

**Montana State University-Billings Foundation**  
**Montana State University Billings**  
**McDonald Hall Lease**

THIS LEASE is effective as of July 1, 2020, between Montana State University-Billings Foundation, a 501(c)(3) not-for-profit corporation (“Landlord”), and Montana State University-Billings, a State Instrumentality (“Tenant”).

**1. DEMISE**

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, a portion of certain real property known as McDonald Hall, located upon lots 16, 17, 18, 19, 20, 21, 22, 23 in block 2 of Normal Subdivision to the City of Billings, Yellowstone County, Montana.

**2. TERM**

The term of this Lease shall be for five (5) years (the “Term”) commencing on July 1, 2020 and terminating on June 30, 2025.

**3. OPTION TO RENEW**

If Tenant is not in default hereunder upon the expiration of the Term or the Extension Term, as applicable, and if the parties agree on the amount of the monthly base rent applicable to the prospective Extension Term, Tenant shall have the option to renew this Lease for a total of three (3) additional terms of five (5) years each (the “Extension Term(s)”). Tenant shall give Landlord notice of Tenant’s intent to exercise its option to extend the Term (“Notice to Renew”) not less than one hundred eighty (180) days prior to the expiration of the current Term or Extension Term. Upon receipt by Landlord of Tenant’s Notice to Renew, the parties shall commence negotiations concerning the amount of the monthly base rent for the applicable Extension Term. The parties must mutually agree on the amount of the monthly base rent at least ninety (90) days prior to the expiration of the current term. If the parties do not agree on the amount of the monthly base rent at least ninety (90) days prior to the expiration of the current term, this Lease shall terminate at the expiration of the current term.

**4. RENT**

4.1 Monthly Base Rent. Tenant agrees to pay Landlord a monthly base rent for the Premises during the Term at the rate set forth herein. The monthly base rent during the lease term is \$46,881.25 ( $\$15.00 \text{ psf} \times 37,505 \text{ sf} = \$562,575.00/12 = \$46,881.25$ ) per month from July 1, 2020 through June 30, 2023 and \$48,443.96 ( $\$15.50 \text{ psf} \times 37,505 \text{ sf} = \$581,327.50 /12 = \$48,443.96$ ) per month from July 1, 2023 through June 30, 2025. The Landlord and Tenant may mutually agree on a revised rate.

4.2 Extension Term Rent. The monthly base rent during the first five (5) year Extension Term, the monthly base rent during the second five (5) year Extension Term, and the monthly base rent during third (5) year Extension Term shall be negotiated to the mutual satisfaction of Landlord and Tenant prior to the commencement date, as provided in 3.

- 4.3 Additional Amounts. In addition to the monthly base rent paid during the Term and any Extension Term, Tenant agrees to pay the additional amounts set forth herein for utilities, services, and building and grounds maintenance.
- 4.4 Building and Grounds Maintenance. The tenant agrees to keep the building and all areas outside the building within the exterior boundary line of the Premises consisting of parking areas, trash areas, roadways, sidewalks, curbs and gutters, walkways, parkways, driveways, and landscaped areas and decorative walls in good condition, reasonably free of dirt, rubbish, snow and ice, and adequately mowed, watered, drained and otherwise reasonably maintained. Maintenance of parking areas, sidewalks, curbs and gutters shall include annual inspections and crack sealing where necessary, and chip sealing and line painting every five (5) years. Tenant shall also insure the Premises as required under 8.1 and 9.1 and pay the deductible portion of an insured loss. The tenant's cost shall not include depreciation, repairs necessitated by Landlord's negligence, advertising, brokerage fees, legal fees for leasing and enforcing leases, costs reimbursed by insurance.
- 4.5 Payment Terms. Rent shall be paid in advance on or before the first day of each calendar month of the Term or any Extension Term, as the case may be. Rent shall be paid to Landlord or to such other party as Landlord may from time to time designate in writing, at the address hereafter set forth for notice to Landlord. Rent for any partial month of occupancy shall be prorated, based on the actual number of days of occupancy during that month.

## **5. UTILITIES / SERVICES / JANITORIAL**

In addition to the monthly base rent, Tenant shall directly pay for all charges for electricity, natural gas, water, and sewer service, telephone or other communication service, cable television service, janitorial services, garbage removal services, fire safety services and any other services or utilities used by Tenant in the building on the Premises during the term of this Lease. Landlord shall not be liable for the failure of any such services, unless caused by the negligence or willful misconduct of Landlord. Tenant shall pay for all charges associated with the installation and monthly use charges, connection charges, and monitoring charges for Tenant's telephone system, computer system, cable television and security system.

## **6. PARKING**

Tenant and its employees shall have access to all common driveway areas for ingress and egress and shall be entitled to the use of the parking areas designated on the Premises.

## **7. REPAIRS, REPLACEMENTS AND MAINTENANCE**

Landlord shall be responsible for repair and replacement of the roof, rain gutters, exterior and interior walls and facia, structural integrity, foundation, flat concrete, flooring, glass, plumbing fixtures, water lines, sewer lines, gas lines, electrical service and heating and air conditioning systems including all items outlined in 4.4, except those damages or repairs necessitated by the intentional, or negligent acts of Tenant, its clients, customers, invitees, suppliers or employers. Except as provided herein, Tenant shall be responsible for maintaining the Premises in as good condition as they are at the time of delivery of possession of the Premises, or as they may thereafter be put, reasonable wear and tear and acts of God excepted. Tenant shall at all times keep the building on the Premises neat, clean, and in a safe and sanitary condition. Landlord and tenant shall retain an independent party to perform a

biennial inspection of the roof, rain gutters, exterior walls, plumbing and electrical services, gas services, heating and air conditioning systems, and shall share equally in the cost of the biennial inspection. It will be the responsibility of the landlord to take corrective actions as recommended by the independent party over the next twelve-month period for normal repair and maintenance items. If it is determined by independent inspection that negligent use by either party contributed to the damage or repair, then it will be the responsibility of the negligent party to take corrective actions as recommended.

## **8. LIABILITY INSURANCE**

- 8.1 Tenant's Duties. Tenant shall maintain general liability insurance covering the Premises. The minimum limits of said insurance shall be \$750,000 for each claim and \$1.5 million for each occurrence, as per Montana Code Annotated 2-9-108. The Landlord shall be named as an additional insured as respects to the sole negligence of the Tenant.
- 8.2 Documentation. Tenant shall deliver to Landlord a certificate of such insurance showing it to be in effect and providing that it will not be canceled without at least thirty (30) days prior written notification to Landlord.

## **9. PROPERTY INSURANCE**

- 9.1 Landlord shall maintain on the Premises a policy of standard fire insurance, with extended coverage, in an amount at least equal to the replacement value of the Premises.-All proceeds of any such insurance shall be payable to Landlord and shall be applied to the restoration of the Premises, unless the Lease is terminated due to Tenant's default as provided below. Any proceeds of such insurance remaining after such restoration shall belong to Landlord. Tenant shall reimburse the Landlord for the related expense.

Tenant shall, at Tenants expense, maintain on all Tenant's personal property and Tenant's leasehold improvements and alterations on the Premises a policy of standard property insurance, with extended coverage, in the amount of their replacement value. All proceeds of such insurance shall be applied to the restoration of Tenant's personal property, leasehold improvements and alterations. Any proceeds of such insurance remaining after such restoration shall belong to Tenant.

- 9.2 Documentation. Tenant shall deliver to Landlord a certificate of such insurance showing it to be in effect and providing that it will not be canceled without at least thirty (30) days prior written notification to Landlord.

## **10. WAIVER OF SUBROGATION**

- 10.1 Waiver. If either Landlord or Tenant experience any injury, loss or damage to themselves or their respective real or personal property, and if that injury, loss or damage is insured against under any or all of their respective insurance policies, including any extended coverage endorsements thereto, then the appropriate insurance company(ies), and not Landlord or Tenant, shall be solely liable to compensate the party(ies), who experienced the injury loss or damage, regardless of whether Landlord or Tenant was responsible for such injury, loss or damage. Landlord and Tenant hereby waive any rights each may have against the other as a result of any injury, loss or damage that is then insured against by either. This waiver is

effective only to the extent that (i) the insurance company(ies) actually pay(s) for such injury, loss or damage, and (ii) the provisions of this paragraph do not invalidate any insurance coverage carried by Landlord or Tenant.

- 10.2 Documentation. Landlord and Tenant shall either cause their respective insurance companies to waive any right of subrogation against the other party hereto, and provide proof to the other party within thirty (30) days after the execution of this Lease that such waivers have been successfully obtained from respective insurance companies, or shall notify each other that such waivers could not or cannot reasonably be obtained, because of the failure of their respective insurance companies to provide the same.

## 11. LIABILITY

- 11.1 Landlord's Liability. Neither Landlord, its partners, its employees, or agents shall be liable for any injury to or death of any person, or damage to property, sustained or alleged to have been sustained by Tenant, Tenant's agents, employees, invitees or guests as a result of any condition (including future conditions) in the Premises or the Common Area, or by any other reason, unless caused by the negligence or willful misconduct of Landlord, its partners, its employees, or its agents.
- 11.2 Tenant's Liability. Neither Tenant, its employees, or agents shall be liable for any injury to or death of any person, or damage to property, sustained or alleged to have been sustained by Landlord or Landlord's partners, agents or employees as a result of any condition (including future conditions) in the Premises or Common Area, or by any other reason, unless caused by the negligence or willful misconduct of Tenant, its employees, or its agents. The parties agree that the extent of liability of the Tenant and the State of Montana, its officials and employees is controlled and limited by the provisions of Title 2, Chapter 9, MCA. Any provisions of this contract, whether or not incorporated by reference shall be controlled, limited and otherwise modified to limit any liability of the State of Montana and the Tenant to that set forth in the above-cited laws. Landlord agrees to indemnify, defend, and hold Tenant, its employees and agents harmless from any and all damages arising from claims indemnified by Landlord in this paragraph.

## 12. TENANT'S USE

The Premises shall be used as an educational institution and for related purposes. The Premises shall not be used for any other uses or purposes unless approved by Landlord in writing. Tenant shall not use Premises for illegal purposes.

## 13. HAZARDOUS SUBSTANCES AND ENVIRONMENTAL LIABILITY

- 13.1 Tenant's Representations. Tenant accepts the Premises as is with respect to the environmental condition of the Premises, including the presence or use of hazardous substances in the Premises, and acknowledges and agrees that Landlord has made no warranty or representation concerning the environmental condition of and/or hazardous substances in or on the Premises.
- 13.2 Hazardous Substances. Tenant shall not place any hazardous substance upon or under the Premises or incorporate the same into any improvement located thereon during the term of this Lease, unless the same is done in full compliance with all relevant laws, rules, ordinances, and

regulations of any governmental entity having jurisdiction over the Premises, and then only to the extent necessary to conduct its business as an educational institution.

- 13.3 Landlord's Indemnities. Landlord shall indemnify Tenant for any claims, costs or expenses related to or arising from environmental conditions and/or hazardous substances in or on the Premises that existed prior to the date the building was leased to tenant.
- 13.4 Tenant's Responsibilities. Tenant shall be liable for any claims, costs or expenses related to or arising from environmental conditions and/or hazardous substances in or on the Premises that are a result of tenant's negligence at McDonald Hall.
- 13.5 Notification. Landlord and Tenant shall each immediately notify the other of any presence, or notice or claim of presence, of Hazardous Substance on the Premises.

#### **14. ASSIGNMENT AND SUBLEASE**

- 14.1 Tenant shall not directly or indirectly, voluntarily or by operation of law, sell assign, encumber, pledge or otherwise transfer or hypothecate all of its interest in or its interest in or rights with respect to the Premises or Tenant's leasehold estate hereunder (collectively "Assignment") or permit all or any of the Premises to be occupied by anyone other than Tenant or sublet all or any portion of the Premises, or transfer a portion of its interest in or rights with respect to Tenant's leasehold estate hereunder (collectively "Sublease") without Landlord's prior written consent in each instance, which consent shall not be unreasonably withheld. Tenant will get written permission from Landlord for subleasing, if the business is outside mission of the Tenant's. Tenant also agrees to pay in connection with such requested Assignment or Sublease, Landlord's reasonable expenses in reviewing said request, any information accompanying said request, investigating the same and in reviewing and preparing any documentation regarding the same, which costs and expense shall include, but are not limited to attorney's fees, accounting fees, appraiser's fees, etc.
- 14.2 If Tenant desires at any time to enter into an assignment of the Lease or sublease of the Premises or any portion thereof, it shall first give 90-day advance written notice to Landlord of its desire to do so, which shall contain (i) the name of the proposed assignee, subtenant or occupant, (ii) the nature of the proposed business to be carried on in the Premises, (iii) the terms and provisions of the proposed assignment or sublease, and (iv) such financial information and operating history as Landlord may request concerning the proposed assignee, subtenant or occupant.
- 14.3 No consent by Landlord to any assignment or sublease by Tenant shall relieve Tenant of any obligation to be performed by Tenant under this Lease, whether arising before or after the assignment or sublease. The consent by Landlord to any assignment or sublease shall not relieve Tenant from the obligation to obtain Landlord's written consent to any assignment or sublease. Any assignment or sublease that is not in compliance with this Paragraph shall be void and, at the option of Landlord, shall constitute a material default by Tenant under this Lease. The acceptance of rent or additional charges by Landlord from a proposed assignee or sublessee shall not constitute the consent to such assignment or sublease by Landlord.
- 14.4 Each assignee, sublessee, or other transferee, other than Landlord, shall assume, as provided herein, all obligations of Tenant under this Lease, and shall be and remain liable jointly and

severally with Tenant for the payment of rent and additional charges, and for the performance of all the terms, covenants, conditions, and agreements herein contained on Tenant's part to be performed for the term; provided, however, that the assignee, sublessee or other transferee shall be liable to Landlord for rent only in the amount set forth in the assignment or sublease. No assignment or sublease shall be binding on Landlord unless the assignee or subtenant shall deliver to Landlord a counterpart of the assignment or sublease and the instrument in recordable form that contains a covenant or assumption by the assignee or subtenant satisfactory in substance and form to Landlord, consistent with the requirements set forth herein, but the failure or refusal of the assignee to execute such instrument of assumption shall not release or discharge the assignee or subtenant from its liability as set forth above.

- 14.5 The Landlord's interest in the Lease shall be assignable provided that the decision to assign the lease is made in consultation with the tenant and the tenant has the first right of refusal for the purchase of McDonald Hall. The Landlord shall assign the unused portion of any security deposit, and any prepaid rent or other charges, to Landlord's successor and provide Tenant with reasonably acceptable proof of such successor's receipt thereof.

## 15. INSPECTION AND ACCESS

Tenant shall allow the Landlord or Landlord's agent access to the Premises at all reasonable times for the purpose of inspection or of making repairs to the Premises. Landlord shall have the right to place and maintain "For Rent" signs in a conspicuous place on the Premises for sixty (60) days prior to the expiration of this Lease (if Tenant has not exercised its option to renew pursuant to Paragraph 3 above), and to show the Premises to prospective tenants or purchasers upon reasonable advance notice to Tenant. Landlord's exercise of its rights or access herein provided shall not unreasonably interfere with Tenant's business upon the Premises.

## 16. CONDEMNATION

- 16.1 Total Condemnation. If all of the Premises is taken by any public or private entity under the power of eminent domain, or if the Premises are deprived of access as a result of a total or partial taking of the Premises, this Lease shall terminate as of the date possession is taken by said condemner pursuant to such condemnation.
- 16.2 Partial Condemnation. If over fifteen percent (15%) of the Premises is so taken and Tenant determines in good faith that it is not economically feasible to continue this Lease in effect, Tenant may terminate this Lease. Termination of the Lease by Tenant shall be made by notice to the Landlord given no later than ten (10) days after possession is taken by the condemner. Said termination shall be effective as of the date thirty (30) days after said notice is delivered.
- 16.3 Abatement of Rent. If Tenant elects not to terminate this Lease, or until termination is effective, as the case may be, the rent shall be abated in the same proportion as the value of the portion of the Premises so taken bears to the value of the whole of the Premises.
- 16.4 Restoration of Premises. If Tenant elects not to terminate the Lease, Landlord shall promptly make any repairs or alterations that are required to restore the Premises to a condition comparable to the condition prior to the condemnation

16.5 Apportionment of Damages. Damages awarded for the taking or damaging of all or any part of the Premises shall belong to and be the property of Landlord, provided that Tenant shall be entitled to any portion of the award or payment attributable to Tenant's unexpired Lease term. Nothing herein contained shall be construed as precluding Tenant from asserting any claim Tenant may have against the condemner for disruption or relocation of Tenant's business on the Premises or the taking of any property belonging to Tenant.

## 17. DAMAGE OR DESTRUCTION OF PREMISES

17.1 Tenant's Option. If the Premises are damaged to such an extent that it shall reasonably require more than one hundred eighty (180) days to repair the Premises, Tenant shall have the option of terminating the Lease or continuing the Lease and requiring Landlord to rebuild the Premises. If repairs to the Premises shall reasonably require fewer than one hundred eighty (180) days to complete, Landlord shall promptly repair the Premises, and the Lease shall continue in full force and effect. If Tenant elects not to terminate this Lease, or until termination is effective, as the case may be, the rent shall be reduced in the same proportion as the value of the portion of the Premises so damaged bears to the value of the whole of the Premises. Whenever Landlord is required to repair the Premises under the terms of this paragraph, Landlord shall begin such repairs promptly and shall prosecute such repairs without unnecessary delay. This paragraph does not apply to damages caused by the intentional or negligent acts of Tenant, its clients, customers, invitees, suppliers, or employees.

17.2 Notice of Tenant's Election. Within ten (10) days of the occurrence of an event of destruction giving rise to Tenant's option to terminate the Lease pursuant to the preceding paragraph, Tenant shall give Landlord or Landlord's agent written notice of its election to terminate or continue the Lease in effect. If Tenant's election is to terminate the Lease, the Lease shall terminate on the date specified in such notice, but in no event later than thirty (30) days after the date of such notice.

17.3 Expense. Landlord shall bear all expense required to repair the Premises. Tenants shall bear all expense required to repair or replace Tenant's property and leasehold improvements.

## 18. WAIVER

No word, act or omission of Landlord shall be deemed to be a waiver of any default or noncompliance by Tenant under the terms of this Lease or of any right of Landlord hereunder or of any notice given by Landlord hereunder unless Landlord so advises Tenant in writing. The acceptance of rental by Landlord for any period or periods after a default or non-compliance by Tenant hereunder shall not be deemed a waiver of such default. No waiver by Landlord of any default or noncompliance hereunder by Tenant shall be construed to be or act as a waiver of any subsequent default or noncompliance by Tenant.

## 19. NOTICES

Any notice required to be served in accordance with the terms of this Lease shall be sent by United States mail, postage prepaid at the following addresses (or such other address as such party may designate in writing):

Landlord: President/CEO  
Montana State University-Billings Foundation  
1500 University Drive  
Billings, MT 59101

Tenant: Administrative Vice-Chancellor  
Montana State University-Billings  
1500 University Drive  
Billings, MT 59101

## 20. ALTERATIONS AND IMPROVEMENTS

Tenant shall not make any alterations, additions or improvements in or to the Premises without the prior written consent of Landlord, which shall not be unreasonably withheld or delayed. All alterations, additions and improvements shall be made at the sole cost and expense to Tenant and shall, at the option of Landlord, become part of the Premises without compensation to Tenant. If Tenant shall perform work with the consent of Landlord, as aforesaid, Tenant shall comply with all applicable laws, ordinances, rules and regulations of any authorized public authority and the requirements of the development then in existence. Tenant further agrees to save and hold Landlord harmless from any damage, loss or expense arising out of such work. Notwithstanding the foregoing, all of Tenant's furniture, fixtures, and equipment will remain the property of Tenant and may be removed upon expiration or earlier termination of the Lease. Tenant shall repair any damage caused by such removal. Tenant shall give Landlord at least thirty (30) days notice in writing of Tenant's intent to begin such alteration or improvement, setting forth the general nature and extent of the work, including a listing of all subcontractors and suppliers that Tenant proposes to use for the work. At the option of Landlord, Tenant may be required to remove such items at the end of the Lease term, and repair all damage caused by such removal.

The Landlord and Tenant may mutually agree on a revised rate if the Landlord or Tenant make mutually agreed upon major renovations to the building, which enhance the building's value.

## 21. DEFAULT/LATE CHARGES/REENTRY

21.1 Events of Default. The failure by Tenant to make any payment of rent or service charges required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of seven (7) days after such amount shall be due, then without any requirement for notice to Tenant, Tenant shall be in default. In order to cure such default, Tenant shall pay to Landlord all amounts due plus a late charge beginning on the eighth (8<sup>th</sup>) day after such amount shall be due, equal to eight percent (8%) of such overdue amount. Tenant shall also be in default for failure to perform any other term, condition or covenant of this Lease within thirty (30) days following written notice from Landlord to Tenant specifying the nature of Tenant's failure to perform; further, Tenant shall be in default if Tenant, or agent of Tenant, shall



provide any false or materially misleading document required to be furnished to Landlord pursuant to the terms of this Lease, or if Tenant shall become bankrupt or insolvent, or file any debtor proceeding or take or have taken against Tenant a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of Tenant's property, or if Tenant makes an assignment for the benefit of creditors, or abandons the Premises, or suffers this Lease to be taken under execution; provided further, however, Landlord agrees that in the event the default is of such nature that it cannot reasonably be corrected in thirty (30) days following written notice thereof it shall be sufficient if Tenant shall have commenced to cure the default within the stated time limit and shall continue thereafter with all due diligence to correct the default, provided, however, a default for failure to make timely payment of rent or other charges (all of which shall be additional rent) shall not be considered to be of such a nature.

- 21.2 Remedies for Default. In the event of default, Landlord shall have the following remedies, which shall be in addition to and shall not exclude any other remedy available to Landlord under applicable law:
- 21.2.1 Termination. In the event Tenant defaults on lease, the Landlord must give written notice to the Tenant of termination of the lease. Tenant will have 90 days to remedy the default to avoid termination of the lease.
- 21.2.2 Damages Upon Termination. In the event of termination after default, Landlord shall be entitled to recover immediately all unpaid rent or other charges for the period prior to termination.
- 21.2.3 Damages without Termination. If the Lease is not terminated by election of Landlord, in writing, Landlord shall be entitled to recover damages from Tenant for the default. Landlord may sue to recover damages as they accrue; no one action for accrued damages shall bar the later action for damages subsequently accruing. Damages shall include, but not necessarily be limited to:
- a. All unpaid rent or other charges for the period prior to reentry or abandonment.
  - b. Loss of reasonable rental value from the date of reentry or abandonment until a new tenant has been, or with the exercise of reasonable efforts, could have been secured.
  - c. Any excess of (i) the value of all Tenant's obligations under this Lease, including the obligation to pay rent, from the date of reentry or abandonment until the end of the term, over (ii) the reasonable rental value of the Premises for the same period.
- 21.2.4 Re-Entry after Termination. If the Lease is terminated for any reason by Tenant, Tenant's liability to Landlord for damages shall survive such termination, and the rights and obligations of the parties shall be as follows:
- a. Tenant shall vacate the Premises immediately, remove any property of Tenant including fixtures and leasehold improvements which Tenant is required to remove at the end of the Lease Term, perform cleanup, alterations or other work required to leave the Premises in the condition required at the end of the Term, and deliver all keys to Landlord;

- b. Landlord may re-enter, take possession of the Premises and remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages. Any such property removed may be stored in a public warehouse or elsewhere at the cost of and for the account of Tenant.

21.2.5 Reentry without Termination. Following re-entry or abandonment, without termination of this Lease by the written election of Landlord, Landlord may relet the Premises and in connection may:

- a. Make any suitable alteration or refurbish the Premises or both or change the character or use of the Premises, but Landlord shall not be required to relet for any use or purpose (other than that specified in the Lease) which Landlord may reasonably consider injurious to the Premises, or to any tenant which Landlord may reasonably consider objectionable.
- b. Relet all or part of the Premises, alone or in conjunction with other properties, for a term longer or shorter than the Term or Extension Term, as applicable, upon any reasonable terms and conditions, If rent received upon such reletting exceeds the rent received under this Lease, Tenant shall have no claim to the excess.

## **22. COSTS AND ATTORNEY'S FEES**

If by reason of any default by one party to this Lease it becomes necessary for the other party to employ an attorney, the defaulting party shall pay the other party's reasonable attorney's fees. If a lawsuit is brought concerning the terms of this Lease or to enforce its terms, the substantially prevailing party shall be entitled to its reasonable attorney's fees, including costs.

## **23. HEIRS, SUCCESSORS, AGENTS, AND EMPLOYEES**

Subject to the provisions hereof pertaining to assignment and subletting, the covenants and agreements of this Lease shall be binding upon the legal representatives, successors and assigns of any or all of the parties hereto.

## **24. HOLD-OVER**

If Tenant, with Landlord's consent, remains in possession of the Premises or any part thereof after the expiration of the Term, or Extended Term, such occupancy shall be a tenancy from month to month, subject to all the provisions of this Lease other than the length of the Term or Extended Term.

## **25. SUBORDINATION**

This Lease shall be subordinate to all current and future mortgages, deeds of trust and other encumbrances affecting the Premises, provided that the beneficiaries of such encumbrances shall execute a non-disturbance agreement reasonably acceptable to Tenant.

## **26. TENANT'S CERTIFICATE**

Tenant shall at any time and from time to time without charge, and within ten (10) days after Tenant's receipt of written request therefore by Landlord, complete, execute and deliver to Landlord a written statement concerning the terms of this Lease, whether it is in full force and effect, and whether there exists any uncured default of either party hereunder.

## **27. INVALIDITY OF PARTICULAR PROVISION**

It is the intention of the parties that each term or provision of this Lease be enforceable to the fullest extent permitted by law. If any term or provision of this Lease or the application thereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Lease and the application of such term or provision to person or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.

## **28. QUIET POSSESSION**

Landlord represents and warrants that it is the owner of the Premises and has full right to lease the Premises to Tenant in accordance with the terms of this Lease. So long as Tenant is not in default under this Lease. Tenant shall have quiet possession of the Premises, subject to the terms and provisions hereof.

## **29. AUTHORITY**

The persons executing this Lease on behalf of Landlord and Tenant each represent and warrant to the other that they are authorized to do so by the entity for which they are signing. Upon request, Landlord and Tenant shall each submit to the other a corporate or partnership resolution authorizing this Lease and reasonable documentary evidence of their respective entities.

## **30. ENTIRE AGREEMENT AMENDMENTS**

This Lease constitutes the complete agreement between Landlord and Tenant, and supercedes all previous agreements. There are no terms, obligations, covenants or conditions other than those contained herein. No modification or amendment of this Lease shall be valid or effective unless evidenced by an agreement in writing signed by party to be bound.

## **31. GOVERNING LAW**

This Lease will be governed by laws of the State of Montana.

## **32. SURVIVAL OF INDEMNITIES**

All obligations of Landlord and Tenant to indemnify the other, as set forth in this Lease, shall survive the termination or sooner expiration of this Lease.

**33. NO AGREEMENTS UNTIL SIGNED**

The submission of this Lease or a summary of some or all of its provisions for examination does not constitute a reservation of or option for the Premises or an offer to lease, and no legal obligations shall arise with respect to the Premises or other matters herein until this Lease is executed and delivered by Landlord and Tenant.

**33. HEADINGS AND CAPTIONS**

The headings and captions in this Lease are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

