

GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT (this “Agreement”) is made and entered into as of the ____ day of _____, 2013 (the “Effective Date”), by and between **CPGPI REGENCY ERWIN, LLC**, a Delaware limited liability company (“Landlord”) and **CITY OF DURHAM** (“Tenant”).

WITNESSETH:

That in consideration of the covenants and conditions herein contained and in consideration of the rents herein reserved to be paid by the Tenant, the said Landlord does hereby covenant, stipulate and agree to and with the Tenant as follows:

ARTICLE 1 DEMISED PREMISES

1.1 Premises. In consideration of the mutual covenants and agreements of this Agreement, and other good and valuable consideration, and subject to the terms and provisions of this Agreement, as of the Commencement Date (as hereinafter defined), Landlord hereby agrees to lease to Tenant, and Tenant hereby leases from Landlord, the parking lot and all parking facility improvements (the “Parking Facility”) located on the real property described in **Exhibit A** attached hereto and made a part hereof for all purposes (the “Land”). Tenant shall be required to pay monthly rent for the Premises as of the Commencement Date and throughout the Term (as hereinafter defined) in accordance with terms and conditions of Article 3 herein. The Parking Facility and all appurtenances and easements benefiting, belonging or pertaining to the Parking Facility together with an easement over all of the pedestrian and vehicular ingress/egress areas located on, benefiting, or providing access to the Parking Facility are hereinafter collectively referred to as the “Premises.” Any portion of the Land which is not the Premises shall be a part of the “Common Area” of the “Shopping Center” (as hereinafter defined).

ARTICLE 2 TERM

2.1 Primary Term. The term of this Agreement (the “Primary Term”) shall be ten (10) years, commencing on March 1, 2014 (the “Commencement Date”).

2.2 Options To Extend.

a. Landlord hereby grants to Tenant two (2) options (singularly an “Extension Option” and collectively the “Extension Options”) to extend the term of this Agreement for additional terms of five (5) years each (singularly an “Option Period” and collectively the “Option Periods”), on the same terms, conditions and covenants set forth in this Agreement, except the monthly rental shall be adjusted as hereinafter provided. Each Extension Option shall be exercised automatically without providing any notice of extension unless Tenant provides written notice delivered to the Landlord that Tenant will not extend the Term of this Agreement at least one (1) year prior to the expiration of the Primary Term or the preceding Option Period.

b. Base Rent for the Extension Options shall be as set forth in Section 3.4 of this Agreement.

c. Notwithstanding the foregoing, any option to extend the Term of this Agreement shall be deemed null and void, at Landlord's sole discretion, if one or more of the following has occurred:

1) Tenant has been late in the payment of Rent on three (3) or more occasions within any twelve (12) month period, after Tenant first receiving written notice from Landlord that Tenant was late in the payment of Rent for the first two occasions before a third late payment is to occur. For this purpose, a payment shall be deemed to be late if it is received by Landlord after the tenth (10th) day of the month in which such Rent is due.

2) Tenant is in default beyond any applicable cure period in the performance of any of its obligations under this Agreement at the time Tenant exercises any Extension Option, or at the time of commencement of any Option Period.

3) This Agreement has ever been assigned by Tenant other than as set forth in this Agreement.

d. Notwithstanding anything to the contrary contained in the Agreement, at any time after the ninth full year after the Commencement Date, Landlord may elect to terminate the Agreement for any reason or no reason by giving Tenant three hundred sixty five (365) days prior written notice of such election ("Notice"), such termination to be effective as of the date three hundred sixty five (365) days after the date of the Notice (the "Termination Date"). In the event of any termination of the Agreement by Landlord as provided herein, Landlord hereby reserves any and all rights and remedies available to Landlord under the Agreement, at law or in equity with respect to any past due amounts due from Tenant under the Agreement or any other defaults by Tenant thereunder occurring prior to the Termination Date. Upon any such termination, Tenant shall surrender the Premises to Landlord in the condition required by the Agreement on the Termination Date and the parties shall be relieved of further obligation under the Agreement accruing after the Termination Date (except as to any monies due and owing as of the Termination Date, to include any outstanding amounts of Rent or those obligations which are specifically stated to survive the expiration or earlier termination of the Agreement).

2.3 Term of this Agreement. The phrase "Term of this Agreement" or "Term" as used in this Agreement shall mean the Primary Term of this Agreement and all Option Periods timely exercised by Tenant pursuant to the terms and provisions of this Agreement.

ARTICLE 3 RENT

3.1 Rent. The monthly Base Rent under this Agreement shall be \$6,875.00 monthly for each Years 1 through 5, and shall be \$7,291.33 monthly for each Years 6 through 10. Rent shall commence upon the Commencement Date of this Agreement as defined in Section 2.1 above. To the extent that the rent payable under this Agreement is not exempt from sales (or similar) tax

under applicable law, all amounts due to Landlord under this Agreement shall be payable together with applicable sales (or similar) tax payable on such amounts. Tenant shall pay, as additional rent (herein sometimes collectively called "Additional Rent"), all sums of money or charges of whatsoever nature (except Base Rent) required to be paid by Tenant to Landlord pursuant to this Agreement, whether or not the same is designated as "Additional Rent." The term "Rent" includes the Base Rent and Additional Rent.

3.2 Late Charge. In the event Tenant fails to pay any installment of rent within ten (10) days following the date when due, Tenant shall pay to Landlord the installment plus accrued interest rate of ten percent (10%) per year or the maximum rate allowed by law, whichever is less. This provision shall be in addition to all other rights and remedies available to Landlord at law or in equity and shall not be construed as liquidated damages or limiting Landlord's remedies in any manner.

3.3 Mode of Payment. Tenant shall pay all rent to Landlord without previous demand or notice on or before the first day of each calendar month in lawful money of the United States of America at the following address (the "Landlord's Address"):

c/o Regency Centers Corporation
One Independent Drive
Suite 114
Jacksonville, Florida 32202-5019
Attention: Lease Administration

or to such other person or at such other place as Landlord may from time to time designate by written notice. Landlord hereby reserves all rights and remedies available to it under this Agreement, at law or in equity for Tenant's failure to pay Rent and other charges when due.

3.4 Base Rent for Option Periods.

a. Base Rent for the first Option Period shall be the greater of (i) the Base Rent applicable to the last five years of the Primary Term multiplied by the CPI Index as measured over the last five years of the Primary Term (as hereinafter defined) or (ii) One Hundred Ten Percent (110%) of the then-applicable Base Rent as of the last month of the Primary Term.

b. Base Rent for the second Option Period shall be the greater of (i) the Base Rent applicable to the first Option Period multiplied by the CPI Index as measured over the first Option Period (as hereinafter defined) or (ii) One Hundred Ten Percent (110%) of the then-applicable Base Rent as of the last month of the first Option Period.

c. The CPI Index shall be determined as follows.

For purposes of this Section 3.4, the "CPI Index" shall be a function of the consumer price index ("CPI") in accordance with the following procedures:

d. CPI means the index of changes of prices and services purchased by urban wage earner and clerical worker families to maintain their level of living - all items - all

cities - as compiled and published by the United States Department of Labor, Bureau of Labor Statistics. If any time such index is no longer compiled or published by the Department of Labor, Landlord will select such other index or standard as shall most clearly reflect changes in the cost of living for urban wage earners and which is generally recognized as authoritative by financial and insurance institutions. Thereafter the substitute index shall be the CPI.

e. The CPI for the month which is sixty three (63) months prior to the first month for which the increase is being calculated shall be the Base CPI for the purpose of the rent adjustment.

f. The CPI for the month which is three (3) months prior to the first month for which the increase is being calculated shall be the "Adjustment CPI."

g. If the Adjustment CPI exceeds Base CPI, the difference is the "CPI Increase." The CPI Increase shall be divided by the Base CPI and the numeral 1 shall be added to that quotient with the resulting number being the "CPI Index".

Landlord will furnish to Tenant a statement of adjusted Base Rent as soon as practical after the publication of the Adjustment CPI. If such statement is not furnished by the effective date of the adjustment, Tenant shall continue to pay Base Rent at the rate then due until such statement is furnished, and the Base Rent will be adjusted and paid retroactive to the first day of the applicable Option Term on the first day of the next succeeding month.

ARTICLE 4 USE AND OCCUPANCY OF THE PREMISES

4.1 Purpose and Use. Tenant shall operate the Parking Facility as a public parking facility and for no other use which shall, subject to the terms of this Agreement, be made available on a non-exclusive basis twenty four (24) hours per day, 365 days per year (the "Use"). Tenant shall prevent the use of the Parking Facility for the parking of vehicles other than: automobiles, light trucks, non-commercial vehicles, vans and motorcycles, provided each such vehicle can safely fit within the Parking Facility in a single parking space without damaging the Parking Facility or unreasonably interfering with the ability to park other vehicles. Tenant shall further prevent the use of the Parking Facility for any maintenance of any vehicles of any type, or storage of recreational vehicles, boats, any other unregistered vehicles of any type, or any other modes of transportation other than passenger vehicles. Tenant and Tenant's agents, employees, subtenants, assignees, licensees, contractors or invitees, (collectively, "Tenant Parties") shall also have the right of access, ingress and egress over and upon the Premises in order to utilize the Premises for pedestrian and vehicular access to the Parking Facility. The Tenant agrees to abide by any and all reasonable regulations for the use of the Parking Facility as may from time to time be prescribed by Landlord and delivered to Tenant in writing. Except in the event of an emergency in which no prior approval shall be required, with written approval from the Tenant which approval shall not be unreasonably withheld, conditioned or delayed, Landlord may at any time and from time to time close all or any portion of the Parking Facility to make repairs, improvements, alterations or changes and, to the extent necessary in the opinion of Landlord, to prevent a dedication thereof or the accrual of any rights to any person or to the public therein. As

a condition of obtaining written approval of Tenant for such action by Landlord, Landlord agrees to first consult with Tenant so as to coordinate such necessary repairs, improvements, alterations or changes to the Parking Facility in an effort to minimize the impact on Tenant's operations. Unless required due to the negligence or willful misconduct of any Tenant Party, if all or a material portion of the Parking Facility must be closed for more than two (2) days for repairs, improvements, alterations or changes being performed by the Landlord pursuant to this Agreement (other than pursuant to Landlord's self-help rights pursuant to Section 12), Tenant's Rent shall be abated for the period of time all or such portion of the Parking Facility is closed. The abatement shall equal to Tenant's Rent for the period of time beyond the allowed two (2) days that all or such portion of the Parking Facility is closed. The abatement contained in this Section 4.1 shall not apply to the Facility Improvement Work and the Facility Improvement Period which shall be governed by Article 16.

4.2 Use and Regulation of Parking Spaces. Subject to the terms of this Agreement, Tenant agrees to manage the use of the parking spaces within the Parking Facility consistent with its other public parking facilities; provided that Tenant's use of the Parking Facility shall be limited to vehicular parking unless otherwise agreed to in writing by Landlord. Tenant shall have the right to regulate and establish hours of operation, rates or fees to be charged and term of use of the parking spaces.

4.3 No Liability. Landlord does not assume any liability or responsibility whatsoever for loss, damages, or theft to the motor vehicles or their contents, however caused.

4.4 Alterations. Excepting those improvements which Tenant explicitly agrees to complete as set forth in in this Agreement, Tenant shall not make any changes, additions, alterations, or improvements to the Premises or the Land without the prior written consent of Landlord, which consent may be withheld in Landlord's sole and absolute discretion. A sketch depicting the Parking Facility as of the Effective Date is attached hereto as **Exhibit B**.

ARTICLE 5 CONSTRUCTION BY TENANT

5.1 Should any claim of lien or other lien be filed against the Premises or the Parking Facility by reason of any act or omission of Tenant or any of Tenant's agents, employees, contractors or representatives, then Tenant shall cause the same to be canceled and discharged of record by bond or otherwise within fifteen (15) days after notice to Tenant of the filing thereof. Should Tenant fail to discharge such lien within such fifteen (15) day period, then Landlord may discharge the same, in which event Tenant shall reimburse Landlord, on demand, for the amount of the lien or the amount of the bond, if greater, plus all administrative costs incurred by Landlord in connection therewith, with interest thereon from the date Landlord discharges such lien at the lesser of twelve percent (12%) per annum or the maximum lawful rate of interest permitted by applicable law. The remedies provided herein shall be in addition to all other remedies available to Landlord under this Agreement or otherwise. Tenant shall have no power to do any act or make any contract that may create or be the foundation of any lien, mortgage or other encumbrance upon the reversionary or other estate of Landlord, or any interest of Landlord in the Premises and/or the Parking Facility. NO CONSTRUCTION LIENS OR OTHER LIENS FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED TO THE PREMISES SHALL

ATTACH TO OR AFFECT THE INTEREST OF LANDLORD IN AND TO THE PREMISES OR THE PARKING FACILITY. TENANT SHALL NOTIFY ANY CONTRACTOR PERFORMING ANY CONSTRUCTION WORK IN THE PREMISES ON BEHALF OF TENANT THAT THIS AGREEMENT SPECIFICALLY PROVIDES THAT THE INTEREST OF LANDLORD IN THE PREMISES SHALL NOT BE SUBJECT TO LIENS FOR IMPROVEMENTS MADE BY TENANT, AND NO MECHANIC'S LIEN OR OTHER LIEN FOR ANY SUCH LABOR, SERVICES, MATERIALS, SUPPLIES, MACHINERY, FIXTURES OR EQUIPMENT SHALL ATTACH TO OR AFFECT THE STATE OR INTEREST OF LANDLORD IN AND TO THE PREMISES, THE PARKING FACILITY, OR ANY PORTION THEREOF. IN ADDITION, LANDLORD SHALL HAVE THE RIGHT TO POST AND KEEP POSTED AT ALL REASONABLE TIMES ON THE PREMISES AND NOTICES WHICH LANDLORD SHALL BE REQUIRED SO TO POST FOR THE PROTECTION OF LANDLORD AND THE PREMISES FROM ANY SUCH LIEN.

ARTICLE 6 MAINTENANCE

6.1 Landlord's Maintenance Obligations. Landlord shall provide the following at its sole cost and expense (i) overhead lighting (including maintenance, repair and replacement) and its related electricity consumption, (ii) snow and ice removal from the Parking Facility, (iii) subject to Tenant's obligations in Section 6.2 below, adequate pavement and striping (as necessary to maintain the parking lot surface of the Premises in a condition consistent with the other Parking Facilities on the Land , and (iv) sweeping, cleaning, and landscaping maintenance (meaning, collectively, the Premises and Common Areas on the Land) in good condition and repair consistent with the routine maintenance and repair which is standard for the Common Areas of the Shopping Center as maintained by Landlord. Landlord shall commence within thirty (30) days and thereafter diligently pursue to completion such Landlord maintenance obligations after being given notice of the maintenance need consistent with the standards for the Common Areas of the Shopping Center. Notwithstanding the foregoing, the thirty (30) day period provided above shall not apply in the event that a delay in Landlord's completing the required maintenance would materially and adversely affect Tenant's ability to use the Parking Facility for the Use in which event Landlord shall commence the required maintenance as quickly as reasonably practical. Tenant agrees and acknowledges that Landlord's obligations hereunder may be performed under contracts applicable to the Land, the Premises or to all or a larger portion of the Shopping Center or the Adjacent Shopping Center (as hereinafter defined). The manner in which the Common Areas shall be maintained as described herein shall be solely determined by Landlord. If any owner or tenant of any portion of the Shopping Center maintains Common Areas located upon its parcel or premises (Landlord shall have the right, in its sole discretion, to allow any owner or tenant to so maintain Common Areas located upon its parcel or premises), Landlord shall not have any responsibility for the maintenance of that portion of the Common Areas and Tenant shall have no claims against Landlord arising out of any failure of such owner or tenant to so maintain its portion of the Common Areas.

6.2 Tenant's Maintenance Obligations. Notwithstanding the foregoing, Tenant shall have responsibility at its sole cost and expense for all other maintenance, repairs and replacements to the Parking Facility other than those for which Landlord is responsible pursuant to Section 6.1, including without limitation, replacements and any other maintenance and repair costs to the

Parking Facilities including, without limitation capital improvements, asphalt repairs other than those performed by Landlord in its maintenance obligations set forth above, security personnel or patrols, or utility consumption for purposes other than for overhead lighting (as further described elsewhere in this Agreement).

"Common Areas" shall exclude the Parking Facility but shall otherwise mean the Land and all other areas, facilities, and improvements provided in the Shopping Center for the convenience and use of patrons of the Shopping Center, and shall include, but not be limited to, all parking areas and facilities (other than the Parking Facility), sidewalks, stairways, service corridors, truckways, ramps, loading docks, delivery areas, landscaped areas, access and interior roads, lighting facilities and similar areas and facilities situated within the Shopping Center which are not reserved for the exclusive use of any Shopping Center occupants.

Landlord shall at all times have the sole and exclusive control, management and direction of the Common Areas and the right to make reasonable changes to the Common Areas, and may at any time exclude and restrain any person from use or occupancy thereof. Landlord may at any time and from time to time close all or any portion of the Common Areas to make repairs, improvements, alterations or changes and, to the extent necessary in the opinion of Landlord, to prevent a dedication thereof or the accrual of any rights to any person or to the public therein.

ARTICLE 7 DAMAGE OR DESTRUCTION

7.1 Damage or Destruction. If, during the Term of this Agreement, the entire Parking Facility or such portion thereof as shall render the Premises unsuitable for the continued conduct of the Tenant's and its invitees activities thereon, shall be damaged or destroyed by fire or other casualty, then Landlord shall be entitled to retain all insurance proceeds payable by reason of and with respect to the damage or destruction to the Premises and Landlord shall rebuild or reconstruct the Parking Facility in a commercially reasonable and efficient manner subject to the following terms and conditions: (i) the casualty must be insured under Landlord's insurance policies, and Landlord's obligation is limited to the extent of the insurance proceeds received by Landlord, (ii) Landlord's duty to repair and restore the Premises shall not begin until receipt of the insurance proceeds, (iii) Landlord's lender(s) must permit the insurance proceeds to be used for such repair and restoration, (iv) Landlord shall have no obligation to repair and restore any personal property on the Premises belonging to Tenant or any of Tenant's employees, contractors, agents or invitees, (v) Landlord shall have no obligation to restore the damage or destruction (or to complete any restoration) during the last year of the Term or of any Option Period if Tenant has delivered notice that it is not renewing the Term of this Agreement pursuant to Section 2.2 or if Tenant has no more extension options pursuant to this Agreement, and (vi) Landlord shall rebuild or reconstruct the Parking Facility to a configuration substantially equivalent to that configuration which existed as of the Commencement Date. During the period in which the Parking is unavailable to a Tenant for any reason caused by Landlord during the Term of this Agreement for a period of more than thirty (30) consecutive days, including, without limitation, any such period during which Landlord is repairing and restoring the Parking Facility, the rental payable by Tenant shall abate. The abatement of the rent shall be the exclusive remedy of Tenant against Landlord in the event of a casualty involving the Premises. Tenant hereby waives all claims against Landlord for any compensation or damage for loss of

use of the whole or any part of the Premises and/or for any inconvenience or annoyance occasioned by any casualty and any resulting damage, destruction, repair, or restoration.

ARTICLE 8
IMPOSITIONS, UTILITIES

8.1 Impositions Defined. The term “Impositions” shall mean all taxes, assessments, use and occupancy taxes, water and sewer charges, rates and rents, charges for public utilities, impact fees, excises, levies, license and permit fees and other charges by any public authority, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, which shall or may during the Term of this Agreement may be assessed, levied, charged, confirmed or imposed by any public authority upon, or accrue, or become a lien on (i) the Land or any part thereof; (ii) the buildings or improvements now or hereafter constructed on the Land; (iii) the appurtenances to the Land or the sidewalks or streets adjacent thereto; (iv) the income received by or for the account of Tenant from any use or occupation of the Premises; (v) such franchises, licenses and permits as may be pertinent to the use of the Premises; or (vi) any documents to which the Tenant is a party creating or transferring an interest or estate in the Premises or any portion thereof. Impositions shall not include any income tax, capital levy, estate, succession, inheritance or transfer taxes or similar tax of Landlord; any franchise tax imposed upon any owner of the fee of the Premises; or any income, profits or revenue tax, assessment or charge imposed upon the rent or other benefit received by Landlord under this Agreement by any association having jurisdiction over the Land, any municipality, county, state, the United States of America or any other governmental body, subdivision, agency or authority having jurisdiction over the Land or Tenant (hereinafter all of the foregoing bodies are collectively referred to as “Governmental Authorities”).

8.2 Tenant’s Impositions Obligation. Commencing on the Commencement Date and continuing throughout the Term of this Agreement, subject to the terms of this Section 8.2, Tenant will pay only those Impositions directly imposed on or applicable to the Tax Parcel of the Premises, which is identified as Parcel Number 104051 by the Durham County Tax Administration. Tenant will pay such Impositions as and when they become due after Landlord has provided Tenant with notice of such Impositions accompanied with documentation (a) evidencing the source of such Imposition, (b) itemizing Tenant’s share and/or responsibility for such Imposition, and (c) including any computations used by Landlord to determine Tenant’s share of such Impositions. As representative form of Impositions to be assessed to Tenant as of the Effective Date, including estimated amounts (if available) for the subject Premises is attached hereto as **Exhibit E**. Impositions that are payable by Tenant for the tax year in which the Commencement Date occurs, as well as during the year in which the Term of this Agreement ends, shall be apportioned so that Tenant shall pay to Landlord its proportionate share of the Impositions payable by Tenant for such periods of time, and Landlord shall make payment directly to the taxing authority. If the Premises are not separately assessed, Tenant shall pay to Landlord, within thirty (30) days following demand therefor, Tenant’s share of Impositions directly connected to the Premises payable by Tenant for the tax year in which the Term ends. Promptly following receipt of a copy of any tax bill relating to the Premises, Landlord shall deliver to Tenant a copy thereof, together with Landlord’s computation of the amount thereof owed by Tenant. Upon Tenant's request, Landlord shall deliver to Tenant a copy of the paid receipt. In no event shall Tenant be liable for any penalties or interest owing on such tax bill if

Landlord fails to deliver the tax bill and computation to Tenant on or before the thirtieth (30th) day prior to the date upon which such penalties and/or interest begin to accrue. If the Premises are separately assessed, (i) where any Imposition that Tenant is obligated to pay may be paid pursuant to law in installments, Tenant may pay such Imposition in installments as and when such installments become due, (ii) Tenant shall pay directly to the taxing authority the Impositions for the Premises, and (iii) Tenant shall deliver to Landlord evidence of due payment of all Impositions Tenant is obligated to pay hereunder, concurrently with the making of such payment.

8.3 Tax Contest. If the Premises are separately assessed, Tenant may, at its sole cost and expense, contest the validity or amount of any Imposition for which it is responsible. So long as Tenant diligently pursues the contest, the payment of the Imposition being contested may be deferred, as permitted by law, during the pendency of such contest. Nothing herein contained, however, shall be construed to allow any Imposition to remain unpaid for such length of time as would permit the Premises, or any part thereof, to be sold or seized by any Governmental Authority for the nonpayment of same. Landlord will, at the request of Tenant, cooperate in such contest, provided that Landlord is not required to incur any expense in connection with any such contest.

8.4 Tenant's Utilities Obligations. Except as required for Landlord to provide pursuant to Section 6.1, Tenant shall be responsible, at its sole cost and expense, for obtaining and connecting the Premises to any new or additional gas, electricity, telephone and other communication services and all other utilities and similar services rendered or supplied to the Premises, and all water rents, sewer service charges, utility or other similar charges levied or charged against, or in connection with, the Premises.

8.5 Interruption of Services. Landlord shall not be liable to Tenant in damages or otherwise if utilities or services are interrupted or terminated because of necessary repairs, installations or improvements, or any cause nor shall any such interruption or termination relieve Tenant of the performance of any of its obligations hereunder. Notwithstanding the foregoing, if Tenant is prevented from using the Premises for the permitted use because of the interruption or failure of any such utility for a period of one (1) calendar day and the interruption or failure was caused by Landlord's willful misconduct or gross negligence and such interruption or failure was not caused in whole or in part by Tenant, any Tenant Party, or a governmental directive, then Tenant shall be entitled, as its sole remedy, to an abatement of Base Rent and Tenant's obligation for Impositions and utility charges for each consecutive day following such period that Tenant is so prevented from using the Premises until such service is restored.

ARTICLE 9 INSURANCE

The use and occupancy of the Parking Facility by the Tenant and the Tenant Parties shall be in conformance and compliance with all applicable laws, rules and regulations of all governmental entities and any agencies thereof.

a. Landlord, at Landlord's own cost and expense shall at all times during the Term maintain in effect a policy or policies of insurance covering the Parking Facility

and the Common Areas (excluding Tenant improvements and property required to be insured by Tenant pursuant to Section 9 b. in an amount not less than the full replacement cost (exclusive of the cost of excavations, foundations and footings), providing protection against perils included within a special form property insurance policy including earthquake and/or flood where applicable, together with insurance against sprinkler damage, if applicable, vandalism, and malicious mischief, and such other risks as Landlord may from time to time determine and with any such deductibles as Landlord may from time to time determine and commercial general liability insurance in such amounts as Landlord deems to be reasonable. Any insurance provided for in this subsection may be effected by a policy or policies of blanket insurance covering additional items or locations or insureds (and, if so, Landlord shall determine the cost of Insurance attributable to the Shopping Center hereunder on an equitable basis determined by Landlord), provided that the requirements of this subsection are otherwise satisfied. In addition, at Landlord's option, Landlord may elect to self-insure all or any part of such required insurance coverage. Landlord may, but shall not be obligated to, carry any other form or forms of insurance as Landlord or the mortgagees or ground lessors of Landlord may reasonably determine is advisable. Tenant shall have no rights in any Insurance maintained by Landlord nor shall Tenant be entitled to be a named insured thereunder.

b. Landlord acknowledges that Tenant is a municipal corporation existing under the laws of the State of North Carolina, and as such, maintains different insurance coverages than would a private sector tenant. Tenant is currently self-insured and maintains a self-insured retention (SIR) of \$1,500,000 per occurrence. Additionally, the City maintains excess liability coverage above said self-insured retention which as of the Effective Date is \$10,000,000 per occurrence. Landlord acknowledges that the precise levels of both self-insurance retention and maximum aggregate limit of Excess Liability coverage are determined in the discretionary capacity of the Durham City Council. During the term of this Agreement, Tenant shall:

for the mutual benefit of Landlord, Landlord's property manager, and Tenant, the City will maintain SIR and Excess Liability coverage in a combined amount of at least \$1,500,000. which will cover the Premises and use thereof by the Tenant, Tenant's agents, employees, assignees, and contractors against claims for personal injury or death and property damage occurring upon, in or about the Premises, with respect to injury or death of any number of persons and property damage and which shall provide coverage for Tenant's indemnity obligations contained in this Agreement. Tenant shall provide a letter certifying its compliance with the SIR requirements of this paragraph and a certificate of insurance with regard to the Excess Liability coverage. Both the letter and certificate shall be delivered to Landlord upon or prior to delivery of possession of the Premises to Tenant and thereafter within thirty (30) days prior to the expiration of such policy.

(ii) Maintain the aforementioned insurance policy: (a) issued by insurance companies licensed to do business in the state in which the Premises are located with a general policyholder's ratings of at least A- and a financial rating of at least VII in the most current Best's Insurance Reports available on the Effective Date, or if the Best's ratings are changed or discontinued, the parties shall agree to a comparable method of rating insurance companies; (b) that provide that the insurance not be canceled, be non-renewed or have coverage materially reduced

unless thirty (30) days advance notice is given to Landlord, and in no event shall such policies be cancelled by Tenant without prior notice to Landlord; (c) that is a primary policy and non-contributing with any insurance that Landlord may carry; and (d) that provides that any loss shall be payable notwithstanding any negligence or gross negligence of Landlord, Tenant, or any Tenant Party which might result in a forfeiture thereunder of such insurance or the amount of proceeds payable.

(iii) Deliver to Landlord on the Commencement Date, a copy of the insurance policy required hereunder. At least ten (10) days prior to the expiration of each such policy, Tenant shall deliver to Landlord evidence that such policy has been renewed. If Tenant fails to provide Landlord with copies of such required policy. Landlord shall have the right but not the obligation to obtain such coverage and the cost of such coverage shall be payable by Tenant to Landlord on demand. Tenant shall not violate or knowingly permit to be violated any of the conditions or provisions of any such policy.

(iv) Tenant and Landlord shall cooperate in connection with the collection of any insurance monies that may be due in the event of loss, but at the sole expense of Tenant, and Tenant and Landlord shall execute and deliver such proofs of loss or other instruments which may be required for the purpose of obtaining the recovery of any such insurance monies.

c. Tenant agrees to and shall indemnify and hold harmless Landlord from and against any and all claims, damages, losses and expenses of any sort (including reasonable attorney's fees and costs) arising out of or resulting from Tenant, its employees, agents, subtenants, assignees, licensees and contractors, occupancy or use of the Parking Facility. Notwithstanding the foregoing, it is agreed that the terms "subtenant" or "licensee" as used herein pertain only to a direct transfer or conveyance of this Agreement or a sublease of the tenancy conveyed herein, and shall not apply to other agreement between Tenant and members of the general public in the ordinary course as contemplated in and subject to the terms of this Agreement.

d. Anything in this Agreement to the contrary notwithstanding, Landlord hereby releases and waives unto Tenant (including all partners, stockholders, officers, directors, employees and agents thereof), its successors and assigns, and Tenant hereby releases and waives unto Landlord (including all partners, stockholders, officers, directors, employees and agents thereof), its successors and assigns, all rights to claim damages for any injury, loss, cost or damage to persons or to the Premises or any other casualty, as long as the amount of such injury, loss, cost or damage has been paid either to Landlord, Tenant, or any other person, firm or corporation, under the terms of any property, general liability, or other policy of insurance, to the extent such releases or waivers are permitted under applicable law. As respects all policies of insurance carried or maintained pursuant to this Agreement and to the extent permitted under such policies, Tenant and Landlord each waive the insurance carriers' rights of subrogation and shall use good faith efforts to obtain such a waiver in the policies required hereunder.

e. Anything in this Agreement to the contrary notwithstanding, Tenant shall not conduct or permit Tenant Parties, or any of their respective owners, agents, employees, invitees or licensees, to conduct any activity in or about the Parking Facility that is inconsistent with the Use or will in any manner increase any insurance premiums, or make any insurance unavailable to Landlord.

ARTICLE 10 TRANSFER OR ASSIGNMENT

Tenant shall not sublet, license, assign, transfer or convey this Agreement or any portion thereof, to any person or entity without Landlord's prior written consent which consent may be withheld in Landlord's sole discretion. Notwithstanding the foregoing, it is agreed that the terms "sublet" or "license" as used herein pertain only to a direct transfer or conveyance of this Agreement or a sublease of the tenancy conveyed herein, and shall not apply to other agreement between Tenant and members of the general public in the ordinary course as contemplated in and subject to the terms of this Agreement ("Public Parking").

ARTICLE 11 CONDEMNATION

11.1 Notice. If either Landlord or Tenant learns that the Premises has been or is proposed to be subjected to a "Taking" (as hereinafter defined), such party shall immediately notify the other party in writing of such Taking except that no notice (other than in the usual condemnation process in its capacity as condemnor) shall be required if the Taking is by Tenant. A "Taking" means the taking of the Premises as a result of the exercise of the power of eminent domain or condemnation for public or quasi-public use or the sale or conveyance of the Premises under the threat of condemnation.

11.2 Termination Option on Substantial Taking. If a Taking occurs during the Term of this Agreement that, in the reasonable commercial judgment of Landlord, makes the use of the Premises for a parking facility no longer possible (a "Substantial Taking"), Landlord may, at its option, terminate this Agreement as of the date physical possession of any of the Premises subject to such Taking is transferred to the condemning authority (the "Taking Date") by giving notice to Tenant within thirty (30) days following the Taking Date.

11.3 Continuation of Agreement. If a Taking occurs during the Term of this Agreement that is not a Substantial Taking, or if a Substantial Taking occurs but Landlord does not exercise its termination option according to Section 11.2 above and this Agreement shall remain in full force and effect according to its terms, except that, effective as of the Taking Date, this Agreement shall terminate automatically as to any of the Premises taken.

11.4 Awards. If any Taking occurs, Landlord shall be entitled to receive all right, title and interest in the total award, compensation, damages or consideration paid or payable as a result of or in connection with any Taking of the Premises. Provided however, that Tenant shall have the right to pursue a claim for an award of compensation or damages related to Tenant's leasehold

interest created herein to the extent that it does not diminish Landlord's award for a taking or partial taking of the Parking Facility.

ARTICLE 12
DEFAULTS AND WAIVER

12.1 Default. Waiver. The following events shall constitute an event of default (herein singularly an "Event of Default" and collectively the "Events of Default") under this Agreement, to-wit:

a. Default. If Tenant fails to pay the rent when due or fails to perform any other material obligation under this Agreement, or if a material purported fact in Tenant's rental application is substantially false, and such failure, event, or condition continues for thirty (30) days (but ten (10) days in case of Base Rent or Additional Rent (provided, however, Tenant shall have the right to receive written notice no more than two (2) times in any twelve (12) month period, and thereafter, Tenant shall not have the benefit of notice and shall immediately be in default) after notice of such failure, event, or condition is sent, then Landlord may at any time (i) terminate this Agreement and cause Tenant's estate to be ceased, (ii) terminate Tenant's right to possession of the Premises without causing Tenant's estate to be ceased or terminating this Agreement, or exercise any other remedy available at law or in equity. If Landlord terminates this Agreement in accordance with (i) above, Tenant shall be liable for accrued rent, damages resulting from Tenant's breach, and other accrued obligations and liabilities. If Landlord terminates Tenant's right to possession without terminating the Agreement in accordance with (ii) above, this Agreement shall remain in effect, and Landlord shall make reasonable efforts to re let the Premises on Tenant's behalf, and Tenant shall compensate Landlord for the costs and expenses of such efforts. Unless required by applicable law, reasonable efforts to relet the Premises shall not require Landlord to: (i) relet the Premises for other than the Use; (ii) relet the Premises to any party that Landlord reasonably considers more of a credit risk than Tenant or which is not a nationally recognized parking lot operator; (iii) accept rent in an amount which is less than the fair market rental for the Premises; (iv) perform any tenant improvements, grant any allowances, grant any "free rent," or otherwise pay any sums or grant any monetary concessions in order to obtain a new tenant; (v) observe any instruction given by Tenant about the reletting process or accept any tenant offered by Tenant unless the offered tenant leases the entire Premises and the criteria of this subsection are otherwise fully met. Landlord's duty to mitigate its damages shall be satisfied in full if Landlord, subject to the limitations contained in this Section, attempts to relet the Premises once Landlord obtains full and complete possession of the Premises including, without limitation, the final and unappealable legal right to relet the Premises free of any claim of Tenant.

b. Waiver. Either party's waiver of or failure to exercise or enforce any of its rights under this Agreement shall not constitute a waiver of any right thereafter. The parties' respective rights under this section are in addition to other rights under this Agreement or as provided by law.

12.2 Landlord's Self-Help. If Tenant at any time fails to perform any of its obligations under this Agreement in a manner reasonably satisfactory to Landlord, Landlord shall have the right, but not the obligation, upon giving Tenant at least ten (10) days' prior written notice of its election to do so (except in the event of an emergency when no prior notice shall be required), to perform such obligations on behalf of and for the account of Tenant and to take all such action necessary to perform such obligations without liability to Tenant for any loss or damage which may result by reason of such repairs. In such event, Landlord's costs and expenses incurred therein shall be paid for by Tenant as additional rent, forthwith upon demand therefor, with interest thereon from the date Landlord performs such work at the lesser of twelve percent (12%) per annum or the maximum lawful rate of interest permitted by applicable law. The performance by Landlord of any such obligation shall not constitute a release or waiver of Tenant therefrom.

ARTICLE 13 HAZARDOUS SUBSTANCES

The term "Hazardous Substances" as used in this Agreement shall mean pollutants, contaminants, toxic wastes, or any other substances, the removal of which is required or the use of which is restricted, regulated, prohibited or penalized by any "Environmental Law." The term "Environmental Law" or "Environmental Laws" shall mean any federal, state or local law or ordinance relating to pollution or protection of the environment. Tenant shall not cause or permit any Hazardous Substances to be brought upon, kept or used in or about the Premises by Tenant or Tenant's agents, employees, assignees, or contractors, or subtenants or licensees of this Agreement (except Public Parking). Tenant shall in all circumstances keep and maintain the Premises in compliance with, and shall not cause or permit the Premises to be in violation of, any Environmental Law. If Tenant breaches the obligations stated in the preceding sentence, then, in addition to any other remedies available under this Agreement, at law or in equity, Landlord shall be entitled to terminate this Agreement immediately (notwithstanding any other provision in this Agreement to the contrary). If the presence of Hazardous Substances on the Premises or the Shopping Center caused by Tenant or Tenant's agents, employees, assignees, contractors, or subtenants or licensees of this Agreement (except Public Parking), results in contamination of the Premises or the Shopping Center, then Tenant shall, to the extent permitted by law, indemnify, defend and hold Landlord and Landlord's officers, trustees, directors, partners, beneficiaries, joint venturers, members, stockholders, or other principals or representatives, disclosed or undisclosed (and their respective successors and assigns) (collectively, "Landlord Parties") harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses which arise during or after the Term as a result of such contamination (including, without limitation, actual and reasonable costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Substances present in the soil or ground water on or under the Premises or the Shopping Center, as well as sums paid in settlement of claims, reasonable attorneys' fees, consultant fees and expert fees). Without limiting the foregoing, if the presence of any Hazardous Substances on the Premises or the Shopping Center caused by Tenant or Tenant's agents, employees, assignees, or contractors results in any contamination of the Premises or the Shopping Center, then Tenant shall at its sole expense remove all such Hazardous Substances from the Premises and other impacted property and shall promptly take all actions at its sole expense as are necessary to return the Premises and the Shopping Center to the condition existing prior to the introduction of any such Hazardous

Substances to the Premises and the Shopping Center; provided, however, that Landlord's approval of such actions shall first be obtained. The obligations contained in this Article shall survive the expiration or earlier termination of this Agreement.

ARTICLE 14
SNDA

14.1 Subordination and Non-Disturbance Agreement. This Agreement is subordinate to the lien of all mortgages, deeds of trust, security instruments, ground leases, easement agreements and any covenants, conditions and restrictions (collectively, "Superior Interests") now or hereafter covering all or any part of the Shopping Center, and to all amendments, modifications, consolidations, renewals, replacements and extensions thereof. Tenant also agrees that, if any mortgagee elects to have this Agreement prior to the lien of its mortgage and signifies such election in the instrument creating its lien, or by separate recorded instrument, this Agreement shall be prior in dignity to such mortgage. In the event of any proceedings brought for the enforcement of any instrument of any Superior Interest holder (including but not limited to a mortgage or lease), Tenant shall, upon demand by the Superior Interest holder, attorn to and recognize such Superior Interest holder as Landlord under this Agreement. Tenant hereby waives its rights under any current or future law which gives or purports to give Tenant any right to terminate or otherwise adversely affect this Agreement and the obligations of Tenant hereunder in the event of any such foreclosure proceeding or sale. Tenant agrees that, in order to confirm the provisions of this Article, but in no way limiting the self-operative effect of said provisions, Tenant shall execute and deliver whatever instruments may be required for such purposes within thirty (30) days following Landlord's written request. Should Tenant fail to sign and return any such instruments within said thirty (30) day period, Tenant shall be in default hereunder without the benefit of any additional notice or cure periods specified in this Agreement.

14.2 Mortgagee Notice and Cure Rights. Tenant agrees to give any mortgagee of Landlord which has provided a non-disturbance agreement to Tenant, notice of, and a reasonable opportunity (which shall in no event be less than thirty (30) days after written notice thereof is delivered to mortgagee as herein provided) to cure, any Landlord default hereunder; and Tenant agrees to accept such cure if effected by such mortgagee. No termination of this Agreement by Tenant shall be effective until such notice has been given and the cure period has expired without the default having been cured. Further, Tenant agrees to permit such mortgagee (or other purchaser at any foreclosure sale), and its successors and assigns, on acquiring Landlord's interest in the Premises and the Agreement, to become substitute Landlord hereunder, with liability only for such Landlord obligations as accrue after Landlord's interest is so acquired. Tenant agrees to attorn to any successor of Landlord.

ARTICLE 15
RESERVED EASEMENTS

Landlord reserves during the Term of this Agreement and any extensions of the Term for the benefit of itself, the Landlord Parties, Landlord's agents, contractors, employees, subtenants, assigns and patrons, and the other tenants or subtenants in the land described on **Exhibit A** attached hereto, and the land depicted on **Exhibit B** attached hereto (the "Adjacent Shopping

Center”), as either may be modified from time to time, and their agents, contractors, employees, subtenants and assigns, (i) a non-exclusive easement over, upon, and across the driveways located on the Premises, as the same may be modified from time to time for automobile and pedestrian ingress/egress, (ii) a non-exclusive easement as may be reasonably required now or in the future for the installation, maintenance and repair of storm and sanitary sewer, water, gas, electric utilities and other utilities of any kind and nature and related facilities located on the Premises, and (iii) an easement for maintenance of the landscaping, sidewalks and any other facilities from time to time located on the Land. The location of any future facility shall be subject to Tenant’s prior written approval which shall not be unreasonably withheld, conditioned or delayed. The exercise by Landlord and the Landlord Parties of their rights pursuant to the foregoing reserved easements shall be conducted in a manner designed to minimize disruption to Tenant’s rights under this Agreement. Any party exercising its rights under the easements reserved hereunder agrees to restore any areas disturbed in the exercise of its rights pursuant to the foregoing easements to the condition in which they existed prior to disturbance.

ARTICLE 16 FACILITY IMPROVEMENTS

It is anticipated by the parties that certain improvements as more particularly described on **Exhibit D** of this Agreement as well as additional improvements to the Premises (the “Facility Improvements”) will be made to the Parking Facility by Landlord within a year after the Effective Date. Landlord will give Tenant thirty (30) days written notice prior to commencing work on the Facility Improvements. Upon completion of the Facility Improvements, Tenant shall pay Landlord for the actual and reasonable costs of those Facility Improvements listed on Exhibit F within thirty (30) days of written request by Landlord accompanied by invoices substantiating the cost; provided that Tenant’s Obligation to pay for any Facility Improvements shall not equal or exceed Thirty Thousand Dollars (\$30,000.00). During the construction of the Facility Improvements, Landlord will engage in construction activities that may result disruptions, reductions or disturbances including, without limitation, any number of the following:

- i. The disruption of Tenant’s (and its employees and invitee’s) access to the Premises;
- ii. Construction related noise, dust and debris; and
- iii. The temporary disturbance of Tenant’s use and occupancy of the Premises.

Landlord shall cause the Facility Improvements to be completed within the first year of the Term and to be completed within three (3) days of commencement of the Facility Improvements (“Facility Improvements Period”). Tenant shall be entitled to an abatement of Basic Rent for the period that the Parking Facility is not available for use by Tenant after expiration of the Facility Improvement Period. The Rent shall be prorated according to the portion of the Parking Facility not available for use during any period of time exceeding the Facility Improvement Period for the monthly rental period during which all or a portion of the Parking Facility is not available. The abatement shall equal to Tenant’s Rent for the period of time beyond the Facility Improvements Period that all or such portion of the Parking Facility is closed. Tenant agrees that the activities related to the Facility Improvements shall not constitute an actual or constructive eviction of Tenant, a default by Landlord under this Lease or a violation of Tenant’s right of quiet enjoyment.

ARTICLE 17
SIGNAGE

Tenant shall at its own expense erect any signage at or on the Premises, which signage shall: (i) be in strict conformity with any guidelines or sign criteria adopted by Landlord with respect to the Shopping Center, (ii) be in accordance with all applicable laws, (iii) be installed by the Tenant or other party which meets with Landlord's prior reasonable approval, and (iv) be otherwise subject to Landlord's prior written approval, which approval shall not be unreasonably withheld. Notwithstanding Landlord's signage approval rights, Landlord acknowledges that Tenant will likely propose signage consistent with existing City public parking facilities with associated City logo(s) and colors. Without giving specific, advanced signage approval, Landlord generally approves of the Tenant's use of standard City logo(s) and colors as appropriate signage. Landlord will not be liable to Tenant or any Tenant's contractor for legal requirements pertaining to signage.

ARTICLE 18
MISCELLANEOUS

18.1 Estoppel Certificates. Within ten (10) days following written request by Landlord or Tenant, the other party shall execute, acknowledge and deliver to the requesting party a certificate indicating any or all of the following: (a) the date on which the term of this Agreement commenced and the date on which it is then scheduled to expire; (b) that this Agreement is unmodified and in full force and effect (or, if there have been modifications, that this Agreement is in full force and effect, as modified, and stating the date and nature of each modification); (c) the then current rent for the Parking Facility; (e) that no default exists that has not been cured, except as to defaults stated in such certificate; (f) that the responding party has no existing defense or offset to enforcement of this Agreement, except as specifically stated in such certificate; and (g) such other matters as may be reasonably requested by the requesting party.

18.2 Security. Anything in this Agreement to the contrary notwithstanding, in the event that Tenant determines in its sole discretion that any guard service or other security measures are desirable primarily as a result of or in connection with the use of the Parking Facility by Tenant, Tenant Parties, or any of their respective owners, agents, employees, invitees or licensees, including, without limitation, employing security for services performed after or prior to the normal operating hours of the Shopping Center, or by the general public users of the Parking Facility, then Tenant may obtain the aforementioned guard service or other security measures at its discretion and at no cost to Landlord. In such event, Tenant shall reasonably cooperate with Landlord in coordinating any guard service applicable to the remainder of the Shopping Center. Tenant hereby acknowledges and agrees that Landlord shall have no obligation to provide guard service or provide other security or patrol measures for the benefit of the Parking Facility, and Landlord shall not be liable for any lack of security or patrol with respect to the Parking Facility whatsoever. However, nothing in this Agreement shall prevent Landlord, at Landlord's sole discretion, from providing guard service or other security measures for the Parking Facility at its sole expense.

18.3 Landlord's Liability. If Landlord defaults under this Agreement and if, as a consequence of such default, Tenant shall recover a money judgment against Landlord, such judgment shall be satisfied against the right, title and interest of Landlord in the Shopping Center including, but not limited to, the rents, proceeds and profits derived therefrom as the same may then be constituted and encumbered, and Landlord shall not be liable for any deficiency. In no event shall Tenant have the right to levy execution against any property of Landlord other than its right, title and interest in the Shopping Center including, but not limited to, the rents, proceeds and profits derived therefrom. Upon any such uncured default by Landlord, Tenant may exercise any of its rights provided at law or in equity; provided, however: (a) Tenant shall have no right to offset or abate rent in the event of any default by Landlord under this Agreement, except to the extent offset rights are specifically provided to Tenant in this Agreement; (b) Tenant shall have no right to terminate this Agreement unless determined by a court of competent jurisdiction under applicable law taking into account the nature of the breach; and (c) Tenant's rights and remedies hereunder shall be limited to the extent this Agreement otherwise expressly limits Tenant's rights or remedies. Notwithstanding anything contained in this Agreement to the contrary, the obligations of Landlord under this Agreement (including any actual or alleged breach or default by Landlord) do not constitute personal obligations of the individual partners, directors, officers, members or shareholders of Landlord or Landlord's partners, and Tenant shall not seek recourse against the individual partners, directors, officers, members or shareholders of Landlord or against Landlord's partners or any other persons or entities having any interest in Landlord, or any of their personal assets for satisfaction of any liability with respect to this Agreement. Notwithstanding anything contained in this Agreement to the contrary, in no event shall Landlord or any Landlord's officers, trustees, directors, partners, beneficiaries, joint venturers, members, stockholders, or other principals or representatives, disclosed or undisclosed (and their respective successors and assigns) ever be liable pursuant to this Agreement for lost profits or consequential, speculative or punitive damages.

18.4 Transfer of Landlord's Interest. In the event of the sale or other transfer of Landlord's interest in the Premises (except in the case of a sale-leaseback financing transaction in which Landlord is the lessee), Landlord shall transfer and assign to such purchaser or transferee the obligations of Landlord under this Agreement whereupon Landlord shall be deemed released from all liability and obligations hereunder arising out of any act, occurrence or omission relating to the Premises or this Agreement occurring after the consummation of such sale or transfer. Provided such purchaser or transferee assumes (or is deemed to have assumed) the obligations of Landlord under this Agreement as described above, Tenant agrees to attorn to any such purchaser or transferee without further act by Landlord or such purchaser or transferee.

18.5 Construction and Capitalized Terms. As used in this Agreement, the singular shall include the plural and any gender shall include all genders as the context requires. All capitalized terms used in this Agreement shall have the meanings set forth in this Agreement.

18.6 Integration. This Agreement constitutes the entire agreement between the parties hereto with respect to the matters set forth herein and supersede all prior understandings and agreements, whether written or oral, between the parties hereto relating to the Premises and the transactions provided for herein. Landlord and Tenant are entities having substantial experience with the subject matter of this Agreement and each have fully participated in the negotiation and drafting of this Agreement.

18.7 Brokers. Tenant represents and warrants that its sole contact with Landlord or with the Premises has been made without the assistance of any broker or other third party.

18.8 Notices. All notices required or permitted under this Agreement shall be in writing and shall be personally delivered or shall be deemed to be delivered, whether actually received or not, when deposited in the United States Mail, postage pre-paid, registered or certified mail, return receipt requested, addressed as follows, to-wit:

If to Landlord: c/o Regency Centers Corporation
One Independent Drive
Suite 114
Jacksonville, Florida 32202-5019
Attention: Lease Administration

With a copy to: c/o Regency Centers Corporation
One Independent Drive
Suite 114
Jacksonville, Florida 32202-5019
Attention: Legal Department

With a copy to: c/o Regency Centers Corporation
2068 Clark Avenue
Raleigh, NC 27695
Attention: Property Management

If to Tenant:
With a copy to: City of Durham
Attention: Director of Transportation
101 City Hall Plaza
Durham, NC 27701

Any party hereto may change its notice address upon written notice to the other party hereto in accordance with this paragraph.

18.9 Survival. All obligations of any party hereto not fulfilled at the expiration or earlier termination of this Agreement shall survive such expiration or earlier termination as continuing obligations of such party.

18.10 Binding Effect. This Agreement shall inure to the benefit of and be binding upon each of the parties hereto and their heirs, legal representatives, successors and assigns, and shall run with the land as a benefit and burden to both the Shopping Center and, to the extent of the easements reserved in Article 15, the Adjacent Shopping Center.

18.11 Modifications. No modification, waiver or amendment of this Agreement or any provisions of this Agreement shall be binding upon any party to this Agreement unless in writing and signed by such party.

18.12 No Waiver. No waiver of any provision of this Agreement shall be implied by any failure of either party to enforce any remedy upon the violation of such provision, even if such violation is continued or repeated subsequently. No express waiver shall affect any provision other than the one specified in such waiver, and then only for the time and in the manner specifically stated.

18.13 Captions. The captions of Articles and Sections are for convenience only and shall not be deemed to limit, construe, affect or alter the meaning of such Articles and Sections.

18.14 Severability. If any provision of this Agreement is deemed or held to be illegal, invalid or unenforceable, this Agreement shall be considered divisible and inoperative as to such provision to the extent it is deemed to be illegal, invalid or unenforceable, and in all other respects this Agreement shall remain in full force and effect.

18.15 JURY TRIAL. LANDLORD AND TENANT WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY LANDLORD OR TENANT AGAINST THE OTHER WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND/OR TENANT'S USE AND OCCUPANCY OF THE PREMISES.

18.16 Authority to Bind. The individuals signing this Agreement on behalf of Landlord and Tenant represent and warrant that they are empowered and duly authorized to bind Landlord or Tenant, as the case may be, to this Agreement according to its terms.

18.17 Relationship. Landlord and Tenant agree that neither any provision of this Agreement nor any act of the parties shall be deemed to create any joint venture relationship or other partnership agreement between Landlord and Tenant.

18.18 Attorneys' Fees. If on account of any breach or default by any party hereto in its obligations to any other party hereto, each party agrees to pay its own attorneys' fees, whether or not suit is instituted in connection therewith.

18.19 Time of Essence. Time is of the essence of each of the provisions of this Agreement.

18.20 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which counterparts collectively shall constitute one Agreement. Signatures may be exchanged by telecopy, with original signatures to follow. Each party hereto shall be bound by its own telecopied signature and shall accept the telecopied signature of the other parties hereto.

18.21 Governing Law. THIS AGREEMENT SHALL BE GOVERNED IN ALL RESPECTS, INCLUDING AS TO VALIDITY, INTERPRETATION AND EFFECT, BY THE INTERNAL LAWS OF THE STATE OF NORTH CAROLINA, WITHOUT GIVING EFFECT TO THE CONFLICT OF LAWS RULES THEREOF.

18.22 Recording of Lease. Landlord and Tenant agree that neither this Agreement nor a copy hereof shall be recorded, but, the parties shall record a memorandum of this Agreement in the form attached hereto as **Exhibit C**.

18.23 Performance of Government Functions. Nothing contained in this Agreement shall be deemed or construed to estop, limit, or impair Tenant from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

CITY OF DURHAM

ATTEST:

By: _____

Preaudit Certification:

LANDLORD

CPGPI REGENCY ERWIN, LLC
a North Carolina limited liability company

By: REGENCY CENTERS, L.P.
a Delaware limited liability company, its Manager

By: REGENCY CENTERS CORPORATION,
its General Partner

(Affix corporate seal)

By _____

Acknowledgement by CPGPI REGENCY ERWIN, LLC:

STATE OF _____

COUNTY OF _____

I, a notary public in and for the aforesaid county and state, certify that _____ personally appeared before me this day and stated that he is _____ of REGENCY CENTERS CORPORATION, in its capacity as General Partner of REGENCY CENTER, L.P., a Delaware limited liability company, in its capacity as Manager of CPGPI REGENCY ERWIN, LLC a North Carolina limited liability company, and that by authority duly given and as the act of the company, he signed the foregoing LEASE with the City of Durham and the corporate seal was affixed thereto.

This the _____ day of _____, 2013.

My commission expires:

Notary Public

(NOTARIAL SEAL)

EXHIBIT A

LEGAL DESCRIPTION OF THE LAND

Being all of that Parcel C containing approximately 0.657 acres as shown on that certain plat dated December 14, 1984, and entitled "Erwin Square Property of SEHED II Limited, Boundary Survey" prepared by Gilbert, Poole & Associates, PA, and recorded in Plat Book 107, page 88, Durham County Registry, North Carolina.

EXHIBIT B

SITE PLAN OF PARKING FACILITY

EXHIBIT C

MEMORANDUM OF GROUND LEASE

THIS MEMORANDUM OF GROUND LEASE is dated this ____ day of _____, 20____ by and among _____ ("Landlord"), whose mailing address is _____, and _____ ("Tenant"), whose mailing address is _____.

Landlord has granted, demised and leased the premises ("**Premises**") described below to Tenant pursuant to the following terms:

1. Date of Agreement: _____, 20____

2. Description of Premises:

See Exhibit A attached hereto

3. Date of Term Commencement: _____, 20____

4. Term: _____(____) Lease Years;

5. Extension Options: Tenant shall have the option to extend the Term of the Agreement for _____ (____) additional periods of _____ (____) years each.

6. The Agreement provides that no mechanics' liens shall be placed against the Landlord's title in the Premises for or on account of the construction of any improvement upon the Premises or any repair, alterations, demolition, or removal of such improvement, or for any other purpose, by any laborer, contractor, materialmen, or other person contracting with Tenant. All laborers, mechanics, materialmen, contractors, subcontractors, and others are called upon to take due notice of this clause, it being the intent of the parties hereby to expressly prohibit any such lien against the Landlord's title or interest by the use of this language.

7. Landlord reserves during the Term of this Agreement and any extensions of the Term for the benefit of itself, the Landlord Parties, Landlord's agents, contractors, employees, subtenants, assigns and patrons, and the other tenants or subtenants in the land described on **Exhibit A** attached hereto, and the land depicted on **Exhibit B** attached hereto (the "Adjacent Shopping Center"), as either may be modified from time to time, and their agents, contractors, employees, subtenants and assigns, (i) a non-exclusive easement over, upon, and across the driveways located on the Premises, as the same may be modified from time to time for automobile and pedestrian ingress/egress, (ii) a non-exclusive easement as may be reasonably required now or in

the future for the installation, maintenance and repair of storm and sanitary sewer, water, gas, electric utilities and other utilities of any kind and nature and related facilities located on the Premises, and (iii) an easement for maintenance of the landscaping, sidewalks and any other facilities from time to time located on the Land. The location of any future facility shall be subject to Tenant's prior written approval which shall not be unreasonably withheld, conditioned or delayed. The exercise by Landlord and the Landlord Parties of their rights pursuant to the foregoing reserved easements shall be conducted in a manner designed to minimize disruption to Tenant's rights under this Agreement. Any party exercising its rights under the easements reserved hereunder agrees to restore any areas disturbed in the exercise of its rights pursuant to the foregoing easements to the condition in which they existed prior to disturbance.

8. Capitalized terms not defined herein shall have the meaning ascribed to them in the Agreement.

The purpose of this Memorandum of Ground Lease is to give notice of the Agreement and of the rights and obligations created thereby, all of which are hereby confirmed.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Ground Lease as of the dates set forth in their respective acknowledgments.

Signed, sealed and delivered
in the presence of:

LANDLORD:

CPGPI REGENCY ERWIN, LLC,
a Delaware limited liability company

By: Regency Centers, L.P., a Delaware
limited partnership, its Manager

By: Regency Centers Corporation,
a Florida corporation, its General Partner

Printed Name: _____

By: _____

Its: _____

Printed Name: _____

Date: _____

TENANT:

CITY OF DURHAM

Printed Name: _____

By: _____

Print Name: _____

Title: _____

Printed Name: _____

Date: _____

STATE OF NORTH CAROLINA
COUNTY OF _____

The forgoing instrument was acknowledged before me this _____ day of _____,
20____, by _____, as _____.

Signature of Notary Public

(Print Notary Name)

My Commission Expires: _____

Commission No.: _____

Personally known, or

Produced Identification

Type of Identification Produced

AFFIX NOTARY STAMP

STATE OF NORTH CAROLINA
COUNTY OF _____

The forgoing instrument was acknowledged before me this _____ day of _____,
20____, by _____, as _____.

Signature of Notary Public

(Print Notary Name)

My Commission Expires: _____

Commission No.: _____

Personally known, or

Produced Identification

Type of Identification Produced

AFFIX NOTARY STAMP

EXHIBIT A (“Legal Description of Land”)

MEMORANDUM OF GROUND LEASE
[TO BE ATTACHED AT EXECUTION AND RECORDING]

EXHIBIT B (“Adjacent Shopping Center”)

TO
MEMORANDUM OF GROUND LEASE
[TO BE ATTACHED AT EXECUTION AND RECORDING]

EXHIBIT D

TENANT'S IMPROVEMENTS TO THE PREMISES

Asphalt Work as follows:

- Mill existing asphalt surface approximately 2" deep, in preparation for overlay
- Complete isolated subgrade repair, as necessary
- Install new 2" asphalt overlay
- Complete layout and paint pavement markings for parking stalls, and any necessary directional and traffic control graphics, color white.

Concrete work as follows:

- Complete isolated curbing and gutter repair as necessary
- Excavate and replace driveway tie-in as between Ninth Street (adjacent to asphalt public thoroughfare) at Southern end of parking field.

EXHIBIT E

REPRESENTATIVE LISTING OF TENANT'S IMPOSITIONS