

## **RESOLUTION AUTHORIZING EXECUTION OF LEASE**

**WHEREAS**, the Rensselaer County Industrial Development Agency is in need of office space for support staff for agency operations, and

**WHEREAS**, the Agency has negotiated with Quackenbush Properties, LLC for space in close proximity to the existing offices of the Agency, and

**WHEREAS**, Quackenbush Properties, LLC has proposed a lease for the space needed by the Agency, a copy of which proposed lease is attached hereto, now therefore be it

**RESOLVED**, that the Executive Director of the Agency is hereby authorized to execute a lease with Quackenbush Properties, LLC substantially as set forth in the attached proposed lease, subject to approval of said lease by agency council as to form.

**Resolution ADOPTED by the following vote:**

**Ayes: 5**

**Nays: 0**

**Abstain: 0**

**July 14, 2022**

STATE OF NEW YORK  
COUNTY OF RENSSELAER

)  
) SS.:  
)

I, the undersigned (Assistant) Secretary of Rensselaer County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on July 14, 2022 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 14th day of July, 2022.

  
(Assistant) Secretary

(SEAL)

### **Agreement of Lease**

**AGREEMENT OF LEASE** ("Lease"), effective as of the 1<sup>st</sup> day of August, 2022, between **QUACKENBUSH PROPERTIES, LLC.**, having its principal place of business located at 297 River Street, Troy, New York 12180 herein called the "Landlord", and **RENSSELAER COUNTY**, whose address for notices is 333 Broadway, Troy, New York 12180, called "Tenant".

**WITNESSETH:** That in consideration of the covenants and agreements herein contained, the Landlord and Tenant agree as follows:

### **ARTICLE I DEMISED PREMISES**

- 1.01. Landlord hereby leases to Tenant and Tenant hires from Landlord, the premises (herein referred to as the "Demised Premises") containing approximately 1,209 rentable square feet on the 2<sup>nd</sup> floor of 333 Broadway, Troy, New York 12180, known as Suite 220, which is a portion of the property known as the Quackenbush Building ("Building"). Exhibit A, attached, is an illustration of the Demised Premises.

### **ARTICLE II TERM**

- 2.01. The term of this Lease ("Lease Term") shall be for five (5) years, commencing on the 1<sup>st</sup> day of August 2022, and terminating on the 31<sup>st</sup> day of July 2027. Tenant shall also have the option to renew this Lease for an additional five (5) year term.
- 2.02. Any holdover after the expiration of the Lease Term or any options thereof shall be construed to be a tenancy from month-to-month and shall otherwise be on the terms and conditions herein specified, as far as applicable.

### **ARTICLE III RENT**

- 3.01. Tenant agrees to pay the Landlord the following during the term of the lease:

Year 1:	\$19,344.00 annually; \$1,612.00 monthly
Year 2:	\$19,730.88 annually; \$1,644.24 monthly
Year 3:	\$20,125.50 annually; \$1,677.12 monthly
Year 4:	\$20,528.01 annually; \$1,710.67 monthly
Year 5:	\$20,938.57 annually; \$1,744.88 monthly

- 3.02. Rent is due and is payable on the first day of each calendar month. Rent shall be prorated for the first and last month of the Lease Term or any addition, extensions, or earlier termination thereof. In the event payment is not made by the 10<sup>th</sup> day of any calendar month, Landlord may, in addition to any other remedy provided herein and in addition to any other remedies provided by law, impose a late charge of five percent (5%) of the total amount unpaid including all amounts of additional rent, taxes, insurances, utilities, and any other amounts due and owing by Tenant to Landlord hereunder.

**ARTICLE IV  
USE OF PREMISES**

- 4.01. Tenant may use and occupy the Demised Premises and the Building for the purposes of commercial office space, and for no other purpose.
- 4.02. Tenant agrees not to do or permit anything to be done in said Demised Premises or keep anything therein, which will increase the rate of fire insurance premiums on the Building or any part thereof, or on property kept therein, or which will obstruct or interfere with the rights of other tenants, or conflict with the regulations of any pertinent authority or public or quasi-public department or with any insurance policy upon said improvements or any part thereof. In the event of any increase in insurance premiums resulting from Tenant's violation of the foregoing, or from any act or omission on the part of the Tenant or occupancy of property by Tenant, Tenant agrees to pay said increase in insurance premium on the Building of which the Demised Premises are a part. The Demised Premises may not be used for extra-hazardous purposes. In any action or proceeding wherein the Landlord and the Tenant are parties, a schedule or "make-up" of rate for the Building purporting to have been issued by the New York Board of Fire Underwriters of the New York Fire Insurance Exchange, or other body making fire insurance rates for the Building, shall be prima facie evidence of the facts therein stated and of the several items and charges included in the fire insurance rate then applicable to the Building.

**ARTICLE V  
ESCALATIONS**

5.01. TAX ESCALATION

A. As used herein:

1. The term "Base Year" shall be 2022.
2. The term "Escalation Year" shall mean each twelve (12) month period (or portion thereof within the Lease Term, renewal term or holdover period) the first day of which shall commence on the first day immediately following the end of the Base Year.
3. The term "Taxes" shall mean all real estate taxes, sewer rents, rates, and charges (provided the same are not included in Operating Expenses), county taxes, transit taxes, or any other governmental charge of a similar nature, including business improvement district (BID) charges, which may be levied or assessed upon or with respect to all or any part of the real property of which the Demised Premises are a part, by the city, county, or any other taxing authority. If at any time during the Lease Term the method of taxation prevailing at the date hereof shall be altered so that in lieu of or as an addition to or as a substitute for the whole or any part of the taxes, levies, imposition, or charges now levied, assessed, or imposed on all or any part of the real property, there shall be levied or imposed (i) a tax, levy, imposition or charge based on the rents received therefrom whether or not wholly or partially as a capital levy or otherwise, or (ii) a tax, levy, imposition, or charge measured by or based in whole or in part upon all or any part of the real property and imposed upon Landlord, or (iii) a license fee measured by the rent payable by Tenant to Landlord, or (iv) any other tax, levy, imposition, charge, or license fee however described or imposed, then all such taxes, levies, impositions, charges, or license fees or the part thereof so measured or based shall be deemed to be Taxes.

The foregoing notwithstanding, Taxes shall not include:

- a) any special ad valorem levies;
- b) special assessments;

- c) assessments for special local improvements; or
  - d) general income, franchise, corporate, personal property, capital levy, capital stock, excess profits, transfer, revenue, estate, inheritance, gift, devolution or succession taxes.
4. The term "Tenant's Proportionate Share" shall mean a fraction, the denominator of which is the rentable area of the Building (42,999 square feet) and the numerator of which is the rentable area of the Demised Premises (1,209 square feet). Tenant's Proportionate Share, expressed as a percentage, is 2.8%.
- B. In the event that the Taxes for any Escalation Year shall be more than the Taxes for the Base Year, then Tenant shall pay an amount equal to Tenant's Proportionate Share of such increase as additional rent. Tenant may elect to pay its share of the tax escalation in 12 monthly installments equal to 1/12 of the amount due until paid in full. These payments will be added to the monthly rent invoice and will be considered additional rent and subject to the terms and conditions within this Lease. Notwithstanding the foregoing, in no event shall Tenant pay more than a 5% increase in Tenant's Proportionate Share of Taxes for any Escalation Year.

The Landlord may take the benefit of the provisions of any statute or ordinance permitting any Taxes to be paid over a period of time, and the installments of any such Taxes as shall become due and payable during any year of the Lease Term, or any renewal term or holdover period, shall be included in the calculation of any rental adjustment for the tax increase or decrease hereinabove provided. However, in no event shall the Tenant be liable for any interest, carrying charges, or any other charges arising out of or in any way attributable to the Landlord's election to take the benefit of the provisions of any statute or ordinance permitting taxes to be paid over a period of time. Any amount due, as a result of the above, shall be due and payable within thirty (30) days after the Landlord shall have submitted copies of the paid tax bills, and a statement in reasonable detail, showing the computation of the amount of said increase, provided Tenant may elect to pay the amount due over twelve (12) months as provided above.

If Landlord fails to make its request for an adjustment within six (6) months from the last day of the applicable Escalation Year, no increase shall be allowed and the claim therefore shall be deemed waived.

In no event shall the Tenant be liable for any tax increase resulting from an increased assessment due to a building addition or a tenant improvement for other than Tenant herein; in such case Taxes shall be apportioned as if no such addition or improvement were made.

#### **ARTICLE VI SCOPE OF WORK**

- 6.01. Space is let in as-is condition

#### **ARTICLE VII INSURANCE**

- 7.01. Landlord agrees to carry, or cause to be carried, during the term hereof public liability insurance providing coverage of not less than Three Million Dollars (\$3,000,000.000) for personal injury or death arising out of any one occurrence. Landlord also agrees to carry during the term hereof insurance for fire, extended coverage, vandalism, malicious mischief, and any other hazards as

Landlord's first mortgagee may require insuring the improvements located on Landlord's property, including the Building in which the Demised Premises is located, and all appurtenances thereto (excluding Tenant's merchandise, trade fixtures, furnishings, equipment, personal property, and Tenant's Work) for not less than the full replacement value thereof. Landlord shall provide Tenant with copies of the certificates evidencing that all of the aforesaid insurance coverage is in full force and effect and stating the terms thereof. Not less than thirty (30) days prior to the expiration date or renewal date, the Landlord shall supply the Tenant with updated replacement certificates of insurance.

- 7.02. Tenant agrees to carry during the term hereof public liability insurance providing coverage of not less than Three Million Dollars (\$3,000,000.00) for personal injury or death arising out of any one occurrence, covering both Tenant as a named insured and Landlord as an additional insured with terms and companies reasonably satisfactory to Landlord, but in any event including coverage for Tenant's indemnity to Landlord contained in Article "20" of this Lease, and providing that Landlord and Tenant shall be given a minimum of thirty (30) days written notice by the insurance company prior to cancellation, termination, or change in such insurance. Tenant also agrees to carry property damage insurance in the amount of not less than Three Hundred Thousand Dollars (\$300,000.00) for damage to property arising out of one occurrence. Tenant further agrees to carry insurance against fire and such other risks as are from time to time included in standard extended coverage insurance, for the full insurable value covering all of the Tenant's trade fixtures, furnishings, wall coverings, carpeting, drapes, equipment, and Tenant's Work, and all other items of personal property of Tenant located on or within the Demised Premises. Tenant shall provide Landlord with copies of the certificates evidencing that all of the aforesaid insurance coverage is in full force and effect and stating the terms thereof. Landlord will be named as an additional insured on the Tenant's insurance. Not less than thirty (30) days prior to the expiration date or renewal date, the Tenant shall supply the Landlord with updated replacement Certificates of Insurance.
- 7.03. All policies of property insurance required of Landlord and/or Tenant in sections "7.01" and "7.02" hereof shall contain a waiver of subrogation in favor of the other party.

#### **ARTICLE VIII RENEWAL OPTION**

- 8.01. The Tenant may elect to renew this Lease for an additional five (5) year term. The rate for the renewal term will be consistent with CPI increase over the last year of the first term.
- 6.02. In the event that the Tenant wishes to exercise the renewal option, notice must be received by the Landlord no later than three (3) months prior to the expiration of the Lease Term. In the event that the Tenant is in default in payment under the terms of this Lease, then said renewal option shall be void and of no effect. All of the other terms of this Lease other than for the rent shall be set forth herein exclusive of the option to renew.

#### **ARTICLE IX ALTERATIONS**

- 9.01. Tenant may not make any installations, alterations, or additions in or to the Demised Premises without written consent of the Landlord, which consent shall not be unreasonably withheld, conditioned, or delayed. Landlord hereby acknowledges that it consents to Tenant's Work. All alterations, improvements, and installations made by the Tenant shall be at its sole cost and expense. The work shall be done in a good and workmanlike manner and in conformity with the building laws and regulations of the City of Troy, County of Rensselaer, and State of New York.



All shelving, partitions, fixtures, machinery, and other equipment and property installed by Tenant, other than that which replaces such items that are on the Demised Premises at the commencement date of this Lease, shall remain the property of the Tenant and shall upon termination of this Lease, be removed by Tenant, except for those items which have been provided by the Landlord as part of Landlord's Work or any replacements thereof. Any injury or damage caused to the Demised Premises by such removal shall be promptly repaired by Tenant and said Demised Premises restored substantially to the condition as the same were at the commencement of this Lease, reasonable wear and tear excepted. If any such property is not removed from the Demised Premises prior to termination of this Lease, then, upon the termination of this Lease such property shall not be deemed to be abandoned but rather shall be deemed to immediately be conveyed to the Landlord.

#### **ARTICLE X REPAIRS AND JANITORIAL**

- 10.01. The Tenant shall take good care of the Demised Premises, maintain same and shall, except as set forth herein and in Article 11.02, at Tenant's own cost and expense, make all repairs necessary to preserve the Demised Premises in good order. Notwithstanding the foregoing, all repairs to the roof, exterior walls, foundation, other structural elements of the Building, load bearing walls, floors and the repair and replacement of all major units, major components or major pipes for the proper operation of the heating, plumbing, air-conditioning, ventilating, and sewer and water systems serving the Building and the Demised Premises shall be the responsibility of Landlord unless the necessity of said repair is caused by the negligence or wrongful acts of the Tenant. Landlord represent and warrants to the Tenant that at the commencement of the Lease Term, the aforesaid items and all mechanical systems upon the Demised Premises shall be in good working order. At the end or other expiration of the Lease Term, Tenant shall deliver up the Demised Premises in good order and condition-reasonable wear and tear excepted.
- 10.02. Included in the annual rent provided for in Article III hereof, Landlord will furnish janitorial service under this Lease. The janitorial service shall provide the following: (i) empty trash receptacles and vacuum the Demised Premises twice a week; (ii) thoroughly clean kitchen area and restrooms in the Demised Premises daily; (iii) maintain, clean, and repair common areas in the Building; and (iv) remove snow and ice from parking lot, sidewalks, stairs on property on which Building is located.

#### **ARTICLE XI DESTRUCTION BY FIRE OR OTHER CASUALTY**

- 11.01. In the event the Demised Premises are hereafter damaged, destroyed, or rendered partially untenantable for their accustomed uses by fire or other casualty that is insured under the coverage which Landlord is obligated to carry pursuant to Article VII, then Landlord shall promptly repair the Demised Premises and restore the same to substantially the condition in which they were immediately prior to the happening of such casualty (excluding wall and floor coverings), and from the date of such casualty until the Demised Premises are so repaired and restored, annual rental payments, and all other charges and items of additional rental payable hereunder shall abate in such proportion as the part of Demised Premises thus destroyed or rendered untenantable bears to the total Demised Premises. In the event (i) the Demised Premises are hereafter damaged, destroyed, or rendered partially untenantable for their accustomed uses by fire or other casualty that is not insured under the coverage which the Landlord is obligated to carry pursuant to Article VII, (ii) fifty percent (50%) or more of the Demised Premises or the Building of which they are a part be destroyed or rendered untenantable by fire or other casualty (based upon the costs to replace the premises damaged or destroyed as compared with the physical value of the improvements on the

Demised Premises or said Building, as the case may be, immediately prior to such fire or other casualty as shown by certificate of Landlord's architect), or (iii) there is less than six (6) months left in the term of this Lease, then either party hereto shall have the right to terminate this Lease effective as of the date of such casualty, by giving to the other party hereto, within thirty (30) days after the happening of such casualty, written notice of such termination. The Term of this Lease shall include the initial term lease and any renewal periods. If said notice be given within said thirty (30) day period, this Lease shall terminate and the annual rental and all other charges and items of additional rental shall abate as aforesaid from the happening of such casualty, and Landlord shall promptly repay to Tenant any rental theretofore paid in advance which has not been earned at the date of such casualty. If said notice be not given and Landlord is required or elects to repair or rebuild the Demised Premises as is herein provided, then Tenant shall repair and replace its trade fixtures, furnishings, and equipment in a manner and to at least a condition equal to that prior to their damage or destruction.

## **ARTICLE XII SIGNS**

- 12.01. The Tenant shall neither place, nor cause or allow to be placed, any sign or signs of any kind whatsoever at, in, on, or about the Building or in any windows or glass therein except at the entrance to the Demised Premises on the Tenant's floor. Such sign at the entrance to the Demised Premises on Tenant's floor is subject to Landlord's prior approval, which shall not be unreasonably withheld, conditioned, or delayed. Landlord shall provide written specifications for such signs upon request. Said signs shall be purchased and maintained by Tenant at Tenant's expense. In the case that the Landlord shall deem it necessary to remove any such sign or signs in order to make any other repairs or alterations or improvements in or upon the Demised Premises or Building or any part thereof, the Landlord shall have the right to do so, providing the same be removed and replaced at the Landlord's expense, whenever the said repairs, alterations, or improvements shall be completed. It is further understood and agreed that Landlord and Tenant shall not display any offensive or politically motivated signs on or about the Building or in any windows or glass therein.

## **ARTICLE XIII UTILITIES**

- 13.01. Tenant shall be responsible for payment of the electric services to the Demised Premises. If required of Tenant, Tenant shall promptly, upon taking occupancy of the Demised Premises, make all appropriate applications to the local utility company and pay any required deposits for meter and/or service for such utility servicing the Demised Premises. Provided there is a separate utility meter(s) serving the Demised Premises, Tenant shall purchase and receive electrical energy for the Demised Premises directly from the public utility corporation servicing the Building.
- 13.02. It is further understood and agreed that Landlord shall in no respect be liable for any failure of the utility companies or governmental authorities, their successors and assigns, to supply services to the Tenant unless such failure is caused by the negligence or intentional conduct of Landlord or its agents.

## **ARTICLE XIV COMPLIANCE WITH LAWS**

- 14.01. Tenant shall comply with all laws, orders, and regulations of federal, state, county, and municipal authorities, and with any direction pursuant to law of any public officer thereof, which shall impose any violation, order, or duty upon the Landlord or Tenant resulting from the use and occupancy of



the Demised Premises by Tenant. Tenant shall have the right, upon giving notice to Landlord, to contest any obligations imposed upon Tenant pursuant to the provisions of this Article, and to defer compliance during the pendency of such contest, provided that the failure of Tenant to so comply will not subject Landlord to prosecution or criminal penalty. Landlord shall comply with any such laws, orders, regulations, directions, and rules in respect to the Demised Premises, other than those imposing an obligation upon Tenant as aforesaid, subject, however, to the right of Landlord similarly to contest as aforesaid and defer compliance during the pendency of such contest. To the best of Landlord's knowledge and information, the Demised Premises complies with current laws, orders, and regulations and to Landlord's knowledge there are no violations of any local laws, ordinances, rules, or regulations pertaining to zoning that will in any way interfere with the use of the Demised Premises by Tenant as set forth in Article IV of this Lease. However, in the event that any such violations exist which would prevent Tenant's permitted use of the Demised Premises, Tenant shall have the option of canceling this Lease without further liability.

#### **ARTICLE XV SUBORDINATION**

- 15.01. This instrument shall be a lien against said Demised Premises with respect to any mortgage that is now on or that hereafter may be placed against said Demised Premises, and upon the recording of such mortgage or mortgages, the same shall have preference and precedence and be superior and prior in lien to this Lease, irrespective of the date or recording of the same, and this subordination shall be self-operative and effective upon recording of said mortgage so long as the mortgagee consents in writing to the "non-disturbance" agreement hereinafter set forth. The Tenant agrees to execute any such instrument, without cost, which may be requested by Landlord or Landlord's mortgagee in connection with the subordination of this Lease to pay any such mortgage, and a refusal to execute such instrument shall entitle the Landlord, or the Landlord's assigns and legal representatives to the option of canceling this Lease without incurring any expense or damage and the term hereby granted is expressly limited accordingly, provided, however, that a non-disturbance agreement shall have first been entered into in respect to such mortgage hereinafter placed against the Demised Premises. The term "non-disturbance agreement" as used in this Article shall mean an agreement in recordable form between the Tenant and the holder of any mortgage lien, which shall provide, in substance, that the Tenant shall attorn to such mortgagee and that as long as Tenant is not in default under this Lease beyond any period given to Tenant to cure such default, such holder will not name or join Tenant as a party defendant or otherwise in any suit, action, or proceeding to enforce, nor will this Lease be terminated or otherwise affected by enforcement of, any rights given to such holder pursuant to the terms, covenants, or conditions contained in such mortgage or mortgages, or any other documents held by such holder or any rights given to such holder as a matter of law. Tenant agrees to make minor, reasonable changes to this Lease as may be required by any such mortgagee, provided such mortgagee is a recognized lending institution and the said changes do not modify the substance of this Lease.
- 15.02. With reference to any assignment by Landlord of Landlord's interest in this Lease, or the rents payable hereunder, conditional in nature or otherwise, which assignment is made to the holder of a mortgage on property which includes the Demised Premises, Tenant agrees:
- (a) That the execution thereof by Landlord and the acceptance thereof by the holder of such mortgage, shall never be treated as an assumption by such holder of the obligations of the Landlord hereunder, unless and until such holder shall, by notice to Tenant, specifically otherwise elect; and

- (b) Except as aforesaid, such holder shall be treated as having assumed Landlord's obligations hereunder only upon foreclosure of such holder's mortgage, the taking of possession of the Demised Premises, and such holder's acceptance of Tenant's attornment.

#### **ARTICLE XVI WAIVER OF REDEMPTION**

- 16.01. Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Tenant being dispossessed or removed from the Demised Premises because of default by Tenant pursuant to the covenants or agreements contained in this Lease.

#### **ARTICLE XVII DEFAULT**

- 17.01. (a) It is expressly understood and agreed that in case the Demised Premises shall be deserted or vacated, or if default be made in the payment of the rent or additional rent or any part thereof as hereinafter specified after five (5) days written notice to cure, or if, without the consent of the Landlord, default be made in the performance of any of the covenants and agreements other than the payment of rent or additional rent in this Lease contained on the part of the Tenant to be kept and performed, after thirty (30) days written notice to cure same, or if the Tenant shall fail to comply with any of the statutes, ordinances, rules, orders, regulations, and requirements of the Federal, State, and Local Governments or of any and all their Departments or Bureaus, applicable to the Demised Premises within thirty (30) days written notice to cure same, or if the Tenant shall file or there shall be filed against Tenant a petition in bankruptcy or arrangement, or under any insolvency laws now or hereinafter enacted, not withdrawn within sixty (60) days, or Tenant be adjudicated a bankrupt or make an assignment for the benefit of creditors to take advantage of any insolvency act, the Landlord may on the occasion of such default, if the Landlord so elects, and may at any time thereafter terminate this Lease and the terms thereof, on giving to the Tenant thirty (30) days' notice in writing of the Landlord's intention so to do, and this Lease and the term hereof shall expire and come to an end on the date fixed in such notice as if the said date were the date originally fixed in this Lease for the expiration hereof, or Landlord may dispossess or remove Tenant or any other occupant of the Demised Premises by summary proceedings or otherwise, and remove their effects and hold the Demised Premises as if this Lease had not been made, but without prejudice to Landlord's remedies, on account thereof as set forth in paragraph (b) below. Such notice shall be given as provided for in Article XVII hereof.

(b) In the event of such dispossession, termination, or removal and notwithstanding such action or the termination of this Lease, (i) the Tenant shall be liable forthwith to pay the rent and additional rent payable under this Lease up to the date of such dispossession, removal, or termination; (ii) Landlord may re-let the Demised Premises, or any part or parts thereof either in the name of Landlord or otherwise, for a term or terms which may, at the option of Landlord, be less than or exceed the period which would otherwise have constituted the balance of the term of this Lease and may grant concessions or free rent for a reasonable time; (iii) Tenant shall pay to Landlord as liquidated damages for the failure of Tenant to observe and perform the covenants and agreements of Tenant under this lease, any deficiency between the rent and additional rent payable by Tenant under this Lease and the net amount, if any, of the rents collected on account of the lease or leases of the Demised Premises for each month of the period which would otherwise have constituted the balance of the term of this Lease; (iv) amounts received by Landlord after reletting shall first be applied against Landlord's expenses incurred in any reletting, until same are recovered, and until such recovery, Tenant shall pay, as of each day when a payment would fall due under this Lease

(Tenant's liability prior to any such reletting and such recovery not in any way to be diminished as a result of the fact that such reletting might be for a rent higher than the rent provided for in this Lease); when and if such expenses have been completely recovered, the amounts received from reletting by Landlord as have not previously been applied shall be credited against Tenant's obligations as of each day when a payment would fall due under this Lease, and only the net amount thereof shall be payable by Tenant, further, amounts received by Landlord from such reletting for any period shall be credited only against obligations of Tenant allocable to such period, and shall not be credited against obligations of Tenant hereunder accruing subsequent or prior to such period; nor shall any credit of any kind be due for any period after the date when the term of this Lease is scheduled to expire according to its terms. Landlord may make such reasonable alterations, repairs, replacements, and decorations in the Demised Premises as Landlord considers advisable and necessary for the purpose of reletting the Demised Premises, and the making of such alterations and decorations shall not operate or be construed to release Tenant from liability under this Lease. The failure or refusal of Landlord to re-let the Demised Premises or any part thereof shall not release or affect the liability of Tenant for damages under this Lease, however Landlord shall use reasonable efforts to re-let the Demised Premises. Landlord shall in no event be liable in any way whatsoever for inability to re-let the Demised Premises or, in the event that the Demised Premises are re-let, for inability to collect the rent under such reletting.

#### **ARTICLE XVIII CURING DEFAULT**

- 18.01. If Tenant shall default in the observance or performance of any covenant or agreement of this Lease on the part of Tenant to be observed or performed, beyond any period given to Tenant to cure such default, Landlord may perform the same for the account of Tenant, and if Landlord makes any expenditures or incurs any obligation for the payment of money in connection therewith, including, but not limited to, reasonable attorneys' fees in instituting, prosecuting, or defending any action or proceeding, such expenditures paid, or obligations incurred, with interest and costs, shall be deemed to be additional rent and shall be paid by Tenant to Landlord within ten (10) days of rendition to Tenant of any bill or statement therefor. In the event Landlord refuses or fails to make repairs or to provide services for which it is responsible under the terms and conditions of this Lease the Tenant, upon reasonable written notice to the Landlord, and after five (5) business days following such written notice may, and, at its sole option make such repairs or provide such services, deducting from the rental which is or shall be owing to Landlord all the costs incurred thereby, including, but not limited to, reasonable attorneys' fees in instituting, prosecuting, or defending any action or proceeding and such expenditures paid, or obligations incurred, with interest and costs.

#### **ARTICLE XIX EMINENT DOMAIN**

- 19.01. If the whole of the Demised Premises be acquired or condemned by Eminent Domain for any public or quasi-public use or purpose, then in that event, the term of this Lease shall cease and terminate from the date of title vesting in such proceeding.
- 19.02. In the event of a taking of the Demised Premises or any part thereof, Landlord shall have and hereby reserves and excepts, and Tenant hereby grants and assigns to Landlord, all rights to recover for damages to the Demised Premises, the Building in which the same are located, and the leasehold interest hereby created, and to compensation accrued or hereafter to accrue by reason of such taking, as aforesaid and by way of confirming the foregoing, Tenant hereby grants and assigns, and

covenants with Landlord to grant and assign, to Landlord all rights to such damages or compensation. Nothing contained herein shall be construed to prevent Tenant from prosecuting in any condemnation proceedings any claims permitted by law to recover for relocation expenses, loss of business, or depreciation to, or cost of removable trade fixtures, furniture, and other personal property belonging to Tenant, or any alterations which are of the nature that would remain the property of Tenant, provided that such action shall not affect the amount of compensation otherwise recoverable by Landlord from the taking authority.

## **ARTICLE XX INDEMNIFICATIONS**

- 20.01. Tenant does hereby covenant and agree with Landlord that it will indemnify and save harmless Landlord from and against any and all liability, damage, penalties, or judgments arising from injury to person or property sustained by anyone in and about the Demised Premises resulting from any act or acts of omission or commission of Tenant or Tenant's officers, agents, servants, employees, contractors, or assignees. Tenant shall, at its own cost and expense, defend any and all suits or actions (just or unjust) which may be brought against Landlord or in which Landlord may be impleaded with others upon any such above-mentioned matter, claim or claims, except as may result from any act or acts of omission or commission of Landlord, or Landlord's officers, agents, servants, employees, assignees, or contractors.
- 20.02. Landlord does hereby covenant and agree with Tenant that it will indemnify and save harmless Tenant from and against any and all liability, damage, penalties, or judgments arising from injury to person or property sustained by anyone in and about the Building or Demised Premises resulting from any act or acts of omission or commission of Landlord or Landlord's officers, agents, servants, employees, contractors, or assignees. Landlord shall, at its own cost and expense, defend any and all suits or actions (just or unjust) which may be brought against Tenant or in which Tenant may be impleaded with others upon any such above-mentioned matter, claim or claims, except as may result from any act or acts of omission or commission of Tenant, or Tenant's officers, agents, servants, employees, assignees, or contractors.

## **ARTICLE XXI ASSIGNMENT AND SUBLETTING**

- 21.01. (a) Tenant covenants and agrees that it will not, without on each occasion first obtaining the written approval of Landlord, which shall not be unreasonably withheld, conditioned or delayed, assign, transfer, mortgage, or pledge this Lease, sublease or suffer or permit this Lease or the leasehold estate hereby created or any other rights arising under this Lease to be assigned, transferred, or encumbered, in whole or in part, whether voluntarily, involuntarily or by operation of law, or permit the occupancy of the Premises by anyone other than Tenant. Any attempted assignment, transfer, mortgage, pledge, sublease, or other encumbrance without such written consent shall be void. No assignment, transfer, mortgage, sublease, or other encumbrance, whether or not approved, and no indulgence granted by Landlord to any assignee or subleasee shall in any way impair the continuing primary liability (which after an assignment shall be joint and several with the assignee) of Tenant hereunder, and no approval in a particular instance shall be deemed to be a waiver of the obligation to obtain Landlord's approval in the case of any other assignment or subletting.
- (b) If (i) Tenant is a corporation, any dissolution, merger, consolidation, or other reorganization of such corporation, or any pledge of the corporate stock or any sale or other transfer of a controlling percentage of the corporate stock of Tenant, or (ii) Tenant is a partnership, any change in the general



partner(s) in such partnership, shall constitute an assignment of this Lease for all purposes of this Section 20.01 of this Article.

**ARTICLE XXII  
END OF TERM**

- 22.01. Upon expiration or other termination of the term of this Lease, Tenant shall quit and surrender to Landlord the Demised Premises, broom clean, in good order and condition, reasonable wear and tear and damage by fire or other casualty excepted.

**ARTICLE XXIII  
QUIET ENJOYMENT**

- 23.01. Landlord covenants and agrees that Tenant may peaceably and quietly enjoy the Demised Premises, subject, however, to the covenants and agreements contained in this Lease.

**ARTICLE XXIV  
NO WAIVER**

- 24.01. The failure of either party to seek redress for violation of, or to insist upon the strict performance of, any covenant or agreement contained in this Lease shall not prevent a similar subsequent act from constituting a default under this Lease. This Lease contains the entire agreement between the parties, and cannot be changed, modified, or amended unless such change, modification, or amendment is in writing and signed by the party against whom enforcement of such change, modification, or amendment is sought.
- 23.02. No payment by Tenant or acceptance by Landlord, of a lesser amount than shall be due from Tenant to Landlord shall be treated otherwise than as payment on account unless agreed in a writing signed by both parties. The acceptance by Landlord of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check, that such lesser amount is payment in full, shall be given no effect, and Landlord may accept such check without prejudice to any other rights or remedies which Landlord may have against Tenant.

**ARTICLE XXV  
WIAVER OF TRIAL BY JURY AND COUNTERCLAIMS**

- 25.01. Landlord and Tenant agree that they shall, and they hereby do, waive trial by jury in any action, proceeding, or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of, or in any way connected with, this Lease.

**ARTICLE XXVI  
INSPECTION AND SHOWING OF PREMISES**

- 26.01. The Tenant agrees that the Landlord and its agents and/or representatives shall have the right to enter into and upon Demised Premises or any part thereof, at all reasonable hours with reasonable advance notice for the purpose of examining the same or making such repairs or alterations therein as may be necessary for the safety and preservation thereof.
- 26.02. The Tenant also agrees to permit during the last six (6) months of the term of this Lease, the Landlord or the Landlord's agents to show the Demised Premises, after providing reasonable notice

to Tenant, to persons wishing to lease the same. Additionally, Landlord may during said six (6) months display a sign or signs in Tenant's window advertising the premises "for rent". Such sign shall be of the type and size and shall contain any language that Landlord in its sole discretion, deems proper.

- 26.03. Landlord shall provide at least sixty (60) days prior written notice to Tenant in the event Landlord enters into negotiations to sell or convey the Building.

#### **ARTICLE XXVII NOTICES**

- 27.01. Any notice or demand required to be given under this Lease, or pursuant to any law or governmental regulations, by Landlord to Tenant or by Tenant to Landlord shall be in writing. Unless otherwise required by law or governmental regulations, any such notice or demand shall be deemed given if sent by registered or certified mail, enclosed in a secure postage prepaid wrapper, addressed (i) to Landlord, at the address of Landlord first hereinabove set forth, or such other address as Landlord may designate by notice to Tenant, or (ii) to Tenant, at the address of Tenant first hereinabove set forth, with a copy to Tenant at the Demised Premises, or such other address as Tenant may designate by notice to Landlord. Notices may also be delivered via email, to addresses used regularly by the parties, with read notifications
- 27.02. After receiving notice from any person, firm, or other entity that it holds a mortgage which includes the Demised Premises as part of the mortgaged premises, no notice from Tenant to Landlord shall be effective unless and until a copy of the same is given to such holder, and the curing of any of Landlord's default by such holder shall be treated as performance by Landlord.

#### **ARTICLE XXVIII CAPTIONS**

- 28.01. The captions preceding the Articles of this Lease are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of this Lease or the intent of any provision of this Lease.

#### **ARTICLE XXIX SUCCESSOR AND ASSIGNS**

- 29.01. The covenants and agreements contained in this Lease shall bind and inure to the benefit of Landlord and Tenant and their respective successors and assigns.

#### **ARTICLE XXX MISCELLANEOUS**

- 30.01. Tenant shall store all trash, debris, and all other waste materials in areas inside the Demised Premises as designated by Landlord. In no event shall any trash, debris, or waste materials of Tenant be stored outside of the Demised Premises.
- 30.02. The covenants of the Landlord contained in this Lease shall be binding upon Landlord and Landlord's successors in title only with respect to breaches occurring during the Landlord's and Landlord's successors' respective ownership of Landlord's interest in the Demised Premises, and the Tenant specifically agrees to look solely to Landlord's equity interest in the property of which



the Demised Premises are a part for the recovery of any judgment against Landlord. There shall be absolutely no personal liability of persons, partnerships, firms, corporations, or other entities who at any time constitute the Landlord with respect to any of the terms, covenants, conditions, and provisions of this Lease. Similarly, there shall be no personal liability of persons, partnerships, firms, corporations, or other entities who at any time constitute the Tenant with respect to any of the terms, covenants, conditions and provisions of this Lease.

- 30.03. Landlord and Tenant acknowledge that no broker or services of same was provided in connection with this Lease. Each of the parties hereby agrees to defend, indemnify, and hold harmless all others against and from any claim for brokerage commissions arising out of this transaction, to the extent that any such claims are alleged to be based upon the actions or commitments of such indemnifying party.
- 30.04. Intentionally deleted.
- 30.05. Intentionally deleted.
- 30.06. Landlord reserves the right to ban any pet from the premises.

#### **ARTICLE XXXI RULES AND REGULATIONS**

- 31.01. Landlord agrees to carry out the rules and regulations applicable to all of Landlord's tenants in the Building, and Tenant covenants and agrees that Tenant will comply with reasonable rules and regulations set by Landlord from time for operation of the Building, including the following:
- (a) No sign, advertisement, notice, or other lettering shall be exhibited, inscribed, painted or affixed to any part of the outside of the Demised Premises or the inside if it obstructs visibility from the outside, without the Landlord's written consent;
  - (b) No awning, canopy, or other projections shall be attached to the outside walls of the Demised Premises or the Building;
  - (c) All garbage and refuse generated by Tenant shall be kept in the kind of containers specified by Landlord; and shall be retained on the interior of the Demised Premises until ready for collection at times and places specified by Landlord. If Landlord shall provide or designate a service for the disposal and/or picking up of refuse and garbage, Tenant shall use same at Tenant's expense;
  - (d) No radio or television aerial shall be erected on the roof or exterior walls of the Demised Premises without Landlord's written permission;
  - (e) No loud speakers, televisions, radios, or other such devices shall be used in a manner so as to be heard or seen outside the Demised Premises, without the prior written consent of the Landlord;
  - (f) No auction, fire, bankruptcy, or selling out sales shall be conducted on or about the Demised Premises without the prior written consent of the Landlord;
  - (g) Tenant will comply with any law or ordinance or any order or regulation of any public authority due to Tenant's use of the Demised Premises and shall procure any licenses or permits required for such use and shall comply with all valid rules, regulations, and recommendations of the Association of Fire Underwriters with respect to the use or occupancy of the premises by Tenant; and Tenant further agrees to supply, maintain, repair, and replace in the Demised Premises at Tenant's own cost and expense, any fire extinguishers or other fire prevention equipment and safety equipment required by the aforementioned rules and regulations and Association as determined by Landlord, throughout the term of the Lease or any renewal thereof. Any fire suppression system and/or sprinklers installed in the building at the time of

Tenant's initial occupation of the Demised Premises shall be deemed to be Landlord's responsibility to maintain, repair, and replace at his own expense.

#### **ARTICLE XXXII SECURITY DEPOSIT**

- 32.01. Tenant shall provide \$1,612.00 as a security deposit for the full and faithful performance by the Tenant of all of the terms, covenants, and conditions of this Lease upon the Tenant's part to be performed, which said sum shall be returned to the Tenant after the time fixed as the expiration of the term herein, provided the Tenant has fully and faithfully carried out all of said terms, covenants, and condition on Tenant's part to be performed. In the event of a bona fide sale, subject to this Lease, the Landlord shall have the right to transfer the security to the vendee for the benefit of the Tenant and, upon such transfer, the Landlord shall be considered released by the Tenant from all liability for the return of such security; and the Tenant agrees to look to the new Landlord solely for the return of the said security, and it is agreed that this shall apply to every transfer or assignment made of the security to a new Landlord.

#### **ARTICLE XXXIII EXECUTION OF LEASE BY LANDLORD**

- 33.01. The submission of this document for examination and negotiation does not constitute an offer to lease, or a reservation of, or option for, the Demised Premises and this document becomes effective and binding only upon the execution and delivery hereof by Landlord and by Tenant. All negotiations, consideration, representations, and understandings between Landlord and Tenant are incorporated herein and may be modified or altered only by agreement in writing between Landlord and Tenant, and no act or omission of any employee or other agent of Landlord shall alter, change, or modify any of the provisions hereof.

#### **ARTICLE XXXIV AUTHORITY TO EXECUTE LEASE**

- 34.01. Tenant represents and warrants that it is duly formed and in good standing, and has full corporate or partnership power and authority, as the case may be, to enter into this Lease and has taken all corporate or partnership action, as the case may be, necessary to carry out the transaction contemplated herein, so that when executed, this Lease constitutes a valid and binding obligation enforceable in accordance with its terms. Tenant shall provide Landlord with corporate resolutions or other proof in a form acceptable to Landlord, authorizing the execution of the Lease at the time of such execution.
- 34.02. Landlord represents and warrants that it is duly formed and in good standing, and has full corporate or partnership power and authority, as the case may be, to enter into this Lease and has taken all corporate or partnership action, as the case may be, necessary to carry out the transaction contemplated herein, so that when executed this Lease constitutes a valid and binding obligation enforceable in accordance with its terms. Landlord shall provide Tenant with corporate resolutions or other proof in a form acceptable to Landlord, authorizing the execution of the Lease at the time of such execution.

This lease consists of Pages 1 through 15 inclusive, together with a Plan marked Exhibit "A" which is attached hereto and made a part hereof.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement of Lease to be duly executed the day and year first written above.

QUACKENBUSH PROPERTIES, LLC

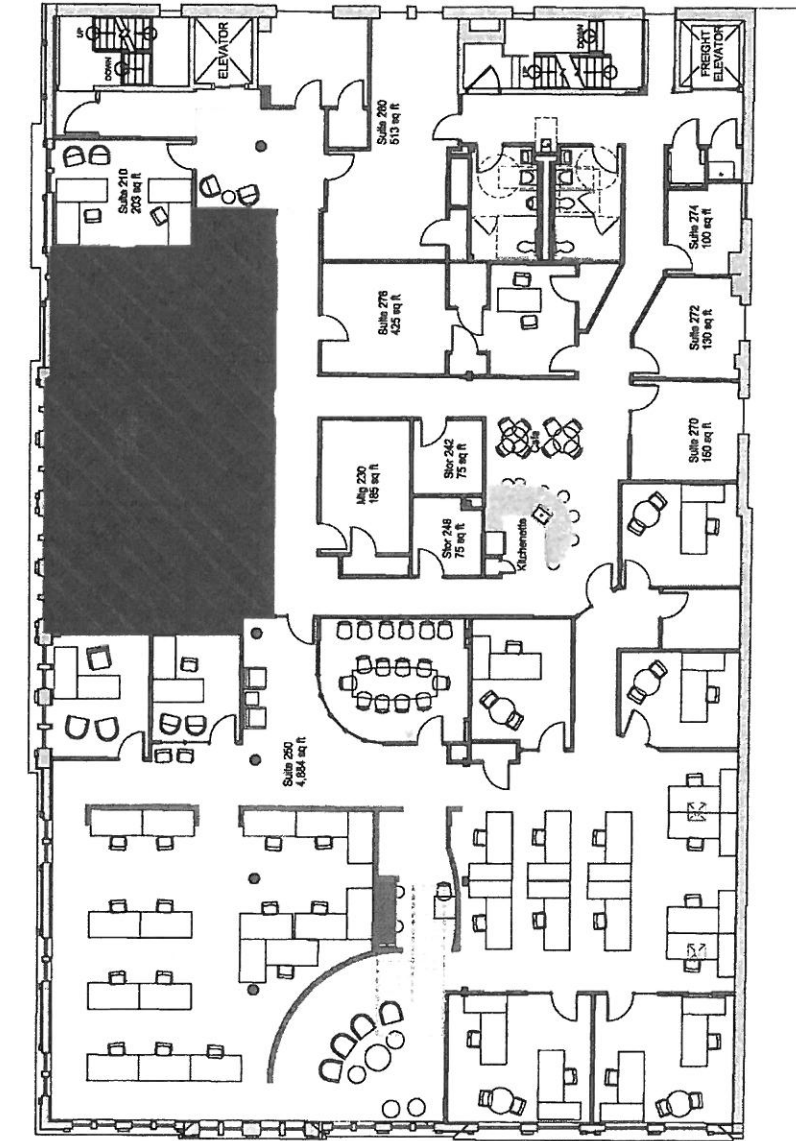
By: \_\_\_\_\_  
Name: David W. Bryce, Jr.

Rensselaer County

By: \_\_\_\_\_  
Tenant

# EXHIBIT A

## Exhibit A Second Floor Plan A1.2



Proposed Improvements to the  
**Quackenbush Building**  
30 3rd St. & 333 Broadway, Troy, Rensselaer Co., New York  
516.374.7777

**ARCHITECTURAL DEVELOPMENT**  
257 River St., Troy, NY 12180  
Prepared: March 15, 2014  
Last Revised: July 11, 2022