



STATE OF NEW MEXICO
GENERAL SERVICES DEPARTMENT
Facilities Management Division
2542 Cerrillos Road, Building T-187
Santa Fe, New Mexico 87505



This lease, **Lease Record "[Insert Lease Record Number]"**, is made and entered into between **"[Insert Lessor Name]" "Lessor,"** and **"[Insert Agency Full Name, include Division if applicable]" "Lessee,"** an agency or instrumentality of the State of New Mexico, pursuant to GSD Rule 1 NMAC 5.21 and amendments thereto and approved by the **Facilities Management Division Director or Designee, "FMD."**

Lessor and Lessee agree as follows:

1. **Leased Premises.** In consideration of the terms and conditions in this Lease, Lessor leases to Lessee, and Lessee leases from Lessor, those Leased Premises with appurtenances, located at: **"[Insert Physical Address]"**, **"[Insert City, State and Zip]"**, **"Leased Premises"** and situated in the County of **"[Insert County Name]"**, New Mexico.
 - a. Include description of property including legal description where readily available, inventory of Lessor's furnishings and other property associated with the Leased Premises which shall remain on the Leased Premises: **"[Insert if Applicable or enter N/A]"**.
 - b. Square Footage of Leased Premises:
 - i. Leasable: **"[Insert Leasable Square Footage]"**; and
 - ii. Usable: **"[Insert Usable Square Footage]"**.
 - iii. Full Time Employees: **"[Insert Total Number of FTEs]"**.
 - c. Parking – total number of parking spaces included in this Lease are as follows:
 - i. Employee/State secured parking spaces: **"[Insert Total Number of Parking Spaces = to FTEs]"**
 - ii. General/visitor parking spaces: **"[Insert Number of Parking Spaces]"**
 - iii. ADA parking as required by the local governing body (city, county, state).
 - d. Lessee's Hours of Operation: **"[Insert Regular Days of Operation]"** ;
"[Insert Regular Hours of Operation]" ; and
Other: **"[Insert Other Requirements]"** .
2. **Term.** The Initial Term of this Lease shall be for **"[Insert Number of Months]"** , as follows:
 - a. Beginning on: **"[Insert Beginning Date]"** ; and
 - b. Terminating on: **"[Insert Ending Date]"** .
 - c. This term shall be amended to begin on the actual occupancy date by the Lessee and to terminate **"[insert amount]"** years thereafter, unless extended as permitted herein, because of the Lessee required renovations.

3. **Rent.** Lessee and Lessor understand that Lessee shall not pay rent prior to the completion of the renovations and the occupancy of the Leased Premises.

In consideration of this Lease, Lessor and Lessee agree to the following rent schedule, understanding that term dates may be amended based on the actual and mutually agreed upon occupancy date.

"[Insert Rent Schedule]"

The total rent for the initial term is: "[Insert Total Rent to be Paid in the Initial Term]" . Operating cost escalation is "[Insert Operating Cost Annual Escalation]" to be added to the annual operating cost beginning on the first day of the 13th month of occupancy and annually thereafter.

Lessee has the sole responsibility for paying rent; Lessor should anticipate a delay in the first rent payment of each new fiscal year (July payments). The Department of Finance and Administration closes out all accounts for the fiscal year at that time and all payments may be delayed.

4. **Option to Renew.** In partial consideration for rent paid under this Lease, Lessor grants Lessee, its successors and assignees, "[Insert number of renewal options, ex. one, two etc.]" "[Insert option years, ex. 5-years]" option(s) to renew this Lease. The renewal(s) shall be for a term not to exceed the initial term and shall be subject to the same terms and conditions set forth in this Lease for the original term, except as may be provided otherwise in this Lease with regard to rent. Lessee may exercise the options, by giving Lessor written notice at least thirty days prior to the expiration of the current term. Initial term and any renewal terms shall not exceed 20-years.

Base rent as negotiated of "[Insert Annual Base Rent]" shall be effective for any renewal term.

5. **Holding Over.** Lessee's holding over or continued use or occupancy shall be construed as a month-to-month tenancy and the monthly rent shall remain the same as the last date of the expired term and is subject to the same terms and conditions set forth in this Lease, or as it may be amended.
6. **Use of Leased Premises.** Lessee shall use the Leased Premises for purposes of carrying on state business. More particularly, Lessee shall use the Leased Premises for, among other things:
"[Insert Use of the Leased Premises]"

Lessor agrees that the Leased Premises are suitable for this (these) purpose(s) or has revealed to Lessee any reasons Lessor knows of or reasonably should know of why the Leased Premises might not be suitable for such purpose(s).

7. **Condition of Leased Premises.** Lessor warrants that the Leased Premises are in good and safe condition, structurally sound and of safe design and that they comply with all applicable building codes, ordinances, rules and regulations, except as noted: No Exceptions

Any defects of which the Lessor is aware shall be rectified prior to the inception of this Lease or within 60 days thereafter. Failure to correct any dangerous condition constitutes a substantial breach.

8. **Accessibility to the Disabled.** The Lessor warrants that the Leased Premises shall meet standards consistent with the Americans with Disabilities Act (ADA) within 60 calendar days of the execution of this Lease. The Lessor also warrants that the Leased Premises will be maintained in compliance with these standards.

9. **Delivery of possession.** Lessor warrants that the Leased Premises will be vacant and will put Lessee in possession upon completion of the required renovations. Lessee will be kept informed as to the progress of the renovations.
10. **Damage to Leased Premises.** If at the inception of this Lease or at any time thereafter (including any renewal) all or any part of the Leased Premises shall be so damaged or destroyed through any cause, other than Lessee's willful act as to be rendered unfit for Lessee's occupancy, in Lessee's judgment, Lessee may declare this Lease terminated and rent shall be payable only to the date of the damage. Alternatively, Lessee, in its sole discretion, may continue to occupy any portion useful to it, and the rent shall abate in proportion to the portions not useful to Lessee.
- If at the inception of this Lease or at any time thereafter (including any renewal) all or any part of the Leased Premises shall be so slightly damaged through any cause, other than Lessee's willful act, ordinary wear and tear or repair subject to routine maintenance, as not to be rendered unfit for Lessee's occupancy, in Lessee's judgment, Lessor shall repair the Leased Premises with all reasonable promptness, at Lessor's expense, and the rent shall abate fairly until repairs are completed. However, if Lessor fails to promptly commence or to expeditiously complete repairs necessary to restore the Leased Premises to their former condition, Lessee may declare this Lease terminated and rent, including any fair abatement thereof, shall be payable only to the date of termination. Alternatively, if Lessor fails to promptly commence or to expeditiously complete repairs, Lessee, in its sole discretion, may perform or cause to be performed such repairs, and may deduct the costs from rent, including any fair abatement.
- Lessee's decision as to whether all or any part of the Leased Premises is fit or unfit for occupancy shall be final, but Lessee's decision shall be reasonable in the circumstances.
11. **Alterations and Improvements.** Lessee shall obtain the Lessor's written permission before making any alterations or improvements of a permanent nature.
12. **Ownership of Improvements.** All alterations and improvements made to or placed in the Leased Premises by Lessee, and which can be removed without undue damage to the Leased Premises, are and shall remain the Lessee's property except as the parties mutually agree otherwise in writing. Alterations and improvements of a permanent nature which cannot be removed without undue damage to the Leased Premises shall become Lessor's property except as the parties mutually agree otherwise in writing.
13. **Condition of Leased Premises upon Surrender.** At the termination of this Lease, Lessee shall surrender the Leased Premises in the condition in which they were at the inception of this Lease, excepting:
- deterioration caused through reasonable use and ordinary wear and tear;
 - alterations, improvements or conditions made with Lessor's written approval; and
 - any change, damage or destruction not resulting from Lessee's willful act.
14. **Payment of Assessments, etc.** Lessor shall pay as they become due all assessments, charges, mortgages, liens and taxes payable in respect to the Leased Premises during the term of this Lease. If Lessor defaults in paying any such amounts, Lessee, in its sole discretion, may pay any assessment, charge, mortgage, lien or tax. Upon doing so, Lessee shall be subrogated to the creditor's rights and may deduct the cost of such payment from rent.
15. **Utilities, Janitorial Services and Supplies.** Lessor agrees to provide the following at Lessors expense:
- Gas, Electric, Water, Sewer, Refuse Disposal Services, as applicable to the Leased Premises; and
 - Janitorial Supplies and Services, to be performed "[Insert days and times]"
16. **Right of Entry.** Lessor or his agent has a right to enter upon the Leased Premises to inspect, to make repairs and for other reasonable purposes, with Lessee's permission, which shall not be unreasonably withheld. In an

emergency, such as fire, Lessor or his agent may enter the Leased Premises without securing Lessee's prior permission, but shall give Lessee notice of entry as soon thereafter as practicable.

17. Duty to Maintain Leased Premises.

- a. Lessor has the duty to reveal to Lessee all structural defects of which he knows or reasonably should know, and to repair all structural defects on the Leased Premises;
- b. Lessor has the duty to repair and maintain the Leased Premises, including but not limited to the: roof, windows, grounds, parking lots, sidewalks, doors and lighting in safe condition and in good repair and condition. Lessee has the duty to inspect and notify Lessor of any defective exterior conditions;
- c. Lessor has the duty to repair and maintain the Leased Premises, including but not limited to the: cooling system, heating system, plumbing, lighting, doors, flooring, wall finishes, elevators, fire protection equipment, except as otherwise provided in Paragraphs **10. Damage to Leased Premises** and **13. Condition of Leased Premises upon Surrender**.
- d. Lessor shall, at all times and in a timely manner, provide a safe Premises by eliminating conditions caused by, including and not limited to, snow, ice, debris, mold and standing water.
- e. Lessor shall provide pest control services monthly during active season and bi-monthly during off-season. Lessor shall maintain pest control if a special situation arises at any time of year, such as an ant infestation.

If, after written notification, the Lessor fails to perform required maintenance in a timely fashion, the Lessee may abate rent and/or perform the maintenance and withhold the cost of the maintenance from the Lessor.

- 18. Right to Assign or Sublease.** Lessee has the right to assign or sublease the Leased Premises or any part of them to other state agencies or to qualified tenants for any remaining term of this Lease. Lessee shall notify Lessor immediately upon execution of any sublease or assignment, or at such other time as may be provided in this Lease. Lessee's obligation to pay the portion of the rent represented by the sublease or assignment shall cease upon the furnishing of such notice to Lessor.

19. Duty to Insure.

- a. During the term of this Lease and any extension thereof, Lessee shall provide coverage for liability of Lessee and its "public employees," as defined in the Tort Claims Act, and for its personal property and tenant's improvements and betterments, as required by New Mexico law.
- b. At all times during the term of this Lease and any extension thereof, Lessor shall maintain in force a policy or policies of insurance providing:
 - i. comprehensive general liability coverage of not less than \$1,000,000 limit per occurrence, including coverage for property damage, bodily injury and wrongful death. Such insurance policy or policies shall name the "State of New Mexico, its branches, agencies, instrumentalities and public employees" as additional insured on the endorsements; and
 - ii. an extended coverage endorsement or "All Risk" policy insuring for fire, lightning, vandalism, malicious mischief, loss of rents and other normal extended coverage for at least 80% of the replacement value of the Leased Premises.
- c. Lessor releases and discharges the Lessee and its "public employees" as defined in the Tort Claims Act from any and all claims, damages and causes of action arising out of any damage to or destruction of the Leased Premises where such damage or destruction was not caused by the willful act of Lessee or any of its "public employees."
- d. Lessor shall provide certificates of coverage or proof of self-insurance evidencing compliance with this section which shall be attached to this Lease and all amendments at the time of execution. Lessor shall notify Lessee within ten days after cancellation or expiration of any required coverage.

20. **Right to Terminate upon Breach of Condition or Agreement.** Either party may terminate this Lease upon the other party's substantial breach of any term or condition contained in this Lease, provided that the breaching party shall be given thirty (30) days from the receipt of written notice of a substantial breach to cure the breach or to begin and proceed, with due diligence, to cure a breach that cannot be cured within thirty (30) days. In the event of a substantial breach, the non-breaching party shall give the breaching party written notice that describes the nature of the breach and notifies the breaching party that, unless the breach is cured within the time limits contained herein, the Lease shall terminate without further notice at the end of the cure period. Upon termination of the Lease, the Lessee shall surrender the Leased Premises to the Lessor and shall be obligated to pay rent only to the date of surrender.
21. **Special Damages.** If through Lessor's willful breach of any term or condition, Lessee must vacate or cannot take possession of the Leased Premises, Lessee may recover, in addition to any other damages, special damages, including the cost of employee time lost, moving costs and all other reasonably ascertainable costs connected with relocating to another premises.
22. **Lease Binding on Heirs, etc.** This Lease is binding upon the heirs, executors, administrators, personal representatives, assignees and successors-in-interest of the parties.
23. **Amendments.** This Lease shall not be altered or amended except by instrument in writing executed by the parties and approved by FMD.
24. **Address for Notices, Payment of Rent, etc.** Notices required under this Lease and rental payments shall be made at the following physical and email addresses by written notice to Lessor, Lessee and FMD:
- a. **Lessor:**
"[Insert Lessor]"
Attn: "[Insert Contact]"
"[Insert Lessor Mailing Address]"
"[Insert Lessor City, State and Zip]"
Telephone number: "[Insert Lessor Telephone Number]"
Email: "[Insert Lessor Email Address]"
 - b. **Lessor Payments:**
"[Insert Lessor]"
c/o: "[Insert Contact]"
"[Insert Mailing Address]"
"[Insert City, State and Zip]"
Telephone number: "[Insert Telephone Number]"
Email: "[Insert Email Address]"
 - c. **Lessee:**
"[Insert Lessee]"
Attn: "[Insert Contact]"
"[Insert Mailing Address]"
"[Insert City, State and Zip]"
Telephone number: "[Insert Telephone Number]"
Email: "[Insert Email Address]"
 - d. **Lessee, Lease Monitor:**
"[Insert Lessee]"
Attn: "[Insert Contact]"
"[Insert Mailing Address]"
"[Insert City, State and Zip]"
Telephone number: "[Insert Telephone Number including area code]"
Email: "[Insert Email Address]"
 - e. **Notices Only:**
General Services Department, Facilities Management Division

Attn: Asset Management Bureau, Leasing
P.O. Box 6850
Santa Fe, NM 87502
Telephone number: 505-827-2141

25. **Merger of Prior Agreement.** This Lease incorporates all of the conditions, agreements and understandings between the parties concerning the subject matter of this Lease, and all such conditions, agreements and understandings have been merged into this written Lease. No prior condition, agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this written Lease.
26. **Certificates and Documents Incorporated.** All certificates and documentation required by the provisions of this Lease shall be attached to the Lease at the time of execution, and are hereby incorporated in this written Lease to the extent they are consistent with its terms and conditions. The following documents shall be attached hereto and incorporated herein for the existing building:
- a. Request for Proposals:
 - i. Attachment C, Telecommunications Requirements;
 - ii. Attachment D, Facilities Management Standard Requirements; and
 - iii. Attachment E, Lessee Requirements; and
 - iv. All the provisions of the RFP are applicable unless otherwise outlined in Paragraph 31. **Other Provisions.**
 - b. Performance Bond in the amount of "[Insert Bond Amount]", pursuant to 1.5.21 NMAC 14.C. Performance Bond.
 - c. Build to Suit:
 - i. Approved (Lessee and FMD) Schematic Drawing(s).
 - d. Existing Building:
 - i. Current Floor Plan; and
 - ii. Approved (Lessee and FMD) Drawing(s) of Planned Renovations, as applicable.
27. **Early Termination.** This Lease shall terminate prior to the end of the term set forth in Paragraph 3 of this Lease, without penalty to the Lessee, upon the occurrence of one or more of the following events:
- a. The New Mexico Legislature fails to grant sufficient authority and appropriations to the Lessee to carry out the terms and conditions of this Lease;
 - b. The Governor of New Mexico, pursuant to Executive Order, or the New Mexico Legislature, pursuant to statute, eliminates or transfers employees or functions of the Lessee; or
 - c. The State of New Mexico builds a new building or purchases an existing building and includes space in such new or existing building for the Lessee.
- Upon the occurrence of one or more of the above events, this Lease shall terminate when required by law or upon the Facilities Management Division Director giving the Lessor ninety (90) days written notice, whichever occurs first. The Facilities Management Division Director's decision as to whether one or more of the above events has occurred shall be final and binding upon the parties to this Lease.
28. **Environmental Safety.** The Lessor warrants that the Leased Premises comply with any and all federal and state environmental regulations. During the term of this Lease, the Lessor agrees to maintain the Leased Premises consistent with these regulations. Should an environmental hazard which threatens the life, health or safety of Lessee's employees and/or the public be discovered, the Lessee may terminate this Lease in accordance with Paragraph 20. **Right to Terminate upon Breach of Condition or Agreement.**

29. **Notice.** The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.
30. **Changes in Square Footage.** Any changes in square footage shall be based upon the rate per Leasable Square Footage (LSF) of the original Lease for the effective date in paragraph 3, Rent. If the original rates for LSF have been changed by amendment, then any changes in square footage shall be based upon the amended rate per LSF. The original lease's escalation rate will remain in effect, unless also changed by amendment.
31. **Other Provisions.**

****THIS AREA INTENTIONALLY LEFT BLANK****

LESSOR: "[Insert Lessor Name]"By: _____ Date: _____
"[Insert Lessor Signature Authority and Title]"

Where Lessor is a partnership, corporation, or association, list all partners, officers and directors as may be applicable. This information shall be reflected in the space provided below (indicate if not applicable):

LESSEE LEGAL COUNSEL REVIEW:

This form as printed has been approved by the Office of the Attorney General. Alterations and additions to this Lease must be reviewed separately.

This Lease has been reviewed and approved as to form by:

By: _____ Date: _____
"[Insert Name of General Counsel (include name and title)]"**LESSEE: "[Insert Full Name of Agency (include Division if included in paragraph 1)]"**By: _____ Date: _____
"[Insert Full Name of Signature Authority of Agency and include Title]"

This Lease shall not be binding or effective until approved by the Facilities Management Division Director.

APPROVED: FACILITIES MANAGEMENT DIVISION (Routed through FMD Leasing Manager: _____)By: _____ Date: _____
Anna Silva, Director Anna.Silva2@state.nm.us