condition and repair, ordinary wear and tear excepted. Notwithstanding the foregoing, Landlord's consent shall not be required for the replacement of any previously-approved signage so long as the replacement sign is of the same design, size, color and content as the sign being replaced. Landlord shall include the name of Tenant and the Subtenants described in Section 6.1 on the way-finding and directional signage (but not the marque signage) of the Research Park (as defined below) consistent with other such signs in the development. Landlord shall maintain such signage in good order and repair, in such a manner that they are clearly visible and of the same quality as those benefitting other buildings in the Research Park.

As used herein, "**Research Park**" collectively means all those certain tracts or parcels of land, regardless of how identified or labeled, shown on that certain plat entitled, "Final Plat of UT Cherokee Farm Phase 1 and Future Development Area," recorded as Instrument No. 201512110035341 in the Register's Office for Knox County, Tennessee, as the same has been or may be replaced, revised, amended and/or supplemented from time to time.



8. Encumbrances.

8.1 No Encumbrances by Tenant on Fee. Tenant shall not do any act which shall in any way encumber the title of University in and to the Land, nor shall the interest or estate of University, UTRF or Landlord be in any way subject to any claim by way of tenancy or encumbrance, whether by operation of law, by virtue of any express or implied contract by Tenant, or by reason of any other act or omission of Tenant. Any claim to, or lien upon, the Lessee Land, the Project or the Land arising from any act or omission of Tenant shall accrue only against the Lessee Land subleasehold estate of Tenant and shall be subject and subordinate to the paramount title and rights of University in and to the Project and the Land and the interest of UTRF and Landlord in the Master Leased Premises.

8.2 Mechanics Liens. Neither Tenant nor any Subtenant, licensee or occupant of the Lessee Land shall suffer, create or permit any mechanic's liens or other similar liens to be filed against the fee of the Lessee Land, nor against Tenant's subleasehold interest in the Lessee Land, nor the Project, by reason of any work, labor, services or materials supplied or claimed to have been supplied to Tenant or anyone holding the Lessee Land or any part thereof through or under Tenant. If any mechanic's or laborer's liens or materialman's lien shall be recorded against the Lessee Land or the Project (unless caused by University, UTRF or Landlord), or if any such lien shall be recorded against the Land which was caused by Tenant or any Subtenant, licensee or occupant claiming through Tenant or any Subtenant, then Tenant, or such Subtenant, licensee or occupant, shall cause such lien to be removed or transferred to a bond pursuant to applicable law within sixty (60) days of the filing of same.

8.3 Rights of University and Landlord. University, UTRF and/or Landlord may sell, lease or transfer their respective interests in the Premises without Tenant's consent; provided, however, that any such sale, lease or transfer shall be made expressly subject to the terms of this Lease. Further, Tenant acknowledges and agrees that University may prepare, execute and record a declaration of easements, covenants and restrictions or other instrument, encumbering the Land (or a portion thereof) and governing the use and development thereof; provided, however, that any such instrument shall be subject to the terms of the Master Lease, the Master Lease Sublease, and this Lease and the terms of such instrument will not materially interfere with Tenant's use of the Premises.

8.4 Leasehold/Construction Financing.

(a) Right to Mortgage Leasehold Interest. Notwithstanding anything contained in this Lease, Tenant may pledge, convey or encumber by granting a Leasehold Mortgage (as hereinafter defined) to a Leasehold Mortgagee (as hereinafter defined) its leasehold interest in and to the Lessee Land or any part thereof, together with its rights and interests in and to the Project and all easements and appurtenances benefitting the foregoing whether now existing or hereafter constructed or placed thereon, and assign this Lease or any interest therein as collateral for any such Leasehold Mortgage or Leasehold Mortgages; provided, however, any and all such conveyances, Leasehold Mortgages, or assignments shall be subject to this Lease and shall not create a lien upon or be superior to University's reversionary or fee interest in the Lessee Land.

(b) Rights of Leasehold Mortgagee. If, from time to time, Tenant (or any Subtenants) shall encumber its subleasehold interest with a Leasehold Mortgage (as hereinafter defined), and if the Leasehold Mortgagee (as hereinafter defined), registers with Landlord by delivering to Landlord a copy of such recorded Leasehold Mortgage, together with written notice specifying the name, address, email address, and facsimile number of the Leasehold Mortgagee, Landlord agrees that from and after the date of receipt by Landlord of such notice and for so long as such Leasehold Mortgage shall remain unsatisfied of record, the following provisions shall apply:

(i) Definitions. The term “**Leasehold Mortgage**” as used in this Lease shall include any encumbrance of Tenant’s interest in this Lease as security for an indebtedness Tenant may incur, whether by mortgage, deed of trust, or other security instrument. The term “**Leasehold Mortgagee**” shall mean and refer to the holder or holders of the indebtedness secured by any Leasehold Mortgage, which holder or holders shall be financial intermediaries that make, or invest in, loans and other securities on behalf of investors or depositors, including without limitation, commercial banks, investment banks, life insurance companies, pension and trust funds, savings and loan associations, mortgage companies, real estate investment trusts, private equity funds, and government-related entities (such as, by way of example, Fannie Mae or Freddie Mac).

(ii) Notices; Cure Rights. Within ten (10) days of any breach by Tenant, Landlord shall deliver to all Leasehold Mortgagees any notice required to be given to Tenant by Landlord under this Lease. Any Leasehold Mortgagee shall have the right to enter upon the Lessee Land for the purpose of remedying any such default. Such Leasehold Mortgagee may at its option at any time before the rights of Tenant shall have been forfeited to Landlord, or within the time permitted for curing or commencing to cure defaults as herein provided, pay any of the Rent due, pay any other governmental charges, or insurance premiums, make any deposits, or do any other act or thing required of Tenant by the terms of this Lease, to prevent the forfeiture hereof.

(iii) Limitation of Liability. A Leasehold Mortgagee shall not become personally liable for any of Tenant’s obligations under this Lease unless and until such mortgagee becomes the owner of the leasehold estate by foreclosure, assignment in lieu of foreclosure or otherwise, and thereafter such Leasehold Mortgagee shall remain liable for such obligations only so long as it remains the owner of the subleasehold estate.

(iv) Assignment. If any such Leasehold Mortgage shall be foreclosed or the subleasehold estate sold under any power contained therein, (A) the Leasehold Mortgagee or other purchaser at such foreclosure sale shall immediately succeed to all rights and obligations of Tenant, and (B) all right, title and interest of Tenant, may, without the further consent of University, UTRF or Landlord, be assigned to and vested in the Leasehold Mortgagee, its assignee or any purchaser at foreclosure, and that upon further assignment or sale

by Leasehold Mortgagee, such Leasehold Mortgagee is released from all liability for obligations as Tenant under this Lease.

(v) Further Assurances. Further, subject to the foregoing, Landlord agrees to seek from University and UTRF any documents, including without limitation, Consents to Assignment of Leases, Landlord's Agreements with Lender, Non-Disturbance Agreements and Estoppel Certificates, which may be reasonably required by any Leasehold Mortgagee to loan money to Tenant to construct the Project and perfect a security interest by lender in Tenant's leasehold interest in the Premises, and, if requested by a Leasehold Mortgagee a Recognition, Consent, Non-Disturbance, Estoppel and Attornment Agreement (a "**Recognition Agreement**") in substantially the same form as the one attached hereto as **Exhibit F**. In the event of a conflict between this Section 8.4 and the Recognition Agreement, the Recognition Agreement will control.

(vi) Other Registration. Any Leasehold Mortgagee may similarly register under the Master Lease and Master Lease Sublease with University and UTRF by delivering to each of them a copy of such recorded Leasehold Mortgage, together with written notice specifying the name, address, email address and facsimile number of the Leasehold Mortgagee.

(vii) Priority of Landlord Leasehold Mortgage. Any deed of trust, mortgage or lien given or made by Landlord on Landlord's leasehold estate in the Lessee Land under the Master Lease Sublease (each a "**Landlord Mortgage**") shall be subject and subordinate to this Lease. Landlord shall not enter into any Landlord Mortgage that violates the previous sentence. Nothing contained in this subsection (vii) shall be construed as a subordination to any Leasehold Mortgage of the fee interest of the University in the Lessee Land or of its reversionary interest in the Project.

(viii) New Lease. If this Lease is terminated for any reason, including, but not limited to, the rejection or disaffirmance of this Lease pursuant to bankruptcy laws or other laws affecting creditors' rights, Landlord will agree to a request to enter into a new lease of the Lessee Land, together with the easements and other rights granted herein with the most senior (in terms of lien priority) Leasehold Mortgagee as established by reasonably satisfactory evidence of title and priority provided to Landlord by such Leasehold Mortgagee. Any such new lease shall be effective as of the date of termination, rejection or disaffirmance of this Lease and shall be upon the same terms and provisions contained in this Lease (including, without limitation, the amount of Base Rent and other sums due from Tenant hereunder) and shall have a term equal to the remaining portion of the Term hereof (together with all applicable Extension Terms). In order to obtain a new lease, such Leasehold Mortgagee must make a written request to Landlord for the new lease within thirty (30) days after such Leasehold Mortgagee is notified of the effective date of the termination, rejection or disaffirmance of this Lease, as the case may be, and the written request must be accompanied by a copy of the new lease, duly executed and acknowledged by

such Leasehold Mortgagee (or the entity proposed by such Leasehold Mortgagee as tenant; which entity must be approved as “Tenant” by University and Landlord pursuant to Section 14.1). In addition, Leasehold Mortgagee must, within said thirty (30) day period, cure all uncured Events of Default of Tenant (and all items that but for the passage of time would be Events of Default if not cured) under the Lease that can be cured by the payment of money or performance of action and pay to Landlord all unpaid Rent, interest, late fees, and other sums that are, were or would have been due and payable by Tenant under this Lease, including those amounts that would have been due and payable by Tenant but for the rejection, disaffirmance or termination. If such Leasehold Mortgagee, or the entity so designated by such Leasehold Mortgagee if approved by University and Landlord, shall have entered into a new lease with Landlord pursuant to this subsection (viii), then any uncured Event of Default under this Lease existing as of the date of the new lease (but not including any identified, uncured Event of Default that such Leasehold Mortgagee or designated approved entity is working to cure but that the parties agree will reasonably take additional time to cure) shall be deemed cured, but Landlord shall not be precluded thereby from declaring a breach or Event of Default under the new lease based on any act or omission occurring after the date of the new lease even if the same or similar act or omission was previously deemed cured through the operation of this sentence. A Leasehold Mortgagee’s rights under this subsection (viii) are in addition to, and not limited by, Leasehold Mortgagee’s right to cure under subsection (ii) above.

## 9. Maintenance.

9.1 Maintenance by Tenant. Tenant agrees that it will, throughout the Term, maintain or cause to be maintained the Lessee Land, the Project and all appurtenances thereto and every part thereof, in good order, condition and repair (ordinary wear and tear or damage or diminution due to casualty or condemnation not required to be repaired by Tenant, excepted), in a manner comparable to other 3-4 star hotels in the Knoxville, Tennessee metropolitan area, free of health and safety hazards, and in accordance with all applicable laws, rules, ordinances, orders and regulations of all governmental authorities. Tenant acknowledges and accepts Landlord’s concern that because the Project is located on Land of the University’s and adjacent to University’s campus that the Project be maintained throughout the Term by Tenant as a first class 3-4 star hotel. Without limiting Tenant’s aforesaid obligations, Tenant shall, in the performance of its obligations imposed under this paragraph, abide by and perform the following after construction of the Project is completed: all sidewalks, curbs, drives, and parking areas located on the Lessee Land shall be thoroughly swept and shall be kept free of snow and ice on business days and during business hours; all areas on the Lessee Land outside the Project building(s) shall be kept clean and free of debris, papers, rubbish and refuse and shall be kept adequately lighted; all trash, refuse and waste from the Lessee Land shall be regularly removed and until removal shall be stored in adequate containers not visible to the general public or to visitors or invitees of any nearby properties; signs, markers, amenities and decorative elements on the Lessee Land shall be replaced, repaired, cleaned or refurbished upon the occurrence of any material defects or irregularities; outside lighting fixtures on the Lessee

Land shall be relamped or replaced as needed; traffic control on and for exiting and entering the Lessee Land shall be provided; landscaping on the Lessee Land shall be trimmed and pruned, fertilized and replanted, and grass mowed; all storm drainage facilities and sanitary sewer lines exclusively serving and located on the Lessee Land shall be kept in a free-flowing condition and in compliance with applicable covenants; all water lines and all other utilities exclusively serving and located on the Lessee Land shall be kept functional; all exterior windows and plate glass of the shall be kept clean; all exterior surfaces of any Project building improvements shall be kept clean, repainted or otherwise refinished so as not to detract from the appearance of the Lessee Land; and all mechanical and electrical facilities, including, without limitation, lighting, heating, ventilating and cooling systems and sprinkler systems serving the Project building(s) shall be kept in good service order and repaired upon the occurrence of any failure or malfunction. Anything to the contrary notwithstanding, Landlord acknowledges and agrees that Tenant shall be deemed to have performed its maintenance and repair obligations hereunder so long as Tenant maintains the Project in accordance with the maintenance schedule and the replacement and renewal schedule, attached hereto as **Exhibit I** and **Exhibit J** respectively and in at least as good order and state of repair and refreshed, ordinary wear and tear excepted, as is consistent with a 3-4 star hotel building in the Knoxville, Tennessee Metropolitan Area.

9.2 **Maintenance by Landlord.** University will maintain all portions of the Land, other than the Master Leased Premises, pursuant to the Master Lease, and Landlord will maintain, or will contract with University or another third party to maintain, throughout the Term, all portions of the Master Leased Premises other than the Lessee Land. Landlord shall also maintain, or cause to be maintained, (i) the roadways, access drives, curb cuts and all other paved surfaces located in the Research Park in a smooth and evenly covered condition, including, without limitation, making any necessary replacement of base, skin patch, resurfacing, restriping and resealing, and (ii) the grounds, lawns and landscaping of the common areas located in the Research Park in good and sightly condition (collectively, the **“Roads and Common Areas”**). During the Term, the Roads and Common Areas will be kept in good order and repair, ordinary wear and tear excepted, free of health and safety hazards, in accordance with all applicable laws, rules, ordinances, orders and regulations of all governmental authorities, and consistent with the standards of a first class medical office park development in the Knoxville, Tennessee Metropolitan Area. Provided reasonable prior notice is given to Tenant, and so long as such closure does not unreasonably interfere with access to or the operation of the Lessee Land or cause the Lessee Land to be in violation of any legal requirement, and services to the Lessee Land will not be interfered with, diminished or disrupted, University and/or Landlord shall have the right to temporarily close portions of the Road and Common Areas in order to (i) make repairs, changes and additions thereto; (ii) prevent a dedication thereof or the accrual of any prescriptive rights to any person or to the public therein; (iii) discourage non-customer parking; and (iv) make or perform any acts in and to the Roads and Common Areas as University or Landlord deem advisable with a view to the convenience and use thereof for all tenants of the Research Park. If Landlord fails to perform its maintenance obligations under this Lease with respect to the Roads and Common Areas, and such failure continues for more than thirty (30) days, Tenant may, but shall not be obligated to, after written notice to Landlord, perform the obligation of Landlord that Landlord has failed to perform. In addition, in the case of an emergency, Tenant shall have the right to make such temporary, emergency repairs as may be reasonably necessary to prevent imminent damage to

the equipment, inventory or property of Tenant or its Subtenants, or injury to persons, even if Landlord otherwise bears the obligation or has the right to make such repairs.

### 9.3 CAM Contribution by Tenant.

(a) The reasonable and actual costs incurred by Landlord and/or University in connection with mowing, landscaping, irrigation and electricity for street lighting for those areas of the Research Park designated as “Common Areas” on the recorded plats of the Research Park from time to time are hereinafter collectively referred to as “**CAM Costs**.” Commencing on the Project Completion Date, and thereafter throughout the Term, Tenant shall pay to Landlord, as additional Rent, amounts equal to Tenant's Pro Rata Share (as hereinafter defined) of the CAM Costs (the “**CAM Charge**”). For purposes of this Lease, CAM Costs shall not include (i) costs which are reimbursed through insurance and warranty claims; (ii) costs separately billed or charged to Tenant, other tenants or occupants of Research Park or other third parties; (iii) costs arising out of the gross negligence or willful misconduct of Landlord or those for whom at law it is responsible; or (iv) except as set forth below, capital expenditures. CAM Costs shall be reduced by reimbursements, credits, discounts, reductions or other allowances, and any refund of any portion of any amounts that were included in CAM Costs, received by Landlord for items included in CAM Costs.

(b) The amount of any capital expenditures incurred by Landlord shall be included in CAM Costs to the extent the following are all true: (a) the expenditure is for the replacement of any capital improvements which currently exist on, or are currently used for the benefit of, the designated “Common Areas” in the Research Park as of the Effective Date (such as replacement of the existing irrigation pump); (b) the expenditure is treated by Landlord on its books for accounting purposes as capital improvements; and (c) the expenditure is required or desirable, in Landlord's reasonable judgment, to keep the Common Areas in good and sightly condition. To the extent any capital expenditure shall qualify for inclusion in the CAM Costs, the amount of the same will be amortized over a number of years as determined by appropriate schedules contained in the Internal Revenue Service guidelines, and the annual portion for the same will be included in the CAM Charge collected each year.

(c) Tenant's CAM Charge shall be calculated by multiplying the CAM Costs for the calendar year, or partial calendar year, by Tenant's Pro Rata Share. Within thirty (30) days after the end of each calendar year during the Term, Landlord shall furnish to Tenant a statement of each item of CAM Costs for the calendar year, or partial calendar year, and the amount of the CAM Charge due and payable by Tenant for the prior calendar year, or partial calendar year, as the case may be. Tenant shall pay Tenant's CAM Charge within thirty (30) days after receipt by Tenant from Landlord of such annual statement of actual CAM Costs incurred and the amount of Tenant's CAM Charge due. Tenant's CAM Charge for the partial calendar years in which construction of the Project is completed and the Term ends, if any, shall be prorated on the basis of the number of days of the Term within each such calendar year. In the event Tenant's CAM Charge for the final calendar year, or portion thereof, of the Term cannot be

finally calculated until after the expiration of the Term, then Tenant's obligation to pay the same shall survive the expiration or termination of this Lease for a period of one (1) year.

(d) As used in this Lease, "**Tenant's Pro Rata Share**" shall mean the percentage obtained by dividing the acreage of the Lessee Land by the aggregate gross acreage of all land located within Research Park, but excepting (i) those areas which are designated as roads, streets or rights-of-ways and (ii) those areas which are designated as Common Area on any plat of the same from time to time (collectively, the "**Leasable Property**"). As of the Effective Date, Landlord and Tenant stipulate and agree that Tenant's Pro Rata Share is \_\_\_\_\_%, which percentage is based on the Lessee Land being comprised of \_\_\_\_\_ acres, and the aggregate gross acreage of the Research Park is 45.74 acres. During the Term of this Lease, Tenant's CAM Charge for any calendar year may not increase more than five per cent (5%) over the actual CAM Charge for the prior calendar year.

9.4 Tenant Inspection Right. In the event Tenant is not satisfied with the amount of CAM Costs and Tenant's CAM Charge shown on the annual statement received from Landlord, Tenant and its accountants shall have the right to inspect and audit, at reasonable times and in a reasonable manner, such of Landlord's books and records as pertain to and contain information in order to verify the amounts thereof. Any such audit must be commenced not later than ninety (90) calendar days following delivery of the statement of the annual amount of the CAM Costs and Tenant's CAM Charge. Any such inspection of Landlord's books and records shall be performed at Tenant's sole cost and expense. If such inspection and audit shall show an overpayment by Tenant in connection with its payment of Tenant's CAM Charge, the amount of such overpayment shall be promptly paid by Landlord to Tenant. If such inspection and audit shall show that Tenant's CAM Charge was underpaid, then such deficiency shall be promptly paid by Tenant to Landlord.

9.5 Alterations. Subject to the provisions of Sections 6.1, 6.2, 6.3 and 8.1 and Exhibit C, and consistent with the approved plans and specifications for the Project, Tenant shall have the right to make, at Tenant's sole expense, additions to, or alterations of, the Project and the Lessee Land as Tenant, in its discretion, shall from time to time desire; provided, however, that, without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed, no such addition or alteration shall (i) cause or permit the demolition of all or any part of the Project, (ii) result in any new building or structure being added to the Lessee Land, (iii) alter the exterior (including changes in color or shape) or increase or reduce the square footage area of the Project, (iv) result in Tenant altering the Lessee Land or Project in any manner so as to make the same materially inconsistent in appearance with other structures within the Research Park or which are contrary to the Development Standards, (v) result in Tenant altering the Lessee Land or Project in any manner so as to make the same inconsistent with its permitted uses as described in Section 7.1, (vi) result in a material increase in the vehicular traffic to and from the Lessee Land, (vii) result in a material increase in light, heat, waste water, storm water run-off, or other environmental impacts from the Project or the Lessee Land, or (viii) result in Tenant posting any exterior signs on the Lessee Land or Project not permitted by this Lease; provided, however, that nothing in this Section 9.5 shall be interpreted or applied to waive University's rights to consent to the form and substance of any

application for governmental approval University is asked by Tenant to execute pursuant to Section 1.6(c) of the Master Lease. Any addition or alteration shall be performed in a good and workmanlike manner and comply with the requirements of this Lease and the Development Standards.

10. Insurance.

10.1 Property Insurance. During the Term, Tenant shall cause the Lessee Land, including the Project and all other improvements located on the Lessee Land and all contents and personalty located therein, to be insured (to the extent insurable) against loss or damage by the elements for the full insurable value thereof. Tenant shall:

(a) Obtain a policy or policies of insurance insuring the Lessee Land in an amount equal to the replacement cost of the Project, as well as claims for injuries to persons or damages to property which may arise from or in connection with the use and occupancy or license of the Premises, designating University, the State of Tennessee, UTRF, and Landlord as additional insureds (subject however to the rights of Leasehold Mortgagees as loss payees with respect to property damage); and

(b) Maintain coverage at least as broad as including all major divisions of coverage, and be on a comprehensive basis including, but not limited to, premises operations, bodily injury and property damage.

10.2 Hotel Insurance. *[Coverage limits to be inserted based on rooms and amenities of proposed Development.]* Tenant shall maintain hotel insurance coverage on par with that maintained by 3-4 star hotel operators in the Knoxville metropolitan area, including on the Effective Date: general liability insurance with limits of said insurance to be no less than \_\_\_ million dollars (\$\_\_\_\_,000,000.00) per claimant [or per room] and \_\_\_ million dollars (\$\_\_\_\_,000,000.00) per occurrence; liquor liability with limits of said insurance to be no less than \_\_\_ million dollars (\$\_\_\_\_,000,000.00) per claimant and \_\_\_\_\_ million dollars (\$\_\_\_\_,000,000.00) per occurrence; commercial umbrella to a limit of \_ million (\$\_\_\_\_,000,000); commercial auto; garagekeepers; property; and cyber liability insurance. *[The limits must be at least \$1,000,000 per claimant and \$3,000,000 per occurrence; Landlord is expecting general liability limits to be at least \$10,000,000.]*

10.3 Deductibles. Any deductibles or self-insured retentions in excess of Fifty Thousand Dollars (\$50,000.00) must be declared to and approved by University and Landlord, such approval not to be unreasonably withheld, conditioned or delayed.

10.4 Other Requirements. The policies of insurance required hereunder (collectively, the “**Required Policies**”) are to contain, or be endorsed to contain, the following provisions:

General Liability:

- (1) University, UTRF and Landlord shall be covered as insureds as respects: liability arising out of the Premises occupied, licensed or used. Coverage shall contain no special limitations on the scope of protection afforded to University, UTRF and Landlord.



- (2) The insurance coverage of the Required Policies shall be the primary insurance as respects University, UTRF and Landlord. Any insurance or self-insurance maintained by University, UTRF and Landlord shall be excess and not contributory to the insurance provided by the Required Policies.
- (3) Any failure to comply with reporting provisions of the Required Policies shall not affect coverage provided to University, UTRF and Landlord.
- (4) Coverage shall state that the Required Policies shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

All Coverages:

- (5) Each of the Required Policies shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, being given to University (at the address set forth in the Master Lease), UTRF (at the address set forth in the Master Lease Sublease) and Landlord.
- (6) The Required Policies shall be placed with insurers reasonably acceptable to University and Landlord.
- (7) The Leasehold Mortgagee shall be added as an additional insured on each of the required general liability insurance policies and shall be named as a loss payee on each of the required property and casualty insurance policies, and any required builder's risk policies, by way of a standard form of mortgagee's loss payable clause.

10.5 Evidence of Insurance Coverage. Tenant will furnish University, UTRF and Landlord with certificates of insurance, policies and with original endorsements effecting coverage required by this Lease. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be received by University, UTRF and Landlord and approved by University and Landlord in the exercise of their reasonable discretion before the Effective Date. Landlord reserves the right to require complete, certified copies of all required policies, at any time, but not more frequently than once per calendar year.

10.6 Waiver of Subrogation. Landlord and Tenant, on behalf of themselves and all others claiming under them, including any insurer, waive all claims against each other, including all rights of subrogation, for loss or damage to their respective property (including, but not limited to, the Lessee Land and the Project) which is caused by or results from perils, events or happenings which are the subject of property insurance carried by the respective parties and in force at the time of any such loss, regardless of the negligence of any such party.

10.7 Increase in Coverage. Landlord shall have the right to require, from time to time, upon at least 60 days' prior written notice, that Tenant increase the amount of its insurance coverage and/or obtain additional insurance coverage so long as Landlord is acting in a commercially reasonable manner based on insurance coverages maintained by owners of comparable properties in Knox County, Tennessee.

11. Damage and Destruction.

11.1 If the Project, or any portion thereof, shall be damaged or rendered wholly or partially untenantable by fire or other casualty during the Term, then Tenant shall promptly either (a) rebuild or repair the Project to substantially its former condition immediately prior to such damage, or (b) do any work (e.g., demolition) necessary to remove all debris and the remaining portion of the Project and to place the Lessee Land in safe and proper condition; and, so long as Tenant does so, any and all fire or other insurance proceeds that become payable because of such damage shall be paid to Tenant.

11.2 In the event of a casualty occurring during the last two (2) years of the Term or any Extended Term (or the Master Lease term or extended term, as applicable), if Tenant elects not to rebuild or repair the Project to its former condition in accordance with this Lease, then the insurance proceeds payable as a result of such casualty shall be the property of University, and Tenant shall take any action as may be reasonably necessary to cause such proceeds to be paid to University.

11.3 In the event that Tenant's leasehold estate is subject to a Leasehold Mortgage at the time of such casualty, then all amounts payable to Tenant pursuant to this Section 11, if required by the Leasehold Mortgage, shall be paid to the Leasehold Mortgagee to be applied by the Leasehold Mortgagee in accordance with the Leasehold Mortgage.

11.4 The value of Tenant's interest in the Lessee Land and the Project and all other improvements thereon immediately prior to the damage or destruction shall mean the then value of its leasehold estate in the Lessee Land and fee interest in the Project and other improvements. The value of Landlord's interest in the Lessee Land and the Project and other improvements immediately prior to the damage or destruction shall be deemed to mean the then aggregate value of University's, UTRF's and Landlord's interest in the Lessee Land (including Landlord's interest as Landlord hereunder and its reversionary interest in the Project) and other improvements as of the date of the damage or destruction. The values shall be those determined by agreement between Landlord and Tenant. If such an agreement cannot be reached, the values shall be determined by an appraiser or appraisers selected by the parties. For purposes of determining such values, it shall be assumed that the Term would have automatically extended pursuant to Section 4.2, unless at the time of the damage or destruction Tenant has not timely exercised (or thereafter fails to timely exercise) its option under Section 4.2 to such extensions.

12. Liability and Indemnification.

12.1 Limitation of Liability. Tenant acknowledges and agrees that neither University, UTRF nor Landlord shall be liable for any damage or injury either to the persons or property of Tenant or any assignees, Subtenants, guests, licensees or invitees of Tenant due to act of neglect

of Tenant or its assignees, Subtenants, guests, licensees or invitees, or damage or injury resulting from any cause whatsoever, unless attributable to the gross negligence of University, UTRF or Landlord, or their officers, agents or employees for which University, UTRF or Landlord, respectively, is liable pursuant to Tennessee law, in which case only the party to whom such gross negligence is attributable shall be excluded from the limitation of liability set out in this section. As an instrumentality of the State of Tennessee, University's liability for any claims, losses or damages attributable to activities related to its lease or licensing of the Premises pursuant to this Lease shall be governed by the Tennessee Claims Commission Act, T.C.A. 9-8-301, et seq.

12.2 Indemnification by Tenant. Tenant shall indemnify and save University, UTRF and Landlord harmless (including their officers, agents and employees) from any and all claims, demands, damages, and costs (including reasonable attorney's fees):

(a) for personal injury or property damage arising out of or occurring as a result of this Lease and the use, license and occupancy of the Premises by Tenant, its officers, agents, employees, Subtenants, invitees and guests (and any other person or entity using the Premises with the authorization and consent of Tenant) during the Term unless attributable to the negligence of University, UTRF or Landlord, or their officers, agents or employees for which University, UTRF and Landlord respectively is liable pursuant to Tennessee law;

(b) arising from or as a result of or in any way related to any mortgage, financing, or encumbrance of Tenant's leasehold interest pursuant to this Lease; or

(c) attributable to a breach of the Lease by Tenant.

This obligation shall survive the expiration or earlier termination of this Lease. A Leasehold Mortgagee shall have no obligation under Section 12.2 in connection with any event, occurrence or breach arising before the Leasehold Mortgagee actually became owner of Tenant's rights pursuant to this Lease.

### 13. Taxes.

13.1 Payment of Taxes. Tenant shall pay prior to the accrual of any interest or penalties thereon all: (i) real estate taxes and general and special assessments levied against the Lessee Land and any Project, buildings and improvements thereon to the full extent of installments falling due during the Term; (ii) ad valorem taxes for the personal property at the Lessee Land during the Term; (iii) any tax, assessment, charge or fee which is imposed in substitution for, or in lieu of an increase in, such real estate taxes or ad valorem personal property taxes; (iv) any tax on gross rents or leases; and (v) any tax on the development of real estate or the construction or improvement of Project, buildings or premises therein, now existing or hereinafter enacted, (hereinafter collectively referred to as "**Taxes**"). Taxes shall not include any inheritance, estate, succession, transfer, gift, or capital stock tax or any current state or federal income taxes or other income taxes other than those described above. Upon Landlord's receipt of invoices or requests for payment of any Taxes, Landlord shall promptly provide true copies of such invoices or requests to Tenant prior to the time such Taxes are due.

13.2 Taxes Prorated. All payments of Taxes shall be prorated for the initial year of the Term and for the year in which the Lease terminates. For permitted installment payments, Tenant shall pay only the installments (and any interest thereon) falling due before the expiration of the Term. If the Lessee Land or the Project or any portion thereof are included in a tax parcel with other properties, Taxes shall include only that portion of taxes and assessments allocated to the Lessee Land and the Project. Such determination shall take into account the relative area of the Lessee Land and of the area of the taxable parcel of which it is a part and the relative assessed value of the Lessee Land compared to the assessed value of all improvements included in such tax parcel.

13.3 Right to Contest Taxes. Tenant shall have the right to contest, at Tenant's expense, the amount of Taxes for which Tenant is responsible. Landlord agrees to execute any and all documents reasonably necessary to carry out the purpose of this section.

13.4 Evidence of Payment. Upon written request from Landlord, Tenant shall furnish to Landlord receipts (or copies thereof) of the appropriate authority levying any Taxes, or other evidence satisfactory to Landlord evidencing the payment thereof.

14. Assignment and Subletting and Sublicensing.

14.1 Prohibition on Transfers. Except as otherwise provided in this Lease and, specifically, in Section 8.4, Tenant shall not: (i) assign, convey or mortgage this Lease or any interest under the Lease; (ii) allow any transfer thereof or any lien upon Tenant's interest by operation of law; (iii) further sublet the Lessee Land or any part thereof or sublicense the Licensed Spaces (as defined in Section 22); (iv) enter into, change or terminate any hotel franchise or brand contract or similar arrangement; or (v) permit the occupancy of the Lessee Land or any part thereof by anyone other than Tenant, without the prior written consent of Landlord and University. Landlord's consent to an assignment of this Lease or a further sublease of the Lessee Land shall not be unreasonably withheld, conditioned, or delayed, and if Landlord consents thereto, Landlord shall use reasonable efforts to obtain the consent of University, provided that Tenant shall cause Landlord and University to be provided with information regarding any proposed assignee (or assignee's sponsor(s) if assignee is a single purpose entity), including financial statements, credit-worthiness, intended use and other reasonable and relevant information reasonably requested by Landlord or University. For purposes of this Section, Landlord's consent may reasonably be withheld based on a proposed transferee's financial condition or requirements or intended use different from the hotel/conference center contemplated by this Lease. Tenant shall reimburse Landlord for Landlord's reasonable legal fees incurred in connection with the consideration of any such proposed assignment or Sublease (as defined below) and any actual out-of-pocket costs incurred by Landlord in obtaining University's consent, not to exceed \$3,500.00 (which amount shall increase annually each calendar year by the percentage increase in the Consumer Price Index (as defined below) for any calendar year over the prior calendar year). Anything herein to the contrary notwithstanding, Tenant may assign this Lease or any interest under it to a single purpose entity controlled by or under common control with Tenant following the prior written consent of Landlord and University; provided, however, Landlord's consent shall not be unreasonably withheld, conditioned, or delayed, provided that Tenant provides Landlord and University information as described above.

As used in this Lease, “**Consumer Price Index**” means the Consumer Price Index for Urban Wage Earners and Clerical Workers, All Items, U.S. City Average, published by the Bureau of Labor Statistics, United States Department of Labor (1982-1984=100). If the Consumer Price Index is no longer published or is discontinued, Landlord, in its reasonable discretion, shall have the right to designate any comparable, generally-accepted cost of living index as the “Consumer Price Index” for purposes hereof and, in such event, the definition of “Consumer Price Index” shall automatically be amended to reflect the new index chosen by Landlord.

14.2 Effect of Assignments and Transfers. No permitted assignment shall be effective and no permitted Sublease (as defined below) shall commence unless and until any Event of Default by Tenant hereunder shall have been cured. No permitted assignment or Sublease shall constitute a waiver of any of Landlord’s rights nor relieve Tenant from Tenant’s obligations and agreements hereunder and the assignor shall continue to be liable, as a principal and not as a guarantor or surety, for any obligations that arose prior to the effective date of the assignment to the same extent as though no assignment or Sublease had been made; provided, that the assignor shall be released from all duties, obligations, and liabilities that arise under the Lease after the date of the assignment. If Landlord and University consent to an Assignment (or if this Lease is assigned without such consent), the terms and conditions of this Lease will in no way be waived or modified by Tenant, including, without limitation, the use which Tenant or its assignee may make of the Premises. Further, any assignee shall expressly assume (and shall be deemed to have assumed) all of the Tenant’s obligations under the Lease first arising from and after the date of such assignment. Landlord’s and University’s consent to an Assignment will not be deemed to consent to any further assignment by either Tenant or an assignee.

14.3 Subleases. Any sublease, license or other agreement of occupancy entered into by Tenant (not including customers’ hotel rooms on Tenant’s standard terms for periods of less than six (6) continuous months) (each, a “**Sublease**”) is subject to the approval of University and Landlord and to the applicable terms, conditions and restrictions set forth herein, in the Development Agreement and in the Development Standards. Each Sublease shall prohibit any subsequent sublease, license, assignment or transfer of any kind without the approval of the University and Landlord. Landlord hereby agrees and acknowledges that it approves the initial Subleases of the portions of the Project described in Section 6.1 hereof, and that Landlord has obtained the consent of the University to such Subleases.

## 15. Environmental.

15.1 Compliance with Environmental Laws. Tenant shall use the Premises in compliance with all applicable local, state or federal environmental law, rule, regulation, statute, or ordinance, now existing or hereafter enacted, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act, 42, U.S.C. 9601, et seq. and the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq. (collectively, “**Environmental Laws**”). Tenant shall not cause or permit any hazardous substances to be brought, kept or used in or about the Premises by Tenant, Subtenants, agents, employees, contractors, or invitees, except in minor quantities similar to those quantities usually kept on similar premises by others operating hotel/conference centers, retail, restaurants and office

facilities or to the extent reasonably required or necessary in the normal and customary practice of Tenant's or any Subtenant's business, and then only to the extent permitted by and in strict compliance with all Environmental Laws. Subject to the restrictions of this Section 15.1, Tenant, or any Subtenant, may utilize the Project for the storage of a reasonable amount of supplies or other materials necessary to the maintenance and operation of the Lessee Land or the Project for its permitted uses; provided, in each case, that the materials or supplies are in strict and full compliance with applicable Environmental Laws. Any medical waste generated by Tenant or any Subtenant of Tenant on the Lessee Land shall be segregated and packaged by Tenant and/or its Subtenants as required by applicable laws, rules and regulations, and shall be kept on the Lessee Land only for so long as is permitted under applicable laws, rules and regulations and thereafter disposed of at Tenant's or its Subtenant's expense in accordance with applicable laws, rules and regulations.

15.2 Release of Hazardous Materials. Tenant shall not cause or permit to continue any intentional or unintentional release of hazardous materials other than those licensed or permitted by governmental agencies or by applicable law or regulations. Should Tenant cause or permit any intentional or unintentional release of hazardous materials onto the surface or into the subsurface of the Premises or other portion of the Land resulting in damage to soil, surface water, groundwater, flora or fauna on the Premises or other portion of the Land, within waters of the state or the United States, or on adjacent properties, Tenant shall promptly notify Landlord and the appropriate jurisdictional government agencies.

15.3 Landlord's Representations. Landlord represents that it has no actual knowledge of any violation of any Environmental Laws with respect to the Lessee Land and knows of no enforcement, cleanup, remedial, removal or other governmental or regulatory actions instituted or threatened pursuant to any Environmental Laws, or of any claims made or threatened by any third party relating to damage, contribution, cost recovery compensation, loss or injury resulting from any environmental materials on or about the Lessee Land. Landlord further represents that to the best of Landlord's knowledge, information and belief, the Lessee Land, Landlord's past and present use and operation of the same, and Landlord's predecessors in interest or title or any third party use of the same, have not been in violation of the Environmental Laws.

15.4 Remedial Work. If any hazardous material which is kept or brought on, in or under the Premises by Tenant during the Term is released or otherwise results in any contamination of the Premises, the Land or any adjoining property or the air, soil, surface water or ground water, in violation of any Environmental Laws, Tenant shall promptly take all actions, at its sole expense, as are necessary to return the affected area(s) to the condition existing prior to the introduction of any such hazardous material, including, without limitation, any investigation or monitoring of site conditions or any clean up, remediation, response, removal, encapsulation, containment or restoration work required because of the presence of any such hazardous material on, in or under the Premises, the Land or adjoining property, or any release or suspected release or threat of release of any such hazardous material from the Premises into the air, soil, surface water or ground water (collectively, the "**Remedial Work**"). Tenant shall obtain all necessary licenses, manifests, permits and approvals to perform the Remedial Work. Tenant shall perform all Remedial Work and the disposal of all waste generated by the Remedial Work in accordance with all applicable Environmental Laws. Tenant shall provide to Landlord copies of all communications, filings or other writings, photographs

or materials given to or received from any person, entity or agency in connection with any cleanup or Remedial Work conducted by Tenant, and shall notify Landlord of, and permit Landlord's representative to attend any meetings or oral communications relating thereto.

15.5 Environmental Indemnity. Tenant shall defend, indemnify and save Landlord, UTRF and University harmless from any fines, suits, claims, demands, losses and actions (including attorneys' fees) that (i) arise from any violation by Tenant of the foregoing provisions of this Section, or (ii) are alleged or are based upon any violation by Tenant of any Environmental Laws, including but not limited to those itemized above in this Section 15, or upon the existence of hazardous materials in the possession or control of Tenant, or upon any other threatened or actual damage to the environment by Tenant; provided that such indemnification shall not extend to any independent acts or omissions of Landlord, UTRF or University.

15.6 Pre-Existing Conditions. Notwithstanding the foregoing provisions of this Section 15, Landlord acknowledges and agrees that Tenant's obligations under this Section 15 shall not be deemed to apply to (i) any hazardous materials or substances present in, on or under the Premises, or any portion thereof, including the soil, groundwater or soil vapor, prior to or on the Effective Date, (ii) any violation of any Environmental Laws by Landlord or Landlord's predecessors-in-interest to the Premises prior to the Effective Date, or (iii) any violation of Environmental Laws occurring during the Term of this Lease to the extent arising out of the conditions, circumstances, or events described in (i) and (ii).

## 16. Defaults and Remedies.

16.1 Tenant Events of Default. The following events shall each constitute an "**Event of Default**":

(a) Tenant shall fail to pay any installment of Rent or other monetary payment required to be paid under this Lease within fifteen (15) days after receipt of written notice of delinquency;

(b) Tenant shall fail to comply with any term, provision or covenant of this Lease (other than a monetary default) and shall not cure such failure within thirty (30) days after written notice thereof is given by Landlord to Tenant; provided, however, with respect to a non-monetary default not susceptible of being cured within thirty (30) days, Tenant shall not be in default unless it fails to promptly commence all work required to cure such default within said thirty (30)-day period or fails to diligently prosecute the same to effect such cure within a reasonable time thereafter;

(c) Tenant shall be adjudged insolvent, make a transfer in fraud of creditors, or make an assignment for the benefit of creditors;

(d) A petition shall be filed by Tenant under any chapter of the United States Bankruptcy Code, or any similar proceeding is filed by Tenant under any state law; or a petition under any chapter of the United States Bankruptcy Code or any similar state law

is filed against Tenant and Tenant fails to have the same dismissed within sixty (60) days from date of filing; or

(e) A receiver or trustee (other than a bankruptcy trustee or receiver) shall be appointed for all or substantially all of the assets of Tenant, and Tenant shall fail to have such receivership or trusteeship terminated within sixty (60) days after appointment.

16.2 Landlord Remedies. Upon the occurrence of an Event of Default, Landlord shall have the option to pursue any one or more of the following remedies without any further notice or demand whatsoever:

(a) Enter upon and take possession of the Lessee Land, without terminating this Lease, and expel or remove Tenant and any other persons who may be occupying the Lessee Land, or any part thereof, without being liable for any claim for damages, and relet the Lessee Land and relicense the remainder of the Premises, as Tenant's agent, and receive the rent therefor as well as all rental and other income derived from the Premises; and Tenant agrees to pay Landlord on demand any deficiency in the Rents provided for herein that may arise by reason of such reletting.

(b) Enter upon the Lessee Land, without being liable to prosecution or for any claim of damages, and do whatever Tenant is obligated to do under the terms of this Lease; and Tenant agrees to reimburse Landlord on demand for any expenses which Landlord may incur in thus effecting compliance with Tenant's obligations hereunder, together with interest thereon at a per annum rate (the "**Default Rate**") equal to fifteen percent (15%) (but in no event greater than the highest rate permitted under applicable law) in effect from time to time, from each such due date until such interest and such amount are paid in full. For purposes of this computation of interest, all partial payments shall be applied first to interest and then to the principal amount due, and no Event of Default shall be deemed to be cured unless and until the full amount of such principal and interest has been paid to Landlord.

(c) In the event that a failure to pay Rent remains uncured for a period of ninety (90) days after receipt of written notice of delinquency, terminate this Lease, in which event Tenant immediately shall become liable for all actual and direct damages and expenses incurred by Landlord as a result of Tenant's default.

(d) Should an Event of Default described in Section 16.1(b) occur and such Event of Default consists of: Tenant's failure to complete construction by the Completion Deadline as set out in Section 6.1; or Tenant's assignment of this Lease, or Tenant's sublease or license of the Premises, without consent of Landlord and University, as required by Section 14.1; or Tenant's failure to comply with a settlement agreement entered into pursuant to Section 21.2(c), or should an Event of Default arise under Sections 16.1(c) through (e), then, in each case, Landlord shall have the right to terminate this Lease, in which event Tenant immediately shall become liable for all actual and direct damages and expenses incurred by Landlord as a result of the Event of Default.



Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law or in equity, including injunctive relief, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any Rent or other amount due to Landlord hereunder or of any damage accruing to Landlord by reason of the violation of any of the terms, provisions and covenants herein contained. Forbearance by Landlord to enforce one or more of the remedies herein provided upon the occurrence of an Event of Default shall not be deemed or construed to constitute a waiver of such default. Further, it is expressly understood and agreed that upon the occurrence of an Event of Default, in addition to any other right or remedy available to Landlord hereunder or in equity or at law, Landlord shall have the option of terminating Tenant's rights hereunder, or terminating this Lease and the Term (or Extended Term), and that there shall be no termination of the Lease and the Term (or Extended Term) unless expressly stated in writing by Landlord.

16.3 Landlord Default; Tenant Remedies. Except as otherwise provided in this Lease, Landlord shall be in default under this Lease if Landlord fails to perform any of its obligations hereunder and said failure continues for a period of thirty (30) days after written notice thereof from Tenant to Landlord (unless such failure cannot be cured within thirty (30) days and Landlord continues diligently to pursue the curing of the same). Upon any such default by Landlord under this Lease, Tenant may, except as otherwise specifically provided in this Lease to the contrary, exercise any of its rights provided at law or in equity.

17. Termination and Surrender.

17.1 Surrender of Possession. Ownership of and title to the Project and all other buildings, structures and other improvements now or hereafter constructed, installed or placed by Tenant upon the Lessee Land and all alterations thereto when constructed, installed or placed upon the Lessee Land in accordance with this Lease, shall be and remain in Tenant until the expiration or earlier termination of this Lease, at which time ownership of and title to same shall automatically vest in Landlord. Notwithstanding anything in this Lease to the contrary, Tenant alone shall be entitled, during the Term, to claim depreciation for all taxation purposes on the Project and any other buildings or improvements constructed on the Lessee Land. On the Expiration Date, Tenant shall surrender to Landlord possession of the Lessee Land and the Project and all improvements constructed and installed thereon, in good condition and repair (reasonable wear and tear, or damage or diminution due to casualty or condemnation which Tenant is not required to repair in accordance with the terms hereof excepted; conditions existing because of Tenant's failure to perform maintenance, repairs or replacements as required of Tenant under this Lease shall not be deemed "reasonable wear and tear"). Said improvements shall include the Project and all plumbing, lighting, electrical, communication, and data systems, heating, cooling and ventilating fixtures and equipment and other articles of personal property used in the operation of the Lessee Land (as distinguished from operations incident to the business of Tenant, such as Trade Fixtures, defined below). Tenant shall surrender to Landlord all keys and access codes to the Lessee Land and operating procedures for the Project. On the Expiration Date, the Project located on the Lessee Land shall become the absolute property of Landlord, and, upon Landlord's request, Tenant agrees to execute,

acknowledge and deliver to Landlord a proper instrument in writing, releasing and quitclaiming to Landlord all right, title and interest of Tenant in and to the Lessee Land and the Project thereon. Notwithstanding anything herein to the contrary, University may require that the Project be removed from the Lessee Land upon the expiration or earlier termination of this Lease, at Tenant's sole expense; provided that Tenant receives written notice from Landlord of the University's demand to do so on or before the date which is ninety (90) days prior to the expiration or earlier termination of this Lease. Should Landlord provide such a notice to Tenant, Tenant shall have a period of one-hundred twenty (120) days following the expiration or earlier termination of this Lease within which to demolish the Project, clear all debris therefrom, and leave the Lessee Land in a reasonably clean and safe condition. Provided that Tenant is diligently prosecuting such work to completion, the extension of such period of time beyond the expiration or earlier termination of this Lease shall not be deemed a holdover of the Lessee Land by Tenant under Section 18 below, and Tenant shall not be required to pay Rent during such period. The parties agree to coordinate all demolition, debris removal, disposal, access, staging, and other activities in a commercially reasonable manner to minimize noise, traffic, fumes, vibrations or other demolition related disruptions.

17.2 Removal of Tenant's Property. On or before the Expiration Date, Tenant shall remove Tenant's articles of personal property incident to Tenant's business (collectively, the "**Trade Fixtures**"); provided, however, that Tenant shall repair any injury or damage to the Lessee Land which may result from such removal and shall restore the Lessee Land to the same condition as prior to the installation thereof. If Tenant does not remove Tenant's Trade Fixtures from the Lessee Land prior to the Expiration Date or earlier termination of the Term, Landlord may, at its option, remove the same (and, if Landlord chooses, repair any damage occasioned thereby and restore the Lessee Land as aforesaid) and dispose thereof or deliver the same to any other place of business of Tenant, or warehouse the same, and Tenant shall pay the cost of such removal, repair, restoration, delivery or warehousing to Landlord on demand, or Landlord may treat said Trade Fixtures as having been conveyed to Landlord with this Lease as a bill of sale, without further payment or credit by Landlord to Tenant.

18. Holdover. Tenant shall have no right to occupy the Lessee Land or any portion thereof after the expiration of this Lease or after termination of this Lease or of Tenant's right to possession in consequence of an Event of Default hereunder. In the event Tenant or any party claiming by, through or under Tenant holds over, Landlord may exercise any and all remedies available to it at law or in equity to recover possession of the Lessee Land, and to recover damages, including without limitation, damages payable by Landlord to University by reason of such holdover. For each and every month or partial month that Tenant or any party claiming by, through or under Tenant remains in occupancy of all or any portion of the Lessee Land after the expiration of this Lease or after termination of this Lease or Tenant's right to possession, Tenant shall pay, as minimum damages and not as a penalty, monthly rental at a rate equal to 150% of the rate of Rent payable by Tenant hereunder immediately prior to the expiration or other termination of this Lease or of Tenant's right to possession. The acceptance by Landlord of any lesser sum shall be construed as payment on account and not in satisfaction of damages for such holding over.

19. General Provisions.

19.1 Survival of Provisions. All representations, warranties, and indemnities of Tenant under this Lease shall survive the expiration or sooner termination of this Lease for a period of a period of seven (7) years; provided, however, Tenant's representations, warranties and indemnities under Section 15, Environmental, shall survive the expiration or sooner termination of this Lease, without limitation.

19.2 No Waiver of Breach. No failure by either Landlord or Tenant to insist upon the strict performance by the other of any covenant, agreement, term or condition of this Lease, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No waiver of any breach shall affect or alter this Lease, but each and every covenant, condition, agreement and term of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach.

19.3 Notices. All notices, demands, consents, approvals, requests and other communications under this Lease shall be in writing and shall be either (a) delivered in person, (b) sent by certified mail, return receipt requested, (c) delivered by a recognized overnight delivery service, or (d) sent by electronic mail (i.e., email), and in each instance, addressed as follows:

To Landlord: Cherokee Farm Development Corporation  
2641 Osprey Vista Way  
Knoxville 37996-3849  
Attention: Tom Rogers, President  
Email: [tom@tnresearchpark.com](mailto:tom@tnresearchpark.com)

Copy to: Kennerly, Montgomery & Finley, P.C.  
550 Main Street, Suite 400  
Knoxville, Tennessee 37902  
Attention: William E. Mason, Esq.  
Email: [wemason@kmfpc.com](mailto:wemason@kmfpc.com)

To Tenant:

A notice, demand, consent, approval, request and other communication shall be deemed to be duly received: (a) if delivered in person or by a recognized delivery service, when left at the address of the recipient; (b) if sent by email, on the date it is sent; or (c) if sent by certified mail, return receipt requested, three (3) business days after the date on which such notice was deposited in the U.S. Mail. Either party may change its address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided in its paragraph.

Notwithstanding the foregoing, any communication sent by email shall be confirmed by a copy of the same being sent by one of the other methods permitted in this Section 19.3 contemporaneously with such email.

19.4 Gender. The use herein of any gender includes all others, and the singular number includes the plural and vice-versa, whenever the context so requires.

19.5 Captions. Captions in this Lease are inserted for convenience of reference only and do not define, describe or limit the scope or the intent of this Lease or any of the terms hereof.

19.6 Entire Agreement. This Lease contains the entire agreement between the parties regarding the subject matter hereof. Any oral or written representations, agreements, understandings and/or statements not expressly included in this Lease shall be of no force and effect.

19.7 Waiver; Amendment. No modification, waiver, amendment, discharge or change of this Lease shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, amendment, discharge or change is or may be sought. An amendment to this Lease shall not diminish the rights or increase the obligations of a Subtenant unless an amendment to the applicable Sublease is executed and delivered by such Subtenant.

19.8 Time. Time is of the essence of each obligation of each party hereunder.

19.9 Governing Law. This Lease shall be construed and enforced in accordance with the laws of the State of Tennessee.

19.10 Binding Effect. Subject to any provision of this Lease that may prohibit or curtail assignment of any rights hereunder, this Lease shall bind and inure to the benefit of the respective heirs, assigns, personal representatives, and successors of the parties hereto.

19.11 Execution of Other Instruments. Each party agrees that it shall, upon the other's request, take any and all steps, and execute, acknowledge and deliver to the other party any and all further instruments necessary or expedient to effectuate the purpose of this Lease.

19.12 Severability. If any term, provision, covenant or condition of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

19.13 Counterparts. This Lease may be executed in one or more counterparts, each of which shall be deemed an original and when taken together will constitute one instrument.

19.14 Estoppel Certificate. Either party shall execute, acknowledge and deliver to the other party, and to any Leasehold Mortgagee, and Landlord shall submit to University and UTRF on behalf of Tenant or any Leasehold Mortgagee, within fifteen (15) days after request by the other party or any Leasehold Mortgagee (each a "Requesting Party") a statement in writing certifying, if such is the case, that this Lease is unmodified and in full force and effect

(or if there have been modifications, that the same is in full force and effect as modified); the Effective Date of this Lease; the dates for which the Rent and other charges have been paid; any alleged Events of Default by and claims against the other party; and providing such other information as shall be reasonably requested; provided, that the form to be provided by Landlord upon the request of a Requesting Party shall be in substantially the same form attached hereto as **Exhibit H** and shall be submitted to Landlord by Requesting Party in completed draft form with Requesting Party's request. Requesting Party's request shall also be accompanied by Requesting Party's warranty and representation that the completed draft form is true and correct to the best of Requesting Party's knowledge and belief. If the submitted draft form is complete and correct, and if Landlord fails to provide the executed estoppel certificate in that form within such 15-day period, then following seven (7) days' notice to Landlord the matters set forth in the Requesting Party's completed draft form shall be deemed admitted by Landlord, and Requesting Party and those other addressees thereof shall be entitled to rely upon the same without further notice to or action by Landlord.

Should a form of an estoppel certificate be submitted to Landlord which contains different provisions than those set forth on the attached hereto as **Exhibit H**, or if the form submitted by Requesting Party is not complete or correct, Landlord shall nonetheless use commercially reasonable efforts to complete, correct (if any statements are incorrect in the form submitted), execute, and return it within such 15-day period.

19.15 **Memorandum of Lease.** Neither Landlord nor Tenant shall record an original or a copy of this Lease. At the request of either party, the other agrees to execute and acknowledge a memorandum of lease in a form substantially similar to the one previously entered into by Cherokee Farm Properties, Inc. dated March 15, 2016 and recorded as Instrument No. 201603150053291 in the Register's Office for Knox County, Tennessee.

19.16 **Limitation of Liability.** No officer, director, shareholder, partner, employee or principal of Landlord shall have any personal liability with respect to any of the provisions of this Lease. Likewise, no officer, director, shareholder, partner, employee or principal of Tenant have any personal liability with respect to any of the provisions of this Lease.

19.17 **Rules.** Tenant agrees to comply with all rules and regulations that University or Landlord has made or may hereafter from time to time make for the Research Park; provided, however, any change or modification of such rules and regulations after the date of this Lease shall not materially and adversely affect the use of the Premises by Tenant or its Subtenants. Landlord, UTRF and University shall not be liable in any way for damage caused by the non-observance by any of the other tenants of such similar covenants in their leases or of such rules and regulations. Landlord represents and warrants that, as of the Effective Date, that, other than the posted signs and the CAM Policy, there are no rules and regulations in effect for the Research Park.

19.18 **Force Majeure.** Neither Landlord nor Tenant shall be deemed in default with respect to any of the terms, covenants and conditions of this Lease on such party's part to be performed, if such party's failure to timely perform same is due in whole or in part to any strike, lockout, labor trouble (whether legal or illegal), civil disorder, failure of power, epidemic,

pandemic, restrictive governmental laws and regulations, riots, insurrections, war, shortages, accidents, casualties, acts of God, acts caused directly by the other party or its agents, employees and invitees or any other cause beyond the reasonable control of such party (each a “**Force Majeure**”). Notwithstanding the foregoing, however, Force Majeure shall not excuse or delay the payment of any monetary obligation under this Lease.

19.19 Brokerage. Each party represents to the other that it has had no dealings with any broker or agent in connection with this Lease, and each party covenants to pay, hold harmless and indemnify the other party from and against any and all costs (including reasonable attorneys’ fees), expense or liability for any compensation, commissions and charges claimed by any other broker or other agent with respect to this Lease or the negotiation thereof on behalf of such party.

19.20 Confidentiality. Except as required by Tennessee law and state and The University of Tennessee policies, each party agrees to treat as confidential the existence of this Lease and a possible transaction between the parties and all information, whether written or oral, that has been, is, or may be furnished in connection with the transaction (the “**Confidential Information**”), since any unauthorized disclosure of Confidential Information could have a material adverse impact on Landlord’s business, Tenant’s business or a potential Subtenant’s business. If, for any reason, the transaction is not consummated, each recipient party agrees to return all Confidential Information furnished by the disclosing party, its agents, employees and/or representatives and any copies thereof. Each party agrees to use the Confidential Information solely for the purposes of evaluating and consummating the transaction contemplated thereby, and for no other purpose whatsoever. It is hereby agreed that a recipient party may share the Confidential Information with its accountants, attorneys and business consultants. This section shall survive the Term (or Extended Term) or earlier termination of this Lease. Any announcement or other public statement regarding any of the matters contained herein shall be subject to the approval of both parties.

Notwithstanding the foregoing provisions of this Section 19.20, Tenant shall be entitled to disclose this Lease and such other information and documents related thereto and/or the Premises to any potential lender, subtenant, or assignee, and the agents and representatives of each of them, so long as such parties agree to faithfully observe and comply with all the confidentiality provisions set forth herein. Likewise, Landlord shall be entitled to disclose this Lease and such other information and documents related thereto and/or the Premises to any potential purchaser, lender, or assignee, and the agents and representatives of each of them, so long as such parties agree to faithfully observe and comply with all the confidentiality provisions set forth herein.

19.21 Quiet Enjoyment. Landlord warrants and covenants that it is lawfully seized and possessed of leasehold title to the Lessee Land, has full power, right, title and authority to execute and deliver this Lease, and that the Lessee Land is not subject to any default in title or other encumbrance that would adversely affect Tenant’s use and occupancy of the Lessee Land for the purposes permitted under this Lease. Landlord agrees that, if the Rent is being paid in the manner and at the time prescribed and the covenants and obligations of Tenant are being all and singularly kept, fulfilled and performed, Tenant shall lawfully and peaceably have, hold,

possess, use and occupy and enjoy the Lessee Land so long as this Lease remains in force, without hindrance, disturbance or molestation from Landlord, or those claiming by, through or under Landlord, subject to the specific provisions of this Lease.

19.22 Standards of Consent. Where any provision of this Lease requires the consent or approval of Landlord or Tenant, Landlord or Tenant shall: (a) not unreasonably withhold, condition, or delay such consent or approval, except as otherwise expressly provided in this Lease (such as by words to the effect of “sole” and/or “complete” discretion, in which event the consent or approval may be granted or withheld in such party’s sole and absolute discretion); and (b) in the event any consent or approval is withheld, the reasons for such withholding shall be given in writing. Tenant acknowledges and agrees that this agreement applies only to Landlord and Tenant and is not binding on the University or UTRF where any provision of this Lease requires the consent or approval of the University or UTRF. In such instance, Landlord will use its best efforts: to cause the University and/or UTRF, as applicable, to respond within thirty (30) days of Landlord’s receipt of a fully-documented request from Tenant; and to review and advise Tenant of any required or needed information missing from such request within fourteen (14) days of receipt of such request. Whenever it is stated in this Lease that the consent or approval of Landlord is required, such consent or approval may be executed by the President of Landlord (or authorized designee); provided, however, that this provision is not intended to release or limit in any way such President’s internal responsibility to consult, co-ordinate, or seek authorization from the governing board of Landlord, UTRF and/or University where such President deems it appropriate or required.

## 20. Condemnation.

20.1 Total Taking. Any taking during the Term of this Lease of any interest in the Lessee Land as a result of the actual exercise of the power of condemnation or eminent domain by the United States, State of Tennessee or any other body having such power (“**Condemning Authority**”), or any sale or other transfer of any such interest in lieu of or in anticipation of the impending exercise of any such power, to any Condemning Authority, shall for the purposes of this Lease be referred to as a “**Taking**.” In the case of a Taking of the entire Lessee Land, this Lease shall automatically terminate on the date that title to the Lessee Land vests in the Condemning Authority. In case of a Taking of (i) such a perpetual easement on the entire Lessee Land, or (ii) such a substantial part of the Lessee Land, as shall result, in the commercially reasonable determination of Tenant as exhibited in writing to Landlord, in the Lessee Land remaining after such Taking, even if restoration were made, being unsuitable for the use contemplated for the Lessee Land in this Lease, Tenant may, at its option, terminate this Lease by written notice to Landlord given within sixty (60) days after the Taking, with termination to be effective as of the date specified in the notice, but in all events within ninety (90) days after the Taking. Any Taking of the Lessee Land of the character referred to in this Section 20.1, which results in the termination of this Lease, is referred to as a “**Total Taking**.” Upon termination of this Lease due to a Total Taking, the Rent due hereunder shall be apportioned and paid to the date of such termination, with any Rent paid for any period after such termination being refunded to Tenant.

20.2 Partial Taking. In case of a Taking of the Lessee Land other than a Total Taking (a “**Partial Taking**”): (i) this Lease shall remain in full force and effect as to the portion of the

Lessee Land remaining immediately after such Partial Taking, except that the Rent otherwise payable throughout the remainder of the Term of this Lease shall be reduced by the percentage which the value of the portion of the Lessee Land taken (taking account of any restoration or repair) is to the value of the Lessee Land immediately prior to such Partial Taking and (ii) Tenant, to the extent but only to the extent awards or payments, if any, on account of such Partial Taking shall be sufficient for the purpose, at its expense, will promptly commence and complete, subject to Force Majeure, restoration of the Lessee Land as nearly as possible to its value, condition and character immediately prior to the Partial Taking. Landlord and Tenant shall negotiate in good faith with respect to such Rent adjustment. In the event Landlord and Tenant cannot agree on the appropriate adjustment to be made to rent, the rent adjustment shall be determined by an appraiser or appraisers selected by the parties.

20.3 Awards. Awards and payments received on account of a Partial Taking shall be held and applied to pay Construction Related Debt (as defined below) as may be required by a Leasehold Mortgagee. Any condemnation proceeds not required to be used to pay Construction Related Debt shall be held and applied to pay the cost of restoration of the Lessee Land and all affected buildings and improvements existing on the Lessee Land as of the date of the Partial Taking. Any condemnation proceeds remaining after any required payment of the Construction Related Debt, if required, and all costs and expenses of restoration have been paid in full shall be distributed to Landlord and Tenant (or as to Tenant's interest only any Leasehold Mortgagee) based upon the percentage value that each of Landlord and Tenant's respective interests in the Lessee Land bears to the total value of all ownership interests in the Lessee Land. Tenant hereby authorizes and directs the payment of all amounts payable to Tenant pursuant to this Section 20.3 directly to any Leasehold Mortgagee for application on the indebtedness secured by the Leasehold Mortgage encumbering the Lessee Land at the time. Awards and payments received on account of a Total Taking shall be allocated as follows: First, to Tenant in an amount equal to the sum of any unpaid principal and any accrued interest (not including principal or interest that is overdue as of the date of Taking), each calculated as of the date such condemnation proceeds are received, on any promissory note of Tenant secured by a Leasehold Mortgage the proceeds of which were utilized by Tenant to construct the Project, or any refinancing of any such promissory note ("**Construction Related Debt**"). Any remaining condemnation proceeds after satisfaction of the indebtedness shall be allocated among Landlord and Tenant with the amount of condemnation proceeds to be distributed to each party determined by multiplying the total amount of condemnation proceeds available for distribution to Landlord and Tenant by a fraction, the numerator of which shall be the value of the interest of Landlord or Tenant, as the case may be, and the denominator of which shall be the aggregate of all values of the interests of Landlord and Tenant. Tenant hereby authorizes and directs the payment of all amounts payable to Tenant directly to any Leasehold Mortgagee holding a Leasehold Mortgage encumbering the Lessee Land at the time remaining unsatisfied after payment of any Construction Related Debt; provided, however, in all events, the amount paid to or on behalf of Tenant pursuant hereto shall be considered as proceeds paid to Tenant for its interest in the Project and the Lessee Land.

20.4 Allocation of Award. For purposes of the allocations provided for in Section 20.3, the value of Tenant's interest in the Lessee Land and all improvements thereon immediately prior to a Taking shall mean the then value of its leasehold estate in the Lessee Land and fee interest in the Project and other improvements. Landlord's interest shall be deemed to include



the interests of UTRF and University. The value of Landlord's interest in the Lessee Land and improvements immediately prior to a Taking shall be deemed to mean the then value of its fee interest in the Lessee Land (including its interest as Landlord hereunder) and its reversionary interest in the Project and other improvements as of the date of Taking. The values shall be those determined in the condemnation proceeding or, if no separate determination of the respective values of Landlord and Tenant is made in such proceeding, those determined by agreement between Landlord and Tenant. If such agreement cannot be reached, the values shall be determined by an appraiser or appraisers selected by the parties. If separate awards are given, Landlord and Tenant may retain such separate award made to each of them.

## 21. Dispute Resolution Procedures.

21.1 Intent. It is intended by the parties to resolve all disputes or other matters in question arising out of or relating to the interpretation, application, performance or breach of any term, covenant or condition of this Lease through reasonable business-like negotiations without resort to litigation, if possible. If a dispute should arise regarding the obligations of Landlord or Tenant pursuant to this Lease, the parties shall attempt to resolve the dispute in accordance with the provisions of this Section 21 (collectively, the "**Dispute Resolution Procedures**") prior to or during the pendency of any litigation. Neither Landlord nor Tenant shall cease or delay performance of its obligations under this Lease during the existence of any dispute, and each party shall pay to the other all amounts owing and not subject to dispute or offset. The parties acknowledge that University and any agreements that bind University are subject to the Tennessee Claims Commission Act.

21.2 Resolution Procedure. Landlord and Tenant shall attempt to resolve any disputes in accordance with the following procedures:

(a) Special Meeting. Tenant or Landlord may call a special meeting for the resolution of disputes. The meeting shall be held within fifteen (15) business days after a written request for the meeting, which request shall specify the nature of the dispute to be resolved. The meeting shall be attended by representatives of Tenant and Landlord. Such representatives shall have authority from their respective principals to resolve the dispute and, in the event that they are an attorney actively practicing law or are going to be accompanied by an attorney actively practicing law, then that representative shall give the other party not less than ten (10) business days' prior notice of such fact so that both parties may be accompanied by counsel.

(b) Mediation. If the dispute has not been resolved within fifteen (15) business days after the special meeting has occurred, any party thereto may, at its option, initiate a mediation proceeding which shall be attended by all parties to the dispute and which, unless all parties to such proposed mediation proceeding agree otherwise, shall be conducted by an independent mediator agreed to by the parties; if the parties cannot agree, the University President shall appoint the mediator. The costs of the mediation shall be shared equally by all the parties to such mediation.

(c) Settlement. If, as a result of the mediation, a voluntary settlement is reached and the parties agree that such settlement shall be reduced to writing, the

mediator shall hereby be deemed appointed and constituted an arbitrator for the sole purpose of signing the mediation agreement. Such agreement shall have the same force and effect as an arbitration award and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

(d) Evidentiary Rules. The proceedings under this Section 21 shall be subject to the applicable evidence rules and code of the State of Tennessee. Further, the parties agree that evidence of anything said or presented, or of any admission made during or in the course of the special meeting or mediation shall not be admissible in evidence or subject to discovery, and disclosure of such evidence shall not be compelled, in any arbitration, court action or proceeding. All communications, negotiations, or settlement discussions by and between participants or mediators in the mediation shall remain confidential. This provision shall not limit the discoverability or admissibility of evidence if all parties who conducted or otherwise participated in the mediation consent to its disclosure. The parties expressly agree that the presentation of evidence from any expert or consultant shall not waive any attorney-client or other privilege or exclusionary rule a party may later seek to assert in another proceeding.

21.3 Limitations. The Dispute Resolution Procedures shall not in any way affect any statutes of limitation or statutes of repose relating to any claim, dispute or other matter or question arising out of or relating to this Lease or the breach thereof. These Dispute Resolution Procedures may be conducted before or during the pendency of any other legal proceedings.

22 Request for Proposal. The Request for Proposal dated January 7, 2024 (“RFP”) and the responses to RFP submitted by Tenant, attached as Exhibit K and Exhibit L respectively, are incorporated by reference into this Lease. Where there is a conflict between the terms of this Lease and the RFP, the terms of this Lease shall govern. Where there is a conflict between the terms of this Lease and/or RFP and the terms of the response to the RFP, the terms of this Lease and the RFP shall govern.

**[Signatures appear on the following page]**

**IN WITNESS WHEREOF**, this Lease has been executed by the parties through their duly authorized undersigned representatives to be effective as of the Effective Date.

**LANDLORD:**

**CHEROKEE FARM DEVELOPMENT CORPORATION,**  
a Tennessee non-profit public benefit corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**TENANT:**

**LESSEE,**  
a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Schedule 1**

**Base Rent Schedule  
and Related Provisions**

**SEE ATTACHED RENT SCHEDULE**

## EXHIBIT A

### DESCRIPTION OF THE LAND

**SITUATED** in the Ninth (9th) Civil District of Knox County, lying within the corporate limits of the City of Knoxville, Tennessee, within Ward 25, City Block 24806, and being known as the **University of Tennessee, Knoxville Cherokee Farm Tract**, under the ownership of the University of Tennessee (D.B. 285, Pg. 397), and being further described as follows:

**BEGIN** at a point located at the most northeastern corner of said property, being located approximately 2576 feet, more or less, from the intersection of Alcoa Highway and Kingston Pike, said point being located at the intersection of the western right-of-way line for Alcoa Hwy (U.S. Hwy 129) and the approximate low water mark of the Tennessee River (as taken from TVA Land Acquisition Map #421 K45, dated March 1942), marking the

**POINT OF BEGINNING** for the **University of Tennessee, Knoxville, Cherokee Farm Tract** (Tennessee State Grid Coordinates (NAD83) of

Northing 593623.6554, Easting 2576110.2710); thence running with the western right-of-way line of Alcoa Hwy/U.S. Hwy. 129, the following eighteen (18) calls:

South 40 deg. 16 min. 23 sec. West a distance of 54.04 feet to a point in the approximate 822 contour (by TVA datum NGVD29), said contour being the Flowage Easement for the Fort Loudon Reservoir, as set out by the Tennessee Valley Authority, and being shown on TVA Land Acquisition Map #421 K45, dated March 1942; thence continuing with the right-of-way line for Alcoa Highway,

South 40 deg. 16 min. 23 sec. West a distance of 20.15 feet to a highway monument;  
thence

South 40 deg. 16 min. 23 sec. West a distance of 380.05 feet to a highway monument;  
thence

South 33 deg. 40 min. 11 sec. West a distance of 373.75 feet to an iron pin; thence

South 22 deg. 37 min. 10 sec. West a distance of 323.95 feet to an iron pin; thence

South 14 deg. 47 min. 33 sec. West a distance of 322.35 feet to a highway monument;  
thence

South 00 deg. 00 min. 58 sec. East a distance of 265.83 feet to a highway monument;  
thence

South 05 deg. 25 min. 43 sec. East a distance of 676.42 feet to a highway monument;  
thence

South 16 deg. 45 min. 08 sec. West a distance of 395.83 feet to a highway monument;  
thence

South 48 deg. 47 min. 24 sec. West a distance of 446.82 feet to a highway monument;  
thence

South 18 deg. 11 min. 13 sec. West a distance of 163.48 feet to a highway monument;  
thence

South 13 deg. 38 min. 48 sec. East a distance of 351.78 feet to a highway monument;

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thence

South 37 deg. 53 min. 27 sec. East a distance of 215.33 feet to a highway monument;

thence

South 77 deg. 17 min. 36 sec. East a distance of 222.51 feet to a highway monument;

thence

North 82 deg. 42 min. 54 sec. East a distance of 174.88 feet to a highway monument;

thence

South 52 deg. 01 min. 10 sec. East a distance of 92.23 feet to a highway monument;

thence

South 07 deg. 01 min. 10 sec. East a distance of 657.50 feet to a point; thence

With a curve to the right, having a radius of 2864.79 feet, an arc length of 232.50 feet, a chord bearing of South 04 deg. 41 min. 40 sec. East, and a chord distance of 232.44 feet;

thence leaving the western right-of-way line of Alcoa Hwy/U.S. Hwy. 129, and running with the line of property owned by Knox County (Deed Book 905, Page 229), the

following two (2) calls:

South 81 deg. 46 min. 00 sec. West a distance of 442.73 feet to a point in the approximate 822 contour (by TVA datum NGVD29); thence

South 81 deg. 46 min. 00 sec. West a distance of 614.65 feet to a point at the approximate low water mark off the south bank of the Tennessee River as taken from TVA Land Acquisition Map #421 K45, dated March 1942; thence running with the approximate low water mark of the Tennessee River as taken from said map, the following thirty-one (31) calls:

North 34 deg. 49 min. 17 sec. West, 124.81 feet to a point; thence

North 24 deg. 42 min. 06 sec. West, 671.24 feet to a point; thence

North 27 deg. 53 min. 35 sec. West, 389.99 feet to a point; thence

North 26 deg. 48 min. 31 sec. West, 472.78 feet to a point; thence

North 23 deg. 12 min. 47 sec. West, 446.14 feet to a point; thence

North 20 deg. 19 min. 34 sec. West, 333.56 feet to a point; thence

North 21 deg. 35 min. 07 sec. West, 534.62 feet to a point; thence

North 15 deg. 58 min. 13 sec. West, 219.29 feet to a point; thence

North 00 deg. 00 min. 00 sec. East, 701.64 feet to a point; thence

North 03 deg. 10 min. 27 sec. East, 229.70 feet to a point; thence

North 08 deg. 31 min. 34 sec. East, 283.82 feet to a point; thence

North 17 deg. 39 min. 53 sec. East, 208.51 feet to a point; thence

North 25 deg. 08 min. 08 sec. East, 293.77 feet to a point; thence

North 28 deg. 50 min. 29 sec. East, 155.18 feet to a point; thence

North 34 deg. 46 min. 32 sec. East, 166.87 feet to a point; thence

North 49 deg. 47 min. 46 sec. East, 279.57 feet to a point; thence

North 55 deg. 19 min. 37 sec. East, 162.62 feet to a point; thence

North 63 deg. 22 min. 37 sec. East, 142.10 feet to a point; thence

North 65 deg. 29 min. 02 sec. East, 116.84 feet to a point; thence

North 82 deg. 07 min. 07 sec. East, 71.17 feet to a point; thence

South 83 deg. 04 min. 34 sec. East, 90.28 feet to a point; thence

North 86 deg. 18 min. 04 sec. East, 125.04 feet to a point; thence

South 87 deg. 38 min. 33 sec. East, 96.15 feet to a point; thence

South 76 deg. 24 min. 13 sec. East, 315.37 feet to a point; thence

South 72 deg. 38 min. 28 sec. East, 165.99 feet to a point; thence  
South 70 deg. 33 min. 35 sec. East, 200.87 feet to a point; thence  
South 66 deg. 33 min. 12 sec. East, 209.44 feet to a point; thence  
South 62 deg. 05 min. 16 sec. East, 200.21 feet to a point; thence  
South 57 deg. 24 min. 27 sec. East, 123.34 feet to a point; thence  
South 55 deg. 56 min. 14 sec. East, 179.60 feet to a point; thence  
South 52 deg. 33 min. 24 sec. East, 74.51 feet to a point, marking the  
**POINT OF BEGINNING** and containing 200.87 acres, more or less, as shown on a  
survey by VISION Engineering and Development Services, Aaron N. Sams, RLS,  
License No. 2479, dated July 8, 2010, being revised by Donna A. Cantrell, RLS, License  
No. 2829, dated August 21, 2012, and bearing drawing number 80113 easementsh01.dgn.

**EXHIBIT B-1**

**DESCRIPTION OF THE LESSEE LAND**



## **EXHIBIT B-2**

### **EASEMENTS**

1. Deed of Easement dated May 4, 2011 and recorded as Instrument No. 201105110065555 in the Register's Office for Knox County, Tennessee.
2. Declaration of Access and Utilities Easement dated November 30, 2015 and recorded as Instrument No. 201512010033153 in the Register's Office for Knox County, Tennessee.
3. All easements, rights and privileges shown and/or noted on that subdivision plat entitled "Final Plat of UT Cherokee Farm Phase 1 and Future Development Area" recorded as Instrument No. 201512110035341 in the Register's Office for Knox County, Tennessee, and all amendments and supplements thereto.
4. **[TBD- Update and add easements of record reflected by title examination through Effective Date at time Lease is executed]**

## EXHIBIT C

### PROJECT CONSTRUCTION REQUIREMENTS

1. Initial Requirements. Tenant's proposed architect/engineer, construction contractor, and mechanical, electric and plumbing subcontractors are subject to Landlord's prior approval, which approval shall not be unreasonably withheld or delayed. Promptly following the selection and approval of the contractor/architect/engineer, Tenant shall forward to said contractor/architect/engineer (and copy Landlord on the transmittal) a copy of the Development Standards, and Tenant shall cause said contractor/architect/engineer to comply with said Development Standards.

2. Plans for Project.

a. Development Standards Approvals. Tenant shall present plans and construction drawings for the Project (collectively, the "**Plans**") to the Cherokee Farm Project Review Committee for approval, in accordance with the requirements set forth in the Development Standards. Upon approval of the Plans by the Committee, Landlord will obtain an estoppel or written other confirmation from the Committee evidencing the Committee's approval of the Plans.

b. Governmental Approvals. Once the Plans are approved by the Cherokee Farm Project Review Committee (such Plans, as approved, being called the "**Initial Approved Plans**"), Tenant shall present the Initial Approved Plans, for approval, to all governmental agencies having jurisdiction over the Project and whose approval is required. Prosecution of plan approval shall be Tenant's obligation, though all governmentally requested modifications shall be subject to Tenant's and Landlord's approval (and approval of the Cherokee Farm Project Review Committee). The Initial Approved Plans as approved and stamped by such governmental agencies, to the extent required, shall be referred to as the "**Tenant Final Approved Plans.**" Landlord covenants and agrees that it will cooperate with Tenant and use its reasonable best efforts, when necessary or required of Landlord, to enable and assist Tenant to obtain the governmental approvals.

c. Failure of Plans Approval. Notwithstanding anything herein to the contrary, if Tenant has prepared Tenant's Initial Approved Plans in accordance with the above and has diligently pursued, but been unable to obtain, all necessary governmental approvals for the Project, as the case may be, within three hundred sixty five (365) days after the Effective Date, then either Landlord or Tenant may terminate this Lease upon written notice to the other, in which case neither party shall have any further liability or obligation to the other.

3. Construction of Project. Prior to commencing the construction of the Project, Tenant shall deliver to Landlord (a) evidence of insurance, as required herein, which insurance shall be maintained throughout the construction of the Project, and (b) a Project schedule in detail reasonably satisfactory to Landlord. Throughout the construction of the Project, Tenant shall notify Landlord promptly of any material deviations from such Project schedule. Tenant or its contractor shall construct the Project in a good, first-class and workmanlike manner and in accordance with the Tenant Final Approved Plans and all applicable governmental regulations.

Upon reasonable advance notice (except in the case of an emergency), Landlord shall have the right, from time to time throughout the construction process and subject to all necessary safety restrictions, to enter upon the Lessee Land during normal business hours, to perform periodic inspections of the Project to ensure that work is being performed and is completed in accordance with the Tenant Final Approved Plans and this Lease. Tenant shall have the right to have a representative present during such inspection. Landlord shall provide Tenant, and Tenant agrees to respond to and address promptly, any reasonable concerns raised by Landlord during or as a result of such inspections. Landlord hereby grants to Tenant, for itself and for the use of its architects, engineers, contractors, subcontractors, agents and employees, a temporary license which shall be effective during the period of any construction of the Project, to enter, from time to time, on reasonable advance notice to Landlord, upon the Master Leased Premises (other than portions of the Master Leased Premises occupied by other tenants) for the purpose of engaging in necessary activities connected with the planning and performance by Tenant of any construction of the Project. Such entry and activities shall be conducted in compliance with all necessary safety restrictions and in such a manner as to minimize any inconvenience or disruption to other tenants of the Research Park.

4. Punch list. Upon substantial completion of the Project, Tenant's architect and Tenant together shall inspect the Lessee Land. Tenant's architect shall generate a punch list of defective or uncompleted items relating to the completion of construction of the Project, which list shall, notwithstanding anything contained in the Lease, be conclusive. Notwithstanding the foregoing, Tenant shall deliver a copy of such punch list to Landlord no later than five (5) business days following its receipt thereof from its architect. Landlord may thereupon inspect the Project, and Landlord shall thereafter, but in no event later than five (5) business days of its receipt of such punch list from Tenant, make written suggestions to Tenant regarding any additional defects, omissions or other items that Landlord believes have not been constructed or furnished in conformance with the Tenant Final Approved Plans based on such punch list. Tenant shall provide such items to its architect for review and consideration. Tenant shall complete all incomplete work and remedy any defective work set forth on the punch list, as may be supplemented by Tenant's architect upon receipt of Landlord's suggestions, within a reasonable time.

5. Completion of Project; Certificate of Occupancy. For purposes of this Lease, the Project shall be deemed "**completed**" once the Project has been substantially completed in accordance with the Tenant Final Approved Plans as evidenced by the issuance of a Certificate of Substantial Completion by Tenant's architect, which recognizes Landlord's reliance thereon, and (ii) if required by applicable law, Tenant has received a certificate of occupancy (or its local equivalent) for the Project from the applicable governmental authority for the full use and occupancy of the Project by Tenant for the uses stated in Section 6.1, subject only to Tenant's installation of any furniture, Trade Fixtures or equipment. Landlord acknowledges and agrees that Tenant shall have the right to begin to conduct its business at the Lessee Land once the Project has been determined to be substantially completed by Tenant's architect and all necessary permits to occupy and use the Project for its intended purposes have been obtained from all applicable governmental authorities, if any, notwithstanding that punch list items and details of construction may remain to be completed.

**EXHIBIT D**

**FORM OF NDA FOR TENANT**

**[To be attached]**

**EXHIBIT E**

[INTENTIONALLY LEFT BLANK]

**EXHIBIT F**

**RECOGNITION, CONSENT, NON-DISTURBANCE, ESTOPPEL AND ATTORNMENT  
AGREEMENT**

**[To be attached]**

**EXHIBIT H**

FORM OF ESTOPPEL CERTIFICATE FOR LANDLORD  
(FOR CURRENT AND POTENTIAL SUBTENANTS)

**EXHIBIT I**  
MAINTENANCE SCHEDULE



**EXHIBIT J**  
REPLACEMENT AND RENEWAL SCHEDULE

**EXHIBIT K**  
REQUEST FOR PROPOSALS (“RFP”)

**EXHIBIT L**  
TENANT'S RESPONSE TO RFP