

**Lee County Board Of County Commissioners**  
**Agenda Item Summary**

**Blue Sheet No. 20051277**

**1. ACTION REQUESTED/PURPOSE:**

Approve First Amendment to lease with Roefscsco, Ft. Myers, LLC, a Nevada limited Liability Company, for the addition of 1,568 square feet of space in Suite 400 at the facility located at 2201 Second Street in downtown Ft. Myers. All terms and conditions of the current lease will remain in place with this addition of space except that the monthly rent amount will change from \$5,924.53 to \$8,330.56 or \$99,966.72 per year. This suite is being occupied by Court Administration. Lease terminates in April of 2008.

**2. WHAT ACTION ACCOMPLISHES:** Allows Court Administration to annex the vacant 1,568 square feet of space contiguous to their current space for needed office space.

**3. MANAGEMENT RECOMMENDATION:** Approve.

**4. Departmental Category:** 2 C2C

**5. Meeting Date:** 09-20-2005

**6. Agenda:**

☒ **Consent**  
**Administrative**  
**Appeals**  
**Public**  
**Walk-On**

**7. Requirement/Purpose: (specify)**

**Statute**  
**Ordinance**  
☒ **Admin. Code** AC-4-1  
**Other**

**8. Request Initiated:**

**Commissioner**  
**Department** Construction & Design  
**Division** Facilities Management  
**By:** Richard Beck, Director

**9. Background:**

Court Administration has occupied Suite 400 in the Wachovia Bank building, 2201 Second Street, Ft. Myers, since 1998. Their suite consisted of 3,861 square feet of space. Early this year, Court Administration approached Facilities Management about leasing space for several offices in that building. Since the 1,568 square feet of space contiguous to their current space was available, Facilities negotiated with the owner to annex it to give them the extra area for offices. The offices that will be moved there will alleviate some overcrowding in their area in the Justice Center until renovations to that area are done.

**FUNDING FOR THE ADDITIONAL SPACE WILL BE HANDLED AS A TRANSFER OF DOLLARS FROM THE COURT ADMINISTRATION BUDGET TO THEIR COURT ADMINISTRATION SUPPORT BUDGET. FUNDING WILL THEN BE AVAILABLE IN THE FOLLOWING ACCOUNT STRING:**

**EB6050100100.504410**

**Court Services/Court Administration Support Budget/General Fund/Building Rental**

**Attachments:** Current Lease Agreement  
4 copies of First Amendment to Lease Agreement

**10. Review for Scheduling:**

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
<u>9/20/05</u>	<u>N/A</u>			<u>9/17/05</u>	Analyst	Risk	Grants	Mgr.	<u>9/20/05</u>

**11. Commission Action:**

☐ **Approved**  
☐ **Deferred**  
☐ **Denied**  
☐ **Other**

RECEIVED BY
COUNTY ADMIN.
<u>9/20/05</u>
<u>3:25</u>
COUNTY ADMIN
FORWARDED TO:
<u>9/20/05</u>
<u>Don</u>

RECVD. 9/20/05
by CO. ATTY.
<u>2:15 PM</u>
CO. ATTY.
FORWARDED TO:
<u>Co. mgr.</u>
<u>9-20-05</u>

**FIRST AMENDMENT TO LEASE AGREEMENT  
BETWEEN LEE COUNTY AND ROEFSCO, FT. MYERS, LLC**

This Amendment to that certain Lease Agreement entered into by the parties, hereto, is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2005, by and between ROEFSCO, FT. MYERS, LLC, a Nevada limited liability company, hereinafter referred to as "Lessor" and LEE COUNTY, a political subdivision and Charter County of the State of Florida, acting by and through its Board of County Commissioners, hereinafter referred to as "Lessee"

**WITNESSETH:**

**WHEREAS**, the Lease Agreement was previously entered into on April 6, 1998 for approximately 3,861 square feet of space in the facility located at 2201 Second Street in Fort Myers, Florida; and

**WHEREAS**, the Lessee desires to occupy the remaining approximate 1,568 rentable square feet of space in Suite 400 which will entitle Lessee to one (1) addition unreserved parking space at the surface parking lot adjacent to the Building in which the Premises is located or at the surface parking lot located at the corner of Broadway and Peck Streets; and

**WHEREAS**, the parties now desire to amend the Lease Agreement as hereinafter set forth.

**NOW, THEREFORE**, in consideration of the foregoing, and of the mutual covenants and conditions hereinafter set forth, the Lessor and Lessee, intending to be legally bound, hereby agree to this First Amendment to the Lease Agreement, as follows:

1. The recitals as set forth above are hereby incorporated into the terms of the original agreement.
2. **Section 1.01 – Premises:** The following paragraph replaces Section 1.01:

Lessor hereby leases to Lessee and Lessee hereby leases from Lessor those certain offices consisting of 5,429 rentable square

feet, situated on the 4<sup>th</sup> Floor, Suite 400 (the “**Premises**”). The Premises are located within a six (6) story office building consisting of 65,239 rentable square feet and located at 2201 2<sup>nd</sup> Street, Ft. Myers, Lee County, Florida (the “**Building**”). The Premises are shown on Exhibit “A” incorporated herein by reference.

3. **SECTION 28.01 – PARKING:** The following paragraph replaces Section 28.01:

The parking area is restricted to a maximum of seven (7) unreserved parking spaces. This parking is provided in common with other tenants of the Project on the surface parking lot adjacent to the Building or the remote parking lot located at the southwest corner of Broadway Street and Peck Street. The Lessee’s use of parking spaces through its employees, agents and visitors shall not exceed this restriction. Any violation hereof shall, at the option of the Lessor, constitute a default under the terms of this Lease.

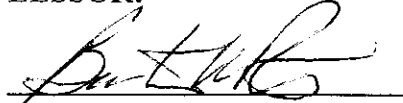
4. All other terms and conditions of the Lease not amended hereby are in full force and effect and binding upon the parties thereto, except that, upon commencement of this First Amendment to the Lease Agreement, the base rental cost will increase from five thousand nine hundred twenty- four dollars and fifty-three cents (\$5,924.53) per month to eight thousand three hundred thirty dollars and fifty-six cents (\$8,330.56) per month. The anniversary dates and incremental increases shall be based on the amount of Rentable Square feet of the newly measured Premises.
5. This Amended Lease Agreement shall become effective upon its execution by the Parties. This Amendment, and any subsequent Amendments thereto, shall be filed with the Clerk of the Circuit Court for Lee County.

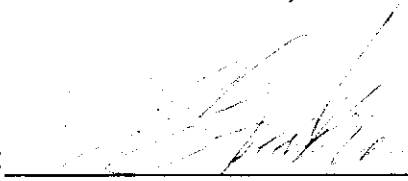
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**IN WITNESS WHEREOF**, the Parties have executed this First Amendment to the Lease Agreement as of the day and year first written above.

**LESSOR:**

**ROEFSCO FT. MYERS, LLC**

  
Witness

BY:   
Emanuel Fialkow

  
Witness

**LESSEE:**

**BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA**

BY: \_\_\_\_\_  
Chairman

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Office of the County Attorney

ATTEST: CHARLIE GREEN  
CLERK OF COURTS

BY: \_\_\_\_\_  
Deputy Clerk

(First Amendment to Lease for Court Administration/my documents (1))

C980327



AGREEMENT OF LEASE

Between

**First Union National Bank**

(Landlord)

and

**Lee County Board of County Commissioners**

(Tenant)

Date: 3/24/98

## AGREEMENT OF LEASE

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and is for convenience of reference only.

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LEASE

THIS AGREEMENT made this 24th day of March, 1998 by and between Lee County, acting by and through the **Board of County Commissioners for Lee County**, a political subdivision of the State of Florida, party of the second part, (hereinafter called "Tenant") and **First Union National Bank**, (hereinafter called "Landlord").

WITNESSETH:

That the Landlord for and in consideration of the covenants and agreements hereinafter set forth and the rent hereinafter specifically reserved, does hereby lease, unto said Tenant, the space described as follows:

1.01 **Premises.** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord those certain offices consisting of 3,861 rentable square feet, situated on the 4th Floor, Suite 400 (the "Premises"). The Premises are located within a six (6) story office building consisting of 65,239 rentable square feet and located at 2201 2nd Street, Ft. Myers, Lee County, Florida (the "Building"). The Premises are shown on Exhibit "A" incorporated herein by reference and have been measured by Landlord's architect prior to Lease commencement in accordance with BOMA standards (American National Standard 2651.1, approved July 31, 1980) and the actual rentable square feet of the Premises determined by multiplying the actual useable square feet of the Premises by a multiple of 1.14. Any future space added to the Premises, if any, shall be measured as described herein prior to adding such space.

2.01 **Term.** The Term shall be for 60 months (or until such Term shall sooner cease and expire as hereinafter provided) commencing upon the first day after the first to occur of (i) the date which the Tenant takes possession of or occupies the Premises, or (ii) February 1, 1998 (the "Commencement Date").

3.01 **Base Rent.** As Base Rent for the use and occupancy of the Premises, and subject to the provisions contained in Article 51.01, Tenant shall pay to the Landlord for the first year set forth herein the sum of Fifty Nine Thousand Eight Hundred Forty Five and 56/100 Dollars (\$59,845.56), without deduction, set-off or demand, payable in advance and in monthly installments as outlined in Article 51.01-1. The first installment shall be due and payable on the tenth (10th) of the month following the Commencement Date and the remaining installments payable the month following the month of occupancy in accordance with Section 215.422, Florida Statutes without demand during the said Term to Faison Associates, 5801 Pelican Bay Boulevard, Suite 510, Naples, Florida 34108, or at such other place as the Landlord may hereafter designate in writing. Rent checks shall be made payable to First Union National Bank, or such other person, firm or corporation as the Landlord may hereafter designate in writing. If the Term commences on a day other than the first day of the month, the first payment shall be prorated on a thirty-day per calendar month basis for the period from the lease Commencement Date to the first day of the first full month during the Term. All installments of rent are due on the last day of each month and considered late after the 5th of the next month. If the monthly rental payments are not made by the fifth (5th) business day of the month, Landlord may charge Tenant a five percent (5%) late payment charge. In addition to the Base Rent Tenant shall and hereby agrees to pay to Landlord each month a sum equal to any sales tax, tax on Rentals, and any other charges, taxes and/or impositions now in existence or hereafter imposed based upon the privilege of renting the space leased hereunder or upon the amount of rental collected therefor. Nothing herein shall, however, be taken to require Tenant to pay any part of any Federal and State taxes on income imposed upon Landlord.

4.01 **Personal Property Taxes.** Tenant agrees to pay, before delinquency, any and all taxes levied or assessed and which become payable during the Term upon Tenant's equipment, furniture, fixtures and other personal property located in the Premises.

5.01 **Renewal.** Provided Tenant is not in default under any of the terms of this Lease and this Lease has not been otherwise terminated, Tenant shall have the right to renew this Lease for one (1) additional five (5) year term(s) (the "Renewal Term(s)"). Should Tenant wish to renew, the Tenant shall



provide Landlord with one hundred eighty (180) days written notice prior to termination of this Lease Term. Increases for escalation in the base rent for any Renewal Term shall be at the prevailing market rate.

6.01 Security Deposit. Intentionally Omitted.

7.01 Use of Premises. The Tenant shall at all times use and occupy the Premises for general office use and for no other purpose whatsoever, it being understood that the use of the Premises by Tenant as herein described is a material consideration of the Landlord in leasing the Premises to the Tenant.

8.01 Upkeep of Premises. The Tenant shall at all times keep the Premises and the fixtures therein in good order and condition and will, at the expiration or other earlier termination of the Term hereof, surrender and deliver up to Landlord the same in like good order and condition as the same now is or shall be on the Commencement Date hereof, ordinary wear and tear, and damage by the elements, fire, and other unavoidable casualty excepted. "If damage caused by Tenant's negligence, or that of his agents, servants, employees or visitors, shall be repaired promptly by Tenant at Tenant's sole cost and expense. In the event that the Tenant fails to comply with the foregoing provisions the Landlord shall have the option to enter the Premises and make all necessary repairs at Tenant's cost and expense and such cost shall be considered as Additional Rent and subject to all provisions of this Lease related to Rent.

9.01 Alterations, Repairs and Improvements. From and after the Commencement Date, Tenant shall not cut, drill into, disfigure, deface or injure any part of the Premises, nor obstruct or permit any obstruction, alteration, addition, improvement, decoration or installation in the Premises without first obtaining the written permission of the Landlord. All alterations, additions, improvements, decorations, fixtures, equipment or installations of any type or nature (except movable furniture and fixtures put in at the expense of Tenant and removable without defacing or injuring the Building or the Premises) shall become the property of the Landlord upon the termination of the Term of this Lease. Landlord, however, reserves the option to require Tenant, upon demand in writing, to remove all alterations, additions, improvements, decorations, fixtures, equipment or installations (including those not removable without defacing or injuring the Premises) and to restore the Premises to the same condition as existed at the Commencement Date, reasonable wear and tear excepted. Tenant agrees to restore the Premises immediately upon the receipt of the said demand in writing at Tenant's own cost and expense and agrees in case of his failure to do so, Landlord may do so and collect the cost thereof from Tenant as hereinafter provided. In order to promote an aesthetically attractive and uniform appearance of said Building from the exterior, a standard Building blind, designated by Landlord, shall be used on all exterior windows (regardless of interior treatment) of the Premises. Tenant shall not place anything or allow anything to be placed near the glass of any door, partition, wall or window which may be unsightly from outside the Premises.

10.01 Signs. Tenant shall not be permitted to install, inscribed, paint or otherwise affix on any wall, window, door, or any part of the outside or inside of the Premises, or any part of the Project, any signs, banners, notices or other displays of any type, which may be visible to the exterior of the Premises, without first obtaining the prior written consent of the Landlord. Landlord shall prescribe the size, color and style of Building standard signage and directory identification. Tenant shall be permitted one (1) Building standard sign located near the entrance to the Premises and one (1) line on the Building's directory (if directory is provided) identifying the name of the Tenant and suite number. No freight, furniture or other bulky matter of any description will be received into the building or carried in the elevators, except as approved by the Landlord. All moving of furniture, material and equipment shall be under the direct control and supervision of the Landlord, who shall however, not be responsible for any damage to or charges for moving same. Tenant agrees promptly to remove from the public area adjacent to said building any of Tenant's merchandise there delivered or deposited. Any damages shall be considered as Additional Rent and payable with the next monthly installment of Rent.

11.01 Unusual Equipment. No electrically operated equipment or machinery, including but not limited to supplemental air conditioning and heating equipment, except standard office machines, shall be permitted without first obtaining the written consent of the Landlord, who may condition such consent upon the payment by the Tenant of Additional Rent as compensation for excess consumption of water and/or electricity occasioned by the operation of said equipment or machinery. Under no circumstances shall Landlord be obligated to approve or permit the installation of any equipment or machinery which requires electrical or water service which exceeds the capacities provided in the Building or Project, or requires structural modifications or modifications to the systems of the Building or Project. Landlord shall have the right to prescribe weight limits, methods of installation and the location of safes, vaults, filing systems or any other heavy fixtures or equipment and Tenant shall not install in the Premises any fixtures, equipment or machinery that will place a load upon any floor exceeding the floor load per square foot area which such floor was designed to carry. No weight bearing items may be placed upon any floor, or portion of any floor, of the Premises exceeding whichever of the following is the lesser: (i) the floor load per square foot area which such floor was designed to carry, or (ii) the floor load per square foot area prescribed by law or applicable regulations. Any equipment, machinery or fixtures approved by Landlord for installation by Tenant shall be installed at Tenant's sole cost and expense, in a form, manner and location as prescribed by Landlord and operated and maintained by Tenant at Tenant's expense and in settings sufficient in the Landlord's judgment to absorb and prevent vibration, noise and annoyance. Maintenance and repair of equipment such as kitchen fixtures, separate air conditioning equipment, or any other type of special equipment, whether installed by Tenant or by Landlord on behalf of Tenant, shall be the sole responsibility of Tenant and Landlord shall have no obligation in connection therewith. Tenant shall indemnify and hold harmless Landlord, its directors, employees, agents, successors and assignees from all costs, damages, expenses, liabilities, and suits, including reasonable attorneys' fees, occasioned by the installation, maintenance, relocation, removal or use of any equipment, machinery or fixtures installed by Tenant, or by the Landlord on behalf of the Tenant, including without limitation, any damage to the Project and/or injury or death to persons caused thereby.

12.01 Damage. Any damage to the Premises, the Building or the Project caused by the Tenant, or its agents, servants, employees, vendors, suppliers, contractors, sub-contractors, materialmen or visitors, shall be repaired by the Tenant, at the expense of the Tenant. In the event that the Tenant shall fail to do so, then the Landlord shall have the right to make such necessary repairs, alterations and replacements (structural, non-structural or otherwise) and any charge or cost so incurred by the Landlord shall be paid by the Tenant with the right on the part of the Landlord to elect, in its discretion, to regard the same as Additional Rent, in which event such cost or charge shall become Additional Rent payable with the installment of Rent next becoming due or thereafter falling due under the terms of this Lease. This provision shall be construed as an additional remedy granted to the Landlord and not in limitation of any other rights and remedies which the Landlord has or may have in said circumstances.

13.01 Personal Property. All personal property of the Tenant in the Premises or in the Building shall be at the sole risk of the Tenant. The Landlord shall not be liable for any accident to or damage to property of Tenant resulting from the use or operation of elevators or of the heating, cooling, electrical or plumbing apparatus of the Building, or from water, steam, casualty or other such causes. Tenant hereby expressly releases and agrees to hold Landlord, its directors, employees, agents, successors and assignees harmless from any liability incurred or claimed by reason of such damage to Tenant's property or for damage caused by construction on contiguous premises, unless such damage is caused by Landlord's gross negligence or willful misconduct.

14.01 Access. Tenant shall allow the Landlord, its agent or employees, to enter the Premises at all reasonable times during normal business hours, or in the event of an emergency, at any time, without prior notice, to examine, inspect, protect or prevent damage or injury to, or to make such alterations and repairs to the Premises as the Landlord may deem necessary; or to exhibit the same to prospective tenants during the last three (3) months of the Term of this Lease.

15.01 Hazardous Substances. The term "Hazardous Substances," as used in this Lease, shall include, without limitation, flammables, explosives, radioactive materials, asbestos, polychlorinated biphenyls (PCBs), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, petroleum and petroleum products, and substances declared to be hazardous or toxic under any law or regulation now or hereafter enacted or promulgated by any governmental authority (the "Authorities"). Tenant shall not cause or permit to occur; (i) Any violation of any federal, state, or local law, ordinance, or regulation now or hereafter enacted, (the "Environmental Laws") related to environmental conditions on, under, or about the

Premises, or arising from Tenant's use or occupancy of the Premises, including, but not limited to, soil and ground water conditions of the Building and Project of which the Premises is part; or (ii) The use, generation, release, manufacture, refining, production, processing, storage, or disposal of any Hazardous Substance on, under, or about the Premises or the Project, or the transportation to or from the Premises, or the Project, of any Hazardous Substance. Tenant shall indemnify, defend, and hold harmless Landlord, owner, and their respective officers, directors, heirs, beneficiaries, shareholders, partners, agents, assignees and employees from all fines, suits, procedures, claims, and actions of every kind, and all costs associated therewith (including attorneys' and consultants' fees) arising out of or in any way connected with any deposit, spill, discharge, or other release of Hazardous Substances that occurs during the Term of this Lease, at or from the Premises, or the Project, or which arises at any time from Tenant's use or occupancy of the Premises, or the Project, or from Tenant's failure to provide all information, make all submissions, and take all steps required by all Authorities under the Environmental Laws. Tenant's obligations and liabilities under this Article 7.02 shall survive the expiration of this Lease.

16.01 Illegal Use. The Tenant shall not use, or permit the Premises or any part of the Project thereof, to be used for any disorderly, unlawful or extra hazardous purpose nor for any other purpose then hereinbefore specified; and will not manufacture, sell or distribute any commodity therein, without the prior written consent of the Landlord.

17.01 Rules and Regulations. Tenant covenants that the rules and regulations attached hereto as Exhibit "B", and such other and further rules and regulations as the Landlord may make from time to time and which in the Landlord's judgement are needful for the general well-being, safety, care and cleanliness of the Premises, the Building and the Project, together with their appurtenances, shall be faithfully kept, observed and performed by the Tenant, and by its agents, servants, employees and guests at all times.

18.01 Services. Landlord shall use all reasonable efforts to furnish electricity, water, lavatory supplies, fluorescent tube replacements, and automatically operated elevator service (if applicable) during normal business hours, and normal and usual cleaning services and supplies. Landlord further agrees to furnish heat from a central heating plant and air conditioning by means of a central air conditioning system during the appropriate seasons of the year, between the hours of 7:00 a.m. and 6:00 p.m. on Monday through Friday and Saturdays between the hours of 8:00 am and 1:30 p.m. (exclusive of legal holidays), provided, however, that the Landlord shall not be liable for failure to furnish, or for suspension or delays in furnishing, any of such services caused by breakdown, maintenance or repair work or strike, riot, civil commotion, or any cause or reason whatever beyond the reasonable control of the Landlord. After operating hours Building reverts to energy saving HVAC temperatures. Landlord may also furnish heating, ventilating and air conditioning at such other times as are not provided for herein, provided Tenant gives written request to Landlord before noon of the business day preceding extra usage. Tenant shall bear the cost of such additional service at rates determined by Landlord, which may change from time to time.

19.01 Landlord's Insurance. Landlord shall, as part of Operating Expense, keep the Building and the Project (but not the leasehold improvements, personal property or trade fixtures located in the Premises), insured against loss by fire or casualty with extended coverage in an amount reasonably determined by the Landlord. Notwithstanding the foregoing, Landlord shall have the ongoing right to self-insure against loss by fire or casualty or to maintain deductible levels which the Landlord shall deem appropriate. The Tenant will not do or permit anything to be done in the Premises or the Project, or bring or keep anything therein, which shall in any way increase the rate of fire or other insurance for the Building or Project, or obstruct, or interfere with the rights of other tenants, or in any way injure or annoy them, or those having business with them, or conflict with them, or conflict with the fire laws or regulations, or with any insurance policy upon said Building or any part thereof, or with any statutes, rules or regulations enacted or established by the appropriate governmental authority. In the event the cost of premiums on said fire and extended insurance increases due to the hazardous nature of the use and occupancy by Tenant of the Premises, then the entire increase in insurance cost shall be paid by Tenant as Additional Rent in a lump sum and on receipt of invoice from Landlord.

19.02 Tenant's Insurance. Tenant shall, at Tenant's expense, obtain and keep in force during the Term and any Renewal Term hereof: (i) fire and extended coverage insurance with vandalism and malicious mischief endorsements and a sprinkler leakage endorsement (where applicable), on all of its personal property, including removable trade fixtures, located in the Premises, and on all leasehold improvements and any future additions and improvements made by Tenant; and (ii) commercial general liability insurance, including contractual liability coverage, insuring Landlord (as an additional insured) and Tenant against any liability arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Tenant's insurance shall have minimum limits of One Million Dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury, personal injury and property damage. This insurance may be a combination of commercial insurance and self-insurance. The policies cannot contain provisions which deny coverage because the loss is due to the fault of Landlord or Tenant. If Tenant shall fail to procure and maintain said insurance, Landlord may, but shall not be required to, procure and maintain same, but at the expense of Tenant. Tenant shall deliver to Landlord, prior to occupancy of the Premises and annually thereafter, certificates evidencing the existence and amounts of such insurance, with loss payable clauses satisfactory to Landlord. No policy shall be cancelable or subject to reduction of coverage except after thirty (30) days prior written notice to Landlord.

19.03 Waiver of Subrogation. Landlord and Tenant each hereby waives any and all rights of recovery, claim, action or cause of action against the other, its partners, agents, officers, or employees, for any loss or damage that may occur to persons, property, the Premises or the Building by reason of fire, the elements, or any other cause(s) which are insured against regardless of cause or origin, to the extent of such insurance coverage (including the amounts of any deductibles). This waiver shall be applicable only if the same does not violate the terms of the insurance policies carried by each which insure against a such loss or damage and Landlord and Tenant shall endeavor to obtain a waiver of subrogation from their respective insurance companies. Any increased premium incurred by either party shall be paid by the party incurring the additional premium cost. If either party is unable to obtain a waiver of subrogation from their respective insurer, then the provisions of this Article 19.03 shall be null and void.

19.04 Damage by Fire or Casualty. In the event the Project or Premises is damaged or destroyed as a result of fire, the elements, accident, or other casualty, including, without limitation, by smoke and water damage (the "Casualty"), and (i) such Casualty results in either 20% or more of the total rentable area of the Project, or 25% or more of the common areas of the Project (including the parking facilities), whether or not the Premises are affected by such occurrence; are destroyed or damaged, or (ii) if Casualty occurs to the Project or any part thereof by reason of any cause in respect of which there are no proceeds of insurance available to Landlord, or (iii) if the proceeds of insurance are insufficient to pay for the costs of rebuilding or making fit the Project or any part thereof (including the Premises), or (iv) if any mortgagee or other person entitled to the proceeds of insurance does not consent to the payment to Landlord of such proceeds for such purpose, or (v) if in Landlord's opinion any such damage or destruction is caused by any fault, neglect, default, negligence, act, or omission of Tenant, or those for whom Tenant is in law responsible, or any other person entering upon the Premises under express or implied invitation of Tenant then upon any of the foregoing events occurring, Landlord may, at its option (to be exercised by written notice to Tenant within 90 days following any such occurrence), elect to terminate this Lease. In the case of such election, the Term and tenancy hereby created shall expire on the 30th day after such notice is given, without indemnity or penalty payable or any other recourse by one party to or against the other; and Tenant shall, within such 30-day period, vacate the Premises and surrender them to Landlord, with Landlord having the right to re-enter and repossess the Premises discharged of this Lease and to expel all persons and remove all property therefrom. All Rent shall be due and payable without reduction or abatement subsequent to the destruction or damage and until the date of termination, unless the Premises shall have been destroyed or damaged as well, in which event Base Rent (but not Additional Rent) shall abate proportionately to the portion of the Premises rendered untenantable from the date of the destruction or damage until the date of termination.

In the event the Lease is not terminated as herein provided, the Lease shall continue in full force and effect, but the Project or that portion of the Premises insured by Landlord shall be promptly and fully repaired and restored by the Landlord, provided however that the cost of such repairs and restoration shall be limited to the amount of insurance proceeds received by the Landlord for such damage or destruction. (the "Landlord's Restoration"). Nothing contained herein this Article 19.04 shall require Landlord to (i) restore, repair, or replace any Leasehold Improvements, inventory, furniture, chattels, signs, contents, fixtures (including trade fixtures), or personal property of Tenant located on, in, under, above, or which serve the Premises, or (ii) rebuild the Premises in the condition and state that existed before any such damage or destruction. The Landlord shall be given a reasonable period of time to

complete the Landlord's Restoration and due allowance shall be made for the adjustment and settlement of insurance claims, and for such other delays as may result from government restrictions, permitting, controls on construction, strikes, national emergencies and other conditions beyond the reasonable control of the Landlord. If the Casualty is such so as to make the entire Premises untenable, or a portion of the Premises untenable, then the Base Rent (but not Additional Rent) which the Tenant is obligated to pay hereunder shall abate proportionately as to the portion of the Premises rendered untenable from the date of the Casualty until such time as the Premises become tenable or the date the Landlord's Restoration is completed, whichever first occurs. Any unpaid or prepaid Base Rent for the month in which the Casualty occurs shall be pro-rated.

20.01 Condemnation. If all or a substantial part of the Premises shall be taken or condemned for public or quasi-public use or purpose by any competent authority, such that the Tenant can no longer conduct its business on a reasonable, prudent and profitable basis, then the Term of this Lease shall cease and terminate from the date of such taking or condemnation, and the Tenant shall have no claim against the Landlord for the value of any unexpired Term of this Lease. If any portion of the Premises shall be so taken and this Lease is not terminated, Rent shall abate as to the space so taken (i.e. the rentable area so taken shall be eliminated from the Premises and Tenant shall have no obligation to pay Base Rent, Operating Expense or Additional Rent as to the eliminated space) and Landlord shall promptly and diligently restore the Premises as reasonably required to demise the Premises from the common areas or premises of other tenants of the Project. If any part of the Building or Project, other than the Premises, shall be so condemned or taken, Landlord may, at its sole option, terminate this Lease upon thirty (30) days written notice to Tenant of such termination. In the event this Lease is terminated, as herein provided, all Rent and other charges due Landlord from Tenant as of the date of termination shall be paid by Tenant to Landlord not later than thirty (30) days after termination.

21.01 Assignment and Subletting. The Tenant shall not encumber or assign this Lease or sublet all or any part of the Premises without the prior written consent of Landlord. If Landlord consents to an assignment or subletting, the assignee or sublessee shall first be obligated to assume, in writing, all of the obligations of Tenant under this Lease and Tenant shall, for the full Term of this Lease, continue to be jointly and severally liable with such assignee or sublessee for the payment of the Rent and the performance of all obligations required by Tenant under this Lease. In no event shall Tenant assign or sublet the premises for any terms, conditions and covenants other than those contained herein. In no event shall this Lease be assigned or be assignable by operation of law or by voluntary or involuntary bankruptcy proceedings or otherwise, and in no event shall this Lease or any rights or privileges hereunder be an asset of Tenant under any bankruptcy, insolvency or reorganization proceedings. In no event shall the Landlord's allowance of an assignment or sublease be deemed to permit a subsequent assignment of sublease. As a condition of the Landlord's approval of any assignee or sublessee, (i) such assignee or sublessee must meet the financial ability necessary to take Tenant's place (with such financial ability to be determined in Landlord's sole discretion), and (ii) the proposed use of the Premises by the assignee or sublessee must be consistent with the use provided in this Lease, and (iii) Tenant shall pay all Landlord's costs and expenses associated with incurring, maintaining and servicing any assignment or sublease.

22.01 Bankruptcy. Intentionally Omitted.

23.01 Default. If Tenant defaults in the prompt payment of Base Rent, Additional Rent or any other charges due hereunder and such default shall continue for ten (10) business days after the same shall be due and payable; or if Tenant defaults in the performance or observance of any other provision, covenant or agreement of this Lease, including the Rules and Regulations, and such other default shall continue for thirty (30) days after written notice thereof shall have been given to Tenant; or if the leasehold interest of Tenant be levied upon under execution or attached by process of law; or if Tenant vacates or abandons the Premises; then and in any such event Landlord, if it so elects forthwith, or at any time thereafter while such default continues, either may terminate Tenant's right to possession without terminating this Lease, or may terminate this Lease.

23.02 Upon termination of this Lease, whether by lapse of time or otherwise, or upon any termination of the Tenant's right to possession without termination of the Lease, the Tenant shall surrender possession and vacate the Premises immediately and deliver possession thereof to the Landlord.

23.03 Tenant shall be deemed to have vacated or abandoned the Premises if Rent is not currently paid or if Tenant is absent from the Premises for a period of thirty (30) days. If the Tenant

vacates or abandons the Premises or otherwise entitles the Landlord so to elect, and if the Landlord elects to terminate the Tenant's right to possession only, without terminating the Lease, the Landlord may, at the Landlord's option, enter into the Premises, remove the Tenant's signs and other evidences of tenancy, and take and hold possession thereof without such entry and possession terminating the Lease or releasing the Tenant, in whole or in part, from the Tenant's obligation to pay the Rent hereunder for the full Term. Upon and after entry into possession without termination of the Lease, the Landlord may relet the Premises or any part thereof for the account of the Tenant to any person, firm or corporation other than the Tenant for such Rent, for such time, and upon such terms and the Landlord in the Landlord's sole discretion shall determine so long as said terms are commercially reasonable. In any such case, the Landlord may make repairs in or to the Premises, and redecorate the same to the extent deemed by the Landlord necessary or desirable, and the Tenant shall, upon demand, pay the cost thereof together with the Landlord's expenses of the reletting. If the consideration collected by the Landlord upon such reletting for the Tenant's account is not sufficient to pay the full amount of the unpaid Rent reserved in this Lease, together with the costs of repairs, alterations, additions, redecorating, and the Landlord's expenses, the Tenant shall pay to the Landlord the amount of each deficiency upon demand. Tenant agrees that the Landlord shall not be liable for any damages resulting to the Tenant or the Tenant's property caused, directly or indirectly, by the Landlord's actions in the course of reletting or retaking possession of the Premises, whether caused by the negligence of the Landlord or otherwise.

23.04 Tenant shall pay all Landlord's costs, charges and expenses, including the fees of counsel, agents and others retained by Landlord, incurred in enforcing Tenant's obligation hereunder. Tenant shall be entitled to fees, costs and expenses in the event it prevails in an action regarding this Lease. If Tenant violates any of the terms and provisions of this Lease, or defaults in any of its obligations hereunder, other than the payment of Rent or other sums payable hereunder, such violation may be restrained or such obligation enforced by injunction.

23.05 Tenant agrees that it will promptly pay said Rent at the times above stated; that, if any part of the Rent remains due and unpaid for ten (10) business days after the same shall become due and payable, Landlord shall have the option of declaring the balance of the entire rental term of this Lease to be immediately due and payable, and Landlord may then proceed to collect all of the unpaid Rent called for by this Lease by distress or otherwise.

23.06 All rights and remedies of Landlord herein enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Venue for any legal action instituted under this Lease shall be in Lee County, Florida.

24.01 Tenant Holdover. Tenant agrees that if Tenant does not surrender to Landlord said Premises at the end of the Term of this Lease, or upon any cancellation of the Term of this Lease, without prior written consent of Landlord, such holdover tenancy shall be a tenancy at sufferance, and Tenant shall pay to Landlord all damages that Landlord may suffer on account of Tenant's failure to surrender possession of said Premises, and will indemnify Landlord, its directors, heirs, assignees, successors, employees, agents, contractors and subcontractors on account of delay of Landlord in delivering possession of said Premises to another tenant. Unless Tenant's failure to surrender the Premises is consented to in writing by the Landlord, the Rent during any holdover period shall be double the then current Rent as provided by this Lease for the period immediately preceding the expiration of the Term. The acceptance of such Rent shall not be deemed to be consent to such continued occupancy nor shall it be deemed a waiver of any rights of the Landlord as set forth herein, at law or in equity.

25.01 Possession. If Landlord shall be unable to give possession of the Premises on the Commencement Date by reason of the fact that (i) the Premises are located in a Building being constructed and which has not been sufficiently completed to make the Premises, or (ii) by reason of the holding over or retention of possession of any Tenant or occupancy, or (iii) if the repairs, improvements or decoration of the Premises, or of the Building of which the Premises form a part, required to be completed by the Landlord, are not completed, or for any other reason, Landlord shall not be subject to any liability for the failure to give possession on said date. Under such circumstances the Rent reserved and covenanted to be paid herein shall commence on the date which the Tenant is given possession of the Premises by the Landlord. No such failure to give possession on the Commencement Date shall in any other respect affect the validity of this Lease or the obligations of Tenant hereunder, nor shall same be construed in any wise to extend the Term of this Lease. If permission is given to Tenant to enter into the possession of the Premises or to occupy Premises other than the leased Premises prior to the date specified as the Commencement Date of this Lease, then Tenant covenants and agrees that such occupancy shall be deemed to be under all the terms, covenants, conditions and provisions of this Lease

and Tenant agrees to execute a separate "Occupancy Agreement" with the Landlord describing the terms and conditions by which Tenant shall be permitted to occupy the Premises.

26.01 **Tenant Plans.** Prior to Tenant performing any renovations, construction, redecorating or improvements of any kind to the Premises, Tenant shall, at Tenant's sole cost and expense, prepare and furnish to the Landlord, for Landlord approval, any plans and specifications necessary for its decorating, renovations, partitioning, mechanical, electric, telephone and all other requirements deemed necessary by Tenant to the Premises all in accordance with Landlord and Tenant Construction Obligations as described in Exhibit "E" attached hereto (the "Building Standard Materials and Specifications").

26.02 **Tenant Improvements.** The Building and the Premises are being provided by the Landlord in their current as-is condition together with, but not necessarily limited to, all existing demising and interior partitions, doors, frames, hardware, ceilings, electrical fixtures and distribution wiring and panels, HVAC distribution systems and controls, sprinkler systems, fire alarm systems and controls, exit lighting, interior finishes, built-in millwork, and any and all other improvements located therein. The Tenant shall provide the Landlord with the Space Plan, Working Drawings, permits, demolition, general, mechanical, electrical and plumbing construction and interior finishes (the "Tenant Improvements") as necessary to construct, modify, alter or otherwise improve and prepare the Premises in accordance with the final Working Drawings as described in Article 26.01. The Landlord's obligation for the cost of said Tenant Improvements shall not exceed Three thousand and no/100 dollars (\$3,000.00). The Landlord shall also supply two (2) doors similar to those already in the Premises. In the event the cost of the Tenant Improvements exceed the Landlord's obligation as herein described, the Tenant shall be responsible for the additional cost in excess of the Landlord's obligation.

27.01 **Relocation.** Landlord expressly reserves the right to remove Tenant from the Premises and to relocate Tenant to other space in the Building of Landlord's choosing (the "Relocation Space"), provided however, (i) the Landlord shall provide the Tenant with one hundred twenty (120) days advance written notice of such relocation, (ii) the Relocation Space is of approximately the same dimensions and size as the existing Premises, (iii) the Relocation Space shall be decorated by Landlord at Landlord's expense (provided however the Landlord shall have the right, in Landlord's sole discretion, to use such decorations and materials from the existing Premises, or other materials so that the Relocation Space shall be comparable in its interior design, decoration, function and condition to the Premises from which Tenant is removed), and (iv) the Landlord relocates the Tenant to the Relocation Space at a time and in a manner which minimizes disruption of the Tenant's business. Nothing herein contained shall be construed to relieve Tenant or imply that Tenant is relieved of the liability for the obligation to pay the Rent and any Additional Rent due under this Lease, the provisions of which were applied to the Relocation Space on the same basis as said provisions were applied to the Premises from which Tenant is removed. Tenant agrees that Landlord's exercise of its election to remove and relocate Tenant shall not terminate this Lease or release Tenant, in whole or in part, from Tenant's obligation to pay the Rents and perform the covenant and agreements hereunder for the full Term and any Renewal Term(s) thereof of this Lease.

28.01 **Parking.** The parking area is restricted to a maximum of six (6) unreserved parking spaces. This parking is provided in common with other tenants of the Project on the surface parking lot(s) contiguous to the Building and the remote parking lot located at the southwest corner of Broadway Street and Peck Street. The Tenants use of parking spaces through its employees, agents and visitors shall not exceed this restriction. Any violation hereof shall, at the option of Landlord, constitute a default under the terms of this Lease.

29.01 **Offset Statement.** At anytime during the Term or any Renewal Term of this Lease and within ten (10) days after Landlord's request, Tenant shall execute in recordable form and deliver a declaration to any person designated by Landlord (a) ratifying this Lease (b) stating the commencement and termination dates of this Lease; and (c) certifying (i) that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended (except by such writing as shall be stated), (ii) that all conditions under this Lease to be performed by Landlord have been satisfied (stating exceptions, if any), (iii) no defenses or offsets against the enforcement of this Lease by Landlord exist (or, if any, stating those claimed), (iv) advance rent, if any, paid by Tenant, (v) the date to which Rent has been paid, (vi) the amount of security deposited with Landlord, and such other information as Landlord reasonably requires. Persons receiving such statements shall be entitled to rely upon them.

30.01 **Attornment.** Tenant shall, in the event of a sale or assignment of Landlord's interest in the Premises or the Project or any part thereof, or if the Premises or the Project or any part thereof,

comes into the hands of a mortgagee, ground lessor or any other person, attorn to the purchaser or such mortgagee or other person and recognize the same as Landlord hereunder. At Landlord's request, Tenant shall execute, within ten (10) days, any attornment agreement required to be executed, containing such provisions as are required.

31.01 Failure to Execute Instruments. Tenant's failure to execute instruments or certificates provided for in this Lease within ten (10) days after the mailing by Landlord of a written request for their execution may, at Landlord's option, constitute a default under this Lease.

32.01 Counterclaim. Intentionally Omitted

33.01 Waiver of Jury Trial. Intentionally Omitted.

34.01 Waiver of Rights of Redemption. Intentionally Omitted.

35.01 Taxes on Leasehold. Tenant shall be responsible for and shall pay before delinquent all municipal, county, federal, or state taxes coming due during or after the Terms of this Lease against any leasehold interest or personal property of any kind owned or placed in, or about the Premises by Tenant.

36.01 Liens. Tenant will not knowingly permit or suffer any lien attributable to Tenant or its agents or employees to attach to the Premises or the Project and nothing contained herein shall be deemed to imply any agreement of Landlord to subject Landlord's interest or estate to any mechanics' lien or any other lien. If any mechanics' lien is filed against the Premises or the Project as a result of additions, alterations, repairs, installations or improvements made or claimed to have been made by Tenant or anyone holding any part of the Premises through or under Tenant, or any other work or act of any of the foregoing, Tenant shall discharge the same within ten (10) days from the filing thereof. If Tenant fails to so discharge by payment, bond or court order any such mechanics' lien, Landlord, at its option, in addition to all other rights or remedies herein provided, may bond said lien or claim (or pay off said lien or claim if it cannot be bonded) for the account of Tenant without inquiring into the validity thereof, and all sums so advanced by Landlord shall be paid by Tenant to Landlord as Additional Rent on demand.

37.01 Pronouns. Feminine or neuter pronouns shall be substituted for those of the masculine form, and the plural shall be substituted for the singular number in any place or places herein in which the context may require such substitution or substitutions. The Landlord herein for convenience has been referred to in neuter form.

38.01 Notices. All notices required or desired to be given hereunder by either party to the other shall be given by certified or registered mail postage prepaid, return receipt requested. Notice to the respective parties shall be addressed as follows:

Landlord: First Union National Bank  
c/o Faison Associates  
5801 Pelican Bay Blvd., Suite 510  
Naples, Florida 34108  
(941) 514-7700  
FAX (941) 514-7704

w/copy to: First Union National Bank  
Corporate Real Estate  
Att: Property Manager  
225 Water Street, 4th Floor  
Jacksonville, FL 32202  
(904) 361-3273  
FAX (904) 361-3030

Tenant: Lee County Board of County Commissioners  
Attn: Facilities Management  
P.O. Box 398  
Ft. Myers, FL 33902-0398

Either party may, by written notice, designate a new address to which such notices shall be directed.

39.01 Governing Law. This Lease shall be construed under the laws of the State of Florida.

40.01 Benefit and Burden. Except as otherwise expressly set forth in this Lease, the covenants, conditions, agreements, terms and provisions herein contained shall be binding upon, and shall inure to be benefit of, the parties hereto and their respective personal representatives, successors and



assigns. Nor rights, however, shall inure to the benefit of any assignee or sublessee of Tenant unless the assignment or sublease has been approved by Landlord in writing as provided in Article 21.01 above.

41.01 Accord and Satisfaction. Landlord is entitled to accept, receive, and cash or deposit any payment made by Tenant for any reason or purpose or in any amount whatsoever, and apply the same at Landlord's option to any obligation of Tenant and the same shall not constitute payment of any amount owed except that to which Landlord has applied the same. No endorsement or statement or any check or letter of Tenant shall be deemed an accord and satisfaction or otherwise recognized for any purpose whatsoever. The acceptance of any such check or payment shall be without prejudice to Landlord's right to recover any and all amounts owed by Tenant hereunder and Landlord's right to pursue any other available remedy. Payment of any amounts by Tenant shall not waive any other cause of action which Tenant may have.

42.01 Captions and Article Numbers. This Lease shall be construed without reference to titles of Articles which are inserted only for convenience of reference.

43.01 Partial Invalidity. If any provision of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such provisions to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

44.01 Exhibits. Exhibits made a part of this Lease and incorporated herein by reference include the following:

- A - Floor Plan
- B - Rules and Regulations
- C - Intentionally Omitted
- D - Tenant Acceptance Letter
- E - Building Standard Materials and Specifications

45.01 Quiet Enjoyment. As long as Tenant fully complies with the terms, conditions and covenants of this Lease, Landlord agrees that Tenant shall and may peaceably have, hold and enjoy the Premises without hindrance or molestation by Landlord.

46.01 Entire Agreement. There are no representations, covenants, warranties, promises, agreements, conditions or undertakings, oral or written, between Landlord and Tenant other than herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon Landlord or Tenant unless in writing and signed by them.

47.01 Time of Essence. It is understood and agreed between the parties hereto that time is of the essence of all the terms, provisions, covenants and conditions of this Lease.

48.01 Effective Date. Submission of this instrument for examination does not constitute an offer, right of first refusal, reservation of or option for the Premises or any other space or premises in, on or about the Building or Project. This instrument becomes effective as a Lease upon execution and delivery by both Landlord and Tenant.

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

50.01 Brokers. Tenant and Landlord each warrant that it has not dealt with any broker other than **Faison Associates** in connection with the Premises or the negotiation of this Lease. Only commissions due to **Faison Associates** shall be paid by the Landlord in connection with this Lease. Tenant and Landlord each agree to indemnify and save harmless the other from and against all loss, costs, damages, claims, proceedings, demands, liabilities or expenses, including without limitation reasonable attorneys' fees and litigation costs, incurred by the other for any claim by any other broker with whom such party has dealt regarding this Lease.

51.01 Special Clauses.

1. Base Rentals:

<u>Months</u>	<u>Rate</u>	<u>Monthly</u>	<u>Annually</u>	<u>Cumulative</u>
1 - 12	\$15.50	\$4,987.13	\$59,845.56	\$ 59,845.56

2. Rent Adjustment:

After the first year, and then continuing on an annual basis, the base rental cost will increase in the amount of the latest increase in the Consumer Price Index for Wage Earners and Clerical Workers, CPI-W, U.S. City Average, All Items, as published by the Bureau of Labor Statistics, Southeastern Regional Office, Atlanta, Georgia.

3. Right of Cancellation:

Notwithstanding anything herein to the contrary, Tenant shall have the right to cancel this Lease at any time prior to the term of this Lease under the following conditions: (i) Tenant shall provide written notice to Landlord of Tenant's election to cancel this Lease as a specified Cancellation Date, which notice shall be provided to Landlord no later than one hundred eighty (180) days prior to such specified Cancellation Date, and (ii) pay a termination penalty equal to the unamortized cost of tenant improvements and leasing commissions paid by the Landlord which are to be amortized over the term of the Lease on a straight line basis.

IN WITNESS WHEREOF, this Lease is executed as of the date first written above.

As to the Landlord:

WITNESS:

FIRST UNION NATIONAL BANK

Kevin B. Hager  
Eric K. Hall

By: Cayla Caneris  
As: AVP

Date Executed by Landlord: 3/2/98

As to the Tenant:

WITNESS:

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

Charlie Green, Clerk

John E. Albright  
Vice-Chairman, Lee County Board of County Commissioners

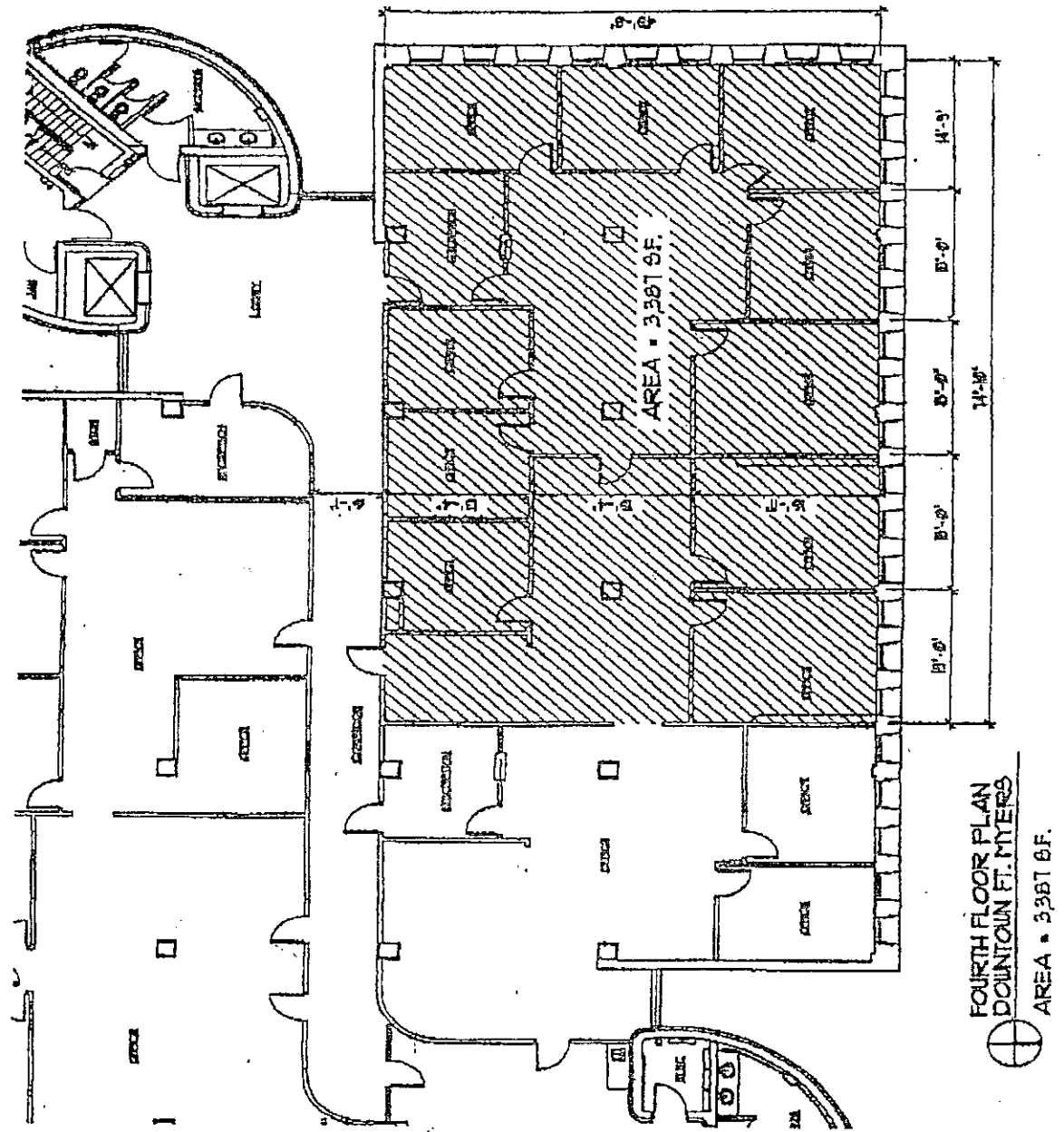
Ruth Ferguson  
By: Deputy Clerk

[Signature]  
Approved as to legal form by County Attorney's Office

Date Executed by Tenant: 3/24/98

Where Tenant is a corporation, this Lease shall be signed by a President or Vice President and Secretary or Assistant Secretary of Tenant. Any other signatories shall require a certified corporate resolution.

EXHIBIT "A"  
FLOOR PLAN



**EXHIBIT "B"**  
**BUILDING RULES AND REGULATIONS**

1. The sidewalks, entries, passages, court corridors, stairways and elevators shall not be obstructed by any of the Tenants, their employees or agents, or used by them for purposes other than ingress and egress to and from their respective suites.
2. All safes or other heavy articles shall be carried up or into the Premises only at such times and in such manner as shall be prescribed by the Landlord and the Landlord shall in all cases have the right to specify that property weight and position of any such safe or other heavy article. Any damage done to the Building by taking in or removing any safe or from overloading any floor in any way shall be paid by the Tenant. Defacing or injuring in any way any part of the Building by the Tenant, his agents or employees, shall be paid for by the Tenant.
3. Tenant will refer all contractors, contractors' representatives and installation technicians rendering any service on or to the Premises for Tenant to Landlord for Landlord's approval and supervision before performance of any contractual service. This provision shall apply to all work performed in the Building, including installation of telephones, telegraph equipment, electrical devices and attachments and installations of any nature affecting floors, walls, woodwork, trim, windows, ceiling, equipment or any other physical portion of the Building.
4. No sign, advertisement or notice shall be inscribed, appointed or affixed on any part of the inside or outside of the said Building unless of such color, size, and style and in such place upon or in said Building as shall first be designated by Landlord; there shall be no obligation or duty on Landlord to allow any sign, advertisement or notice to be inscribed, painted or affixed on any part of the inside or outside of said Building, except as specifically set forth in the Lease of Tenant. Signs on doors will be painted for the Tenant by a sign writer approved by Landlord, the cost of the painting to be paid by the Tenant. A directory in a conspicuous place, with the names of the Tenants, will be provided by the Landlord; any necessary revision in this will be made by Landlord within a reasonable time after notice from the Tenant of the error or change making the revision necessary. No furniture shall be placed in front of the Building or in any lobby or corridor without written consent of Landlord. Landlord shall have the right to remove all other signs and furniture, without notice to Tenant at the expense of Tenant.
5. Tenant shall have the nonexclusive use in common with the Landlord, other tenants, their guests and invitees, of the uncovered automobile parking areas, driveways and footways, subject to reasonable rules and regulations for the user thereof as prescribed from time to time by Landlord. Landlord shall have the right to designate parking areas for the use of the Building tenants and their employees, and the tenants and their employees shall not park in parking areas not so designated. Tenant agrees that upon written notice from Landlord, it will furnish to Landlord, within thirty (30) days from receipt of such notice, the state automobile license numbers assigned to the automobiles of the Tenant and its employees.
6. No Tenant shall do or permit anything to be done in said Premises, or bring to keep anything therein, which will in any way increase the rate of fire insurance on said Building, or on property kept therein, or obstruct or interfere with the rights of other Tenants, or in any way injure or annoy them, or conflict with the laws relating to fire, or with any regulations of the fire department, or with any insurance policy upon said Building or any part thereof, or conflict with any rules or ordinances of any governing bodies.
7. The janitor of the Building may at all times keep a pass key to suite entry doors, and he and other employees of the Landlord shall at all times be allowed admittance to said leased Premises.
8. No additional locks shall be placed upon any public entry doors without the written consent of the Landlord. All necessary keys shall be furnished by the Landlord, and the same shall be surrendered upon the termination of this Lease, and the Tenant shall then give the Landlord or his agents explanation of the combination of all locks upon the doors of vaults.
9. No windows or other openings that reflect or admit light into the corridors or passageways, or to any other place in said Building, shall be covered or obstructed by any of the Tenants.

EXHIBIT "B" - continued

10. The water closets and other water fixtures shall not be used for any purpose other than those for which they were constructed, and any damage resulting to them from misuse, or the defacing or injury of any part of the Building, shall be borne by the person who shall occasion it.
11. No person shall disturb the occupants of the Building by the use of any musical instruments, the making of unseemly noises, of any unreasonable use. No dogs or other animals or pets of any kind will be allowed in the Building.
12. No bicycles or similar vehicles will be allowed in the Building.
13. Nothing shall be thrown out the windows of the Building or down the stairways or other passages.
14. Tenant shall not be permitted to use or to keep in the Building any kerosene, camphene, burning fluid or other flammable materials.
15. If any Tenant desires telegraphic, telephonic or other electric connections, Landlord or its agents will direct the electricians as to where and how the wires may be introduced, and without such directions no boring or cutting for wires will be permitted.
16. If Tenant desires shades or awnings, they must be of such shape, color, materials and make as shall be prescribed by Landlord and any outside awning proposed may be prohibited by Landlord. Landlord or its agents shall have the right to enter the Premises to examine the same or to make such repairs, alterations or additions as Landlord shall deem necessary for the safety, preservation or improvement of the Building, and during the three (3) month period prior to termination of the Lease, the Landlord or its agents may show said Premises and may place on the windows or doors thereof, or upon the bulletin board a notice "For Rent".
17. No portion of the Building shall be used for the purpose of lodging rooms or for any immoral or unlawful purposes.
18. All glass, locks and trimmings in or about the doors and windows and all electric fixtures belonging to the Building shall be kept whole, and whenever broken by anyone shall be immediately replaced or repaired and put in order by Tenant under the direction and to the satisfaction of Landlord, and on removal shall be left whole and in good repair.
19. Tenant shall not install or authorize the installation of any vending machines or food preparation devices without Landlord's written approval.

EXHIBIT "D"  
TENANT ACCEPTANCE LETTER

This declaration is hereby attached to and made a part of the lease dated 3/24/98 entered into by and between First Union National Bank, as Landlord and Lee County Board of County Commissioners, as Tenant.

The undersigned, as Tenant, hereby confirms as of the 5th day of April, 1998 the following:

1. Tenant has accepted possession of the Premises on 4/6/ 1998 and is currently occupying the same.
2. The Commencement Date, as defined in the Lease is 4/6/ 1998 and the expiration date is 4/5 ~~xxx~~ 2003
3. ~~\*\*~~The obligation to commence the payment of rent commenced or will commence on      19    . ~~\*\*~~See Section 3.01 of lease agreement- 1st rental payment due by the 10th of the month following the Commencement Date which is 4/6/98
4. All alterations and improvements to be performed by the Landlord have been completed to the satisfaction of the Tenant.
5. As of the date hereof, Landlord has fulfilled all of its obligations under the Lease.
6. The Lease is in full force and effect and has not been modified, altered, or amended, except pursuant to any instruments described above.
7. There are no offsets or credits against Base Rent or Additional Rent, nor has any Base Rent or Additional Rent been prepaid except as provided pursuant to the terms of the Lease.
8. Tenant has no notice of any prior assignment, hypothecation, or pledge of the Lease or any rents due under the Lease.

As to Landlord:  
WITNESS:

[Signature]  
[Signature]

FIRST UNION NATIONAL BANK

By: Caryn Caner

As: AVP

As to Tenant:  
WITNESS:

Charlie Green, Clerk

[Signature]  
By: Deputy Clerk

LEE COUNTY BOARD OF COUNTY  
COMMISSIONERS

[Signature]  
Chairman, Lee County Board of County Commissioners

[Signature]  
Approved as to legal form by County Attorney's Office

Date Executed by Tenant: 4/6/98

EXHIBIT "E"

LANDLORD AND TENANT CONSTRUCTION OBLIGATIONS

In constructing the Tenant Improvements described in Article 26.01 and 26.02, Tenant will comply with the following:

1. Tenant will deliver to Landlord a detailed space plan (herein called "Space Plan") meeting the requirements of Schedule A and incorporating Building Standard Materials and Specifications as described in Schedule C for any and all improvements desired by Tenant in the Premises.
2. Upon receipt of the Space Plan, Landlord will review the same to confirm that it conforms to the requirements listed in Schedule A and Schedule C of this Lease and is otherwise approved by Landlord, which approval shall not unreasonably be withheld. Landlord will advise Tenant as to the results of the review within five (5) business days after receipt. In the event the Space Plan does not conform to the requirements of Schedule A and Schedule C, Landlord will return the Space Plan to Tenant for corrections and/or revisions. Tenant will deliver a revised Space Plan to Landlord indicating revisions, corrections, or clarifications no later than five (5) business days after the initial Space Plan has been returned to Tenant by Landlord. Landlord shall review and respond to the Tenant with approval or further comments within three (3) business days.
3. After Landlord and Tenant have mutually approved the Space Plan, Tenant shall promptly cause working drawings (hereinafter called "Working Drawings") of the improvements to the Premises to be prepared. The Working Drawings shall be subject to Landlord's review and approval, which shall not be unreasonably withheld. The Working Drawings shall include all the information outlined in Schedule B and Schedule C of this Lease and any other information reasonably required by the Landlord. Landlord shall approve or disapprove the Working Drawings within five (5) business days after receipt. If the Working Drawings do not include all the information required by Schedule B and Schedule C, they will be considered incomplete and not in conformance with the requirements of the Lease. If Landlord disapproves the Working Drawings, Landlord shall specify all reasons for disapproval. Tenant will thereafter make changes and re-submit the revised Working Drawings within five (5) business days. Such process shall continue until the Working Drawings have been approved.
4. Tenant shall not be charged for electricity during the construction of the Tenant Improvements. Tenant, or the Tenant's contractors or subcontractors, shall be responsible for and pay all expense associated with hoisting charges which may be incurred or necessary during the demolition and construction of the Tenant Improvements. Tenant or the Tenant's contractors, subcontractors, materialmen, vendors, agents or employees shall not be permitted at any time to use the building passenger elevators for the hoisting of construction materials, trash, debris, tools, equipment or other construction related items to or from the Premises without the Landlord's prior approval. Such approval shall be in the Landlord's sole discretion and conditioned upon the nature and time of use. If approval is granted, the Tenant, or the Tenant's contractors, subcontractors, materialmen, vendors, agents or employees shall be fully responsible for any damage to the elevators and shall hold the Landlord, its directors, partners, agents and employees from against any losses, damages, costs, liabilities or causes of action as described in paragraph 7(h)(i)(4) herein this Exhibit E. Under no circumstances, even if the Landlord's approval has been granted, may the Tenant, or the Tenant's contractors, subcontractors, materialmen, vendors, agents or employees, use of the elevators obstruct or otherwise interfere with use of the elevators by other tenants in the Building.
5. Tenant shall pay and be responsible for all architectural and engineering fees incurred in designing the Tenant Improvements, however such fees may be included as a cost of Tenant Improvements and paid for from the Landlord's Allowance.
6. It is understood that any modifications to the base Building structure (including electrical and mechanical systems) required by or as a result of the Tenant's design of its space will be at the sole cost of the Tenant, but Tenant may use the Landlord Allowance for payment thereof. Tenant agrees to pay for the cost of such modifications at whatever point in time during construction the need for such modifications are recognized. Nothing contained in this paragraph however, shall be construed to require Landlord to agree to any base Building modifications, Landlord hereby reserving the right to refuse to consent to any base Building modifications.

7. Tenant has no authority or power to cause or permit any lien or encumbrance of any kind whatsoever, whether created by act of Tenant, operation of law or otherwise, to be attached to or be placed upon Landlord's title or interest in the Premises, Building, Land or Project, and any and all liens and encumbrances created by Tenant shall attach to Tenant's interest only. Tenant covenants and agrees not to suffer or permit any lien of mechanics or materialism or others to be placed against the Premises or any part of the Project with respect to work or service claimed to have been performed for, or materials claimed to have been furnished to, Tenant or the Premises, and in case of any such lien attaching, Tenant covenants and agrees to cause it to be released and removed of record within ten (10) business days after Tenant has received notice of the filing thereof. In the event that such lien is not immediately released and removed within ten (10) business days after Tenant has received notice thereof, Landlord, at its sole option, may take all action necessary to release and remove such lien (without any duty to investigate the validity thereof) and Tenant shall promptly upon notice reimburse Landlord for all reasonable sums, costs and expenses (including reasonable attorney's fees) incurred by Landlord in connection with such lien.

8. Tenant shall enter into a direct contract(s) with contractors to construct the Tenant Improvements and to perform any other work approved by Landlord to the Premises, all as necessary to complete the Tenant Improvements reflected on the approved Working Drawings. All of the following provisions shall be applicable with respect to such contract(s):

(a) Tenant's selection of the contractor shall be subject to Landlord's prior written approval, which approval shall not unreasonably be withheld, conditioned or delayed.

(b) The Tenant Improvements shall be constructed in accordance with the Working Drawings. No changes to structural components, Building systems or material changes to other portions of the work shall be made with respect to the Working Drawings without Landlord's prior written approval, which approval shall not be unreasonably withheld, conditioned, or delayed. Tenant shall cause any work not in substantial compliance with the approved Working Drawings to be corrected or removed, unless same has been previously approved by the Landlord subsequent to approval of initial plans and the changes are reflected on as-built drawings.

(c) The contractor shall (i) conduct its work in such a manner as to not materially interfere with any other construction occurring on or in the Project, with the Building of which the Premises forms a part or with other tenants of the Project and (ii) comply with all rules and regulations relating to construction activities in or on the Project, as may be promulgated from time to time by Landlord. Landlord agrees to be reasonable in the enforcement of such rules and regulations.

(d) All work performed by the contractor shall be done in a first class, workmanlike manner using only good grades of materials (all materials and installation must be in accordance with the published Project Specifications or compatible items equal or better in quality) and shall comply with all Building rules and regulations and all rules, regulations, requirements, laws and ordinances, of governmental departments or agencies and with other applicable provisions of this Lease.

(e) Tenant shall provide Landlord with a copy of all executed construction contract(s) between Tenant and the contractor(s) containing at least the terms required herein prior to commencement of construction together with a detailed schedule of all values associated with the contract(s) and schedule of construction activity in accordance with standards accepted by the American Institute of Architects ("AIA").

(f) Tenant shall promptly pay the contractor(s) when due and in accordance with the requirements of the contract(s) the costs of all construction work, certify to Landlord that all such work is completed and shall deliver to Landlord evidence of such payment(s) to the contractor(s), contractor's affidavits, partial and full and final waivers of all liens for labor, services and materials and such other documents evidencing payment as Landlord may reasonably request from Tenant, the contractor(s) and all subcontractors. Landlord shall, upon receipt of the foregoing, promptly, but in no case later than fifteen (15) days after receipt thereof, reimburse Tenant for the cost of the completed Tenant Improvements subject to the provisions and limitations of Article 26.02.

(g) It shall be the responsibility of Tenant to insure that all contractors employed by Tenant for leasehold improvements or other work conducted within the Premises carry automobile liability, general liability and worker's compensation insurance in compliance with statutory limits or limits imposed by Tenant, whichever is greater.



(h) Tenant acknowledges and agrees and shall inform the contractor(s) that the following are not available to the contractor(s) or its subcontractors: (1) on site parking, (2) space for job-site trailers or sheds, (3) on-site storage, other than within the Premises itself and other than areas that Landlord and Tenant may subsequently agree will be provided from time to time, and (4) passenger elevators, other than as may be provided in paragraph 4 herein.

(i) Tenant's contract(s) with the contractor(s) shall contain the following provisions:

(1) The contractor(s) shall acknowledge and agree that ceiling, mechanical equipment or other loads will not be hung from the metal decking unless shown on the Tenant Drawings and approved by the structural engineer for the Project.

(2) The contractor(s) shall abide by all federal, state and local laws, rules and regulations, including, without limitation, all laws, rules and regulations affecting or regarding the safety of persons or property and disposal of hazardous materials.

(3) Tenant shall cooperate with Landlord to avoid labor disputes in the Project; however, the foregoing shall not limit the Tenant or the Tenant's contractors or subcontractors from employing contractors or subcontractors which are not members of unionized labor organizations.

(4) The contractor(s) shall agree to indemnify and hold Landlord, its partners, agents, and employees from and against any and all losses, damages, costs (including costs of bringing and defending any suits and attorney's fees) liabilities or causes of action arising out of or relating to any work performed by contractor(s) or any of its subcontractors or anyone performing work for or providing services or materials to any such contractor(s) or subcontractor. Without limiting the generality of the foregoing, contractor(s) shall repair or cause to be repaired at contractor's expense (unless paid by Tenant) all damage caused by contractor(s), its subcontractors, materialmen, or suppliers or their employees.

(5) Prior to commencement of construction Tenant shall obtain all necessary building permits and governmental authorizations for construction and shall deliver copies thereof to Landlord.

(6) Upon completion of construction, Tenant shall obtain: (a) a final certificate of use and occupancy for the Premises; (b) final contractors' affidavits; (c) final releases of lien from all contractors, subcontractors, materialmen and suppliers; (d) final "as built" plans and specifications for the Tenant Improvements; and (e) certificate of Tenant's architect certifying to Landlord that the Tenant Improvements have been substantially completed in accordance with the Working Drawings approved by Landlord. Copies of the foregoing shall be promptly furnished to Landlord.

(7) Tenant and Tenant's contractor shall comply with all requirements of Florida mechanic's lien law (Chapter 713 Florida Statutes).

## SCHEDULE A

### MINIMUM INFORMATION REQUIRED OF SPACE PLAN

#### Floor Plans Indicating:

1. Location and types of all partitions and doors.
2. Location and type of glass partitions, windows and doors.
3. Location of telephone equipment room.
4. Location and type of all non-building standard electrical items including lighting.
5. Location and type of equipment that will require special electrical requirements.
6. Location, weight per square foot and description of any exceptionally heavy equipment or filing system exceeding 50 psf live load.
7. Requirements of special air conditioning or ventilation.
8. Location and type of plumbing.
9. Location and type of kitchen equipment.
10. Location and size of any floor openings required. Also include structural loading data for special stairs, file rooms, elevators, libraries, etc.

## SCHEDULE B

### MINIMUM INFORMATION REQUIRED OF WORKING DRAWINGS

#### Floor Plans Indicating:

1. Location and type of partitions.
2. Location and types of all doors -- provide hardware and keying schedule.
3. Location and type of glass partitions, windows and doors -- indicate framing if not building standard.
4. Location of telephone equipment room accompanied by an approval of the telephone company, if required.
5. Indicate critical dimensions necessary for construction, such as millwork, special partitions, etc.
6. Location of all electrical items -- outlets, switches, telephone outlets.
7. Location of all electrical items including lighting.
8. Location and type of equipment that will require special electrical requirements. Provide manufacturers specifications for use and operation for all items that are not building standard.
9. Location, weight per square foot and description of any exceptionally heavy equipment or filing system exceeding 50 psf live load, except where in areas designed specifically to accommodate 125 psf.
10. Requirements for special air conditioning or ventilation.
11. Type and color of floor covering.
12. Location, type and color of wall covering.
13. Location, type and color of building standard and non-building standard painting or finishes.
14. Location and type of plumbing.
15. Location and type of kitchen equipment.

## SCHEDULE C

### BUILDING STANDARD MATERIALS AND SPECIFICATIONS

I. Building Standard Materials and Specifications: The following materials, specifications and guidelines shall be used by the Landlord for the purposes of maintaining uniformity within the Building, providing cost effective materials and finishes and for selection of finish materials by the Tenant.

1. **Demising Partitions** - (party walls) One-hour fire rated partition to deck, taped and spackled ready for paint.
2. **Interior Walls** - 2 2" metal studs, 24" o.c. with 2" drywall both sides, to ceiling, taped and spackled, ready for paint.
3. **Entry Doors** - Existing doors and hardware or equivalent.
4. **Interior Doors** - Existing doors and hardware or equivalent. Guideline of one (1) interior door for each 250 square feet of useable area.
5. **Ceiling Assembly** - Existing ceiling system to remain or new acoustical panel tile 2'0" x 4'0" with white exposed metal grid.
6. **Lighting** - Existing light fixtures to remain and be relocated as required by space plan. When new ceilings and/or light fixtures are required, fixtures to be recessed 2'0" x 4'0" fluorescent lighting per specifications below. Guideline of one (1) fixture per 100 square feet of useable area. All fluorescent fixtures shall be energy efficient using Octron F032/41K, FO25/41K or FO17/41K or Landlord's approved equal. Where U-shaped lamps are used, lamps shall be Octron FBO31/41K or Landlord's approved equal.
7. **Flooring** - Building standard twenty-six (26) ounce direct glue down carpeting in one style and one color provided throughout Tenant area plus vinyl base molding trim. Vinyl tile in special purpose areas.
8. **Wall Surface** - Two (2) coats of flat latex water base paint selected from building standard colors. Maximum of two (2) colors per Tenant suite as required for building standard partitions.
9. **Electrical** - Electrical distribution as per code and space plan. Existing to be reused where possible. Guideline of one duplex receptacle per each 100 square feet of useable area.
10. **Telephone** - Per space plan. Guideline of one(1) telephone outlet per 250 square feet of useable area.
11. **Signage** - One (1) building standard Tenant identification sign installed on corridor wall next to Tenant entry door, and one (1) building standard Tenant I.D. sign on Master Directory in the main lobby of Building.
12. **Heating, Ventilating and Air Conditioning** - Existing Building air conditioning system and equipment to be used providing a minimum of one (1) ton of cooling capacity per 250 square feet of useable area. Existing system distribution duct work, grilles and diffusers, vav boxes and controls to be reused, relocated and modified as required for space plan.
13. **Window Covering** - Building standard blinds on all exterior windows.
14. **Special Systems/Life Health Safety** - Existing sprinkler systems, fire alarm systems and equipment, exit lighting, fire extinguishers and other special systems to be reused, relocated and/or modified per space plan and code requirements.

II. General: In accordance with the provisions of Article 26.01 and 26.02, all work and materials described herein shall be provided by the Landlord, the cost of which shall be paid by the Landlord from the Tenant Allowance described in Article 26.02. All Tenant work shall be installed in accordance with the terms of this Lease, all governing codes, laws, regulations and Landlord's design construction, and labor standards.

III. Specific Exclusions: Unless otherwise provided, the following items shall be excluded from the Landlord's work and the Tenant Allowance described in Article 26.02.

1. All furnishings, decorations, and trade fixtures.
2. All storage shelving, filing systems and millwork.
3. Computer flooring and special systems and equipment.
4. Structural changes to Building.
5. Vaults, special enclosures and glass partitions and doors.
6. Tenant security systems and wiring.
7. Special hardware and automatic door openers.
8. Tenant's equipment and office furniture, etc.
9. Special plumbing, HVAC, electrical work required for the installation of
10. Recessed, non-Building Standard, and/or other special lighting fixtures.
11. Kitchen appliances, cabinets and countertops.