

# CITY OF CHARLOTTESVILLE LEASE AGREEMENT

## (City-owned building)

THIS LEASE AGREEMENT (hereinafter, "Lease" or "Lease Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between THE CITY OF CHARLOTTESVILLE, VIRGINIA, a Virginia municipal corporation, herein referred to as "Landlord," and MCGUFFEY ARTS ASSOCIATION, INC., a nonprofit arts organization organized and operating under the laws of the Commonwealth of Virginia herein referred to as "Tenant".

WITNESSETH:

### ARTICLE I. DEMISED PREMISES

- A. For and in consideration of the payment by Tenant of the rent hereinafter reserved and the performance by Tenant of the covenants and agreements hereinafter agreed to be performed by it, in accordance with all of the provisions hereinafter set forth, Landlord does hereby lease, let, and demise unto Tenant, its successors and assigns, and Tenant does hereby take, lease and hire from Landlord, a building, and land and various appurtenances thereto pertaining, located at **201 2<sup>nd</sup> Street, N.W., Charlottesville, Virginia** (the "Property"), the premises subject to this Lease being as more particularly described within **Exhibit A**, attached and incorporated herein by reference (collectively, the "Demised Premises").
- B. Tenant acknowledges that it has had an opportunity to inspect the Demised Premises, and that the Demised Premises are in good order and repair, unless otherwise indicated within a written Inspection Report attached to this Lease Agreement as **Exhibit D**, and signed by both Landlord and Tenant. Tenant accepts the Demised Premises "as-is". Tenant acknowledges that, based on its own inspection of the Demised Premises, the Demised Premises are suitable for its intended purposes. Landlord makes no warranties or representations as to the suitability of the Demised Premises for Tenant's intended purposes.

### ARTICLE II. TERM

The term of this Lease shall be for a period of five (5) years ("Term"), commencing on the 1st day of January, 2023 ("Commencement Date"), and expiring at midnight on the 31st day of December, 2027 ("Expiration Date") unless sooner terminated by the parties in accordance with this Lease.

By written request submitted to the Landlord at least ninety (90) days in advance of the Expiration Date, Tenant may request a lease agreement for an additional term of years. Upon receipt of

Tenant's request, the City's Representative will prepare a new lease document and, upon confirmation by the Tenant that the terms of the new lease document are satisfactory, the proposed lease for a new term of years shall be presented to City Council or a City official to whom City Council has delegated authorization to grant such approval.

### **ARTICLE III. COMMON AREAS AND PARKING**

The Landlord agrees that Tenant and Tenant's customers, employees, and/or visitors, shall have the right throughout the Term of this Lease to use, in common with others entitled to similar use thereof, all of the interior common areas of the Property of which the Demised Premises are a part, including (i) all hallways, stairways, and doorways for ingress to and egress from the Demised Premises, and (ii) exterior common areas such as onsite parking spaces, walkways located on the Property, driveways, alleys, and any other means of ingress to and egress from the Demised Premises. Maintenance of the Common Areas shall be as set forth in Article XIII.

### **ARTICLE IV. USE OF DEMISED PREMISES**

- A. **Tenant to maintain ongoing business.** The Tenant shall occupy Demised Premises throughout the Term of this Lease and shall conduct an ongoing business (whether for-profit or not-for-profit) throughout the entire term. Failure to maintain an ongoing business, except for shutdown for reasonable vacations of no more than one month per year, shall be deemed a breach of this Lease. Tenant shall pay all business license taxes and business personal property taxes which may be imposed by the Commonwealth of Virginia or the City of Charlottesville.
- B. **Specific uses authorized.** The Demised Premises shall be used by the Tenant primarily as an art center, which may include any of the following uses or activities, as defined in the City's zoning ordinance: "art gallery", "art studio", or "art workshop". Tenant may sublease spaces within the Demised Premises to others engaged in such uses ("subtenants"), subject to all the same terms and conditions, but no sublease shall extend beyond the term of this Lease. No other use or sublease may be made of the Demised Premises without the advance and express written consent of the Landlord.
- C. **Rules and regulations.** Tenant agrees to observe all reasonable rules and regulations from time to time promulgated by Landlord, which in the Landlord's judgment (to be reasonably exercised) are needed for the general well-being, safety, care and cleanliness of the Demised Premises and the Property of which they are a part; provided, however, that any such rules and regulations shall be of general application to all other tenants and occupants of said Property. Such rules and regulations are incorporated herein as if fully set forth. A breach of a rule or regulation shall constitute a breach of this Lease. The rules and regulations may, in the sole discretion of the Landlord, be modified from time to time, so long as they do not affect a material change in this Lease. Such rules shall include, but are not limited to, the following:
  - 1) The sidewalks, entries, passages, elevators, public corridors and staircases and other parts of the Property which are not occupied by the Tenant shall not be obstructed or used for any other purpose other than ingress and egress.
  - 2) The Tenant shall not install or permit the installation of any awnings, shades, and the like, other than those approved by the Landlord in writing.

- 3) No additional locks shall be placed upon any doors in the Demised Premises unless keys therefor are given to the Landlord for use in emergencies; and the doors leading to corridors or main halls shall be kept closed during business hours except as they may be used for ingress and egress.
- 4) Tenant shall not construct, maintain, use or operate within the Demised Premises (or elsewhere in the Property of which said Demised Premises form a part, or on the outside of the Demised Premises) any equipment or machinery which produces music, sound or noise which is audible beyond the Property, unless otherwise permitted by event approval.
- 5) Electric, cable and telephone floor distribution boxes must remain accessible at all times.
- 6) No animals shall be kept by Tenant in or about the Leased Premises and the Tenant shall not suffer any animal(s) to be kept in or about the Leased Premises. Service animals shall be permitted.
- 7) No vehicles of any kind, including but not limited to electric scooters, shall be brought into the lobby or elevators of the Property or into the Demised Premises. Bicycles shall not be left stored in any common areas or within a studio area that could obstruct free egress during an emergency.
- 8) Tenant shall not utilize in the Demised Premises equipment requiring electrical energy other than ordinary office equipment (including desktop computers, telephones, fax machines, copying, printing and scanning equipment). Existing equipment (such as kiln(s)) and hand held power tools specifically used to engage in the specific uses authorized, shall be allowed provided Tenant provides Landlord with equipment description and picture prior to use. All industry, electrical and City/State codes must be complied with at all times for use of equipment and hand held power tools.
- 9) Onsite parking shall be for use only of the Tenant, subtenants, and their visitors.
- 10) Tenant shall comply with the "Facility Terms of Use; Facility Site Use and Maintenance Definitions and Facilities Operations and Maintenance" established by Landlord, attached hereto as Exhibit B, and incorporated by reference, as such document may be modified by Landlord from time to time. In the event of a conflict between any provision of this Lease and the contents of Exhibit B, and any future modification thereof, the provision most favorable to the Landlord shall govern.

## ARTICLE V. RENT

- A. **Basic monthly rent.** The Tenant hereby covenants and agrees to occupy the Demised Premises as Tenant of the Landlord for the term hereinabove set forth, and agrees to pay to the Landlord rental therefor without offset or deduction therefrom, the sum of thirty-one thousand one hundred and sixteen Dollars (\$31,116.00) in U.S. currency, **per year ("basic annual rent")**, payable in monthly installments (hereinafter referred to as the "Basic Monthly Rent").

The Basic Monthly Rent estimated to be due is two thousand five hundred ninety-three Dollars (\$2,593.00), payable on the 1st day of January, 2023 and the first day of each calendar month thereafter throughout the Term of this Lease.

**Rent payments shall be delivered by check, cash or wire transfer to:**

Mail Check:

Office of the City Manager  
City of Charlottesville  
P.O. Box 911  
Charlottesville, VA 22902  
Attn: Lease - McGuffey

In Person (cash or check):

City of Charlottesville  
Customer Service, 1<sup>st</sup> Floor  
600 E. Main Street  
Charlottesville, VA 22902  
Attn: Lease – McGuffey

Wire Transfer:

Information provided upon request.

Tenant is responsible for ensuring that payment is received by the City by the Due Date.

The Fair Market Rent for the Demised Premises is \$598,797.50. The difference between the basic annual rent and the Fair Market Rent is at least \$567,681.50 annually, which shall be deemed an in-kind financial contribution by Landlord to Tenant.

- B. Adjustment in basic annual rent.** The basic annual rent shall be subject to adjustment for increases as follows: At the end of the first year (twelve (12) months) during the term of this Lease, and thereafter at the end of each succeeding year, and effective simultaneously with the date of each such adjustment, the basic annual rent (and the Basic Monthly Rent installments thereof) shall be adjusted by no more than three percent (3%) per annum of the basic annual rent for the immediate preceding year.
- C. Additional Rent-**
- 1) **Taxes.** During the term of this Lease, Tenant shall be solely responsible for, and shall pay to the City, in addition to the basic annual rental as aforesaid, as additional rent, any real estate taxes and assessments imposed on its leasehold interest, and Tenant's Proportionate Share of any stormwater utility fees.
  - 2) **Tenant's Proportionate Share.** "Tenant's Proportionate Share" means a percentage determined by dividing the square footage of the Demised Premises by the total square footage of rentable space available on the Property.
  - 3) **Reconciliation of Additional Rent.** After the end of each calendar year or partial calendar year during the Term, Landlord shall deliver to Tenant a report setting forth the actual amount of Additional Rent that is by Tenant payable for such calendar year.

## ARTICLE VI. LATE CHARGES; INTEREST

- A. *Late Charges.* Tenant shall pay Landlord a late charge equal to five percent (5%) per month or any portion of a month, of the amount of rent which was not paid when due.
- B. *Interest.* Any payment other than rent due from Tenant to Landlord which is not paid when due shall bear interest from the date due until the date paid at the prevailing prime rate of interest (defined as the base rate on corporate loans posted by at least one percent (1%) per month), beginning on the due date and continuing until paid.

## ARTICLE VII. SECURITY DEPOSIT

Concurrently with Tenant's execution of this Lease, Tenant shall deposit with Landlord an amount equal to \$5,186.00 as security for damage due to Tenant's failure to pay sums due hereunder, misuse of the Demised Premises, etc. (hereinafter, the "Security Deposit"). Landlord shall not be required to pay interest on the Security Deposit or to maintain it in a separate account. Within three (3) days after written notice of Landlord's use of the Security Deposit, Tenant shall deposit with Landlord cash in an amount sufficient to restore the Security Deposit to its prior amount. Within ninety (90) days after (a) the expiration or earlier termination of the Lease Term, or (b) Tenant's vacating the Demised Premises, Landlord shall return the Security Deposit less such portion thereof as Landlord may have used to satisfy Tenant's obligations. If Landlord transfers the Security Deposit to a transferee of the Lease or Landlord's interest therein, then such transferee (and not Landlord) shall be liable for its return. The holder of any Mortgage shall not be liable for the return of the Security Deposit unless such holder actually receives the Security Deposit.

## ARTICLE VIII. DAMAGE OR DESTRUCTION BY CASUALTY

- A. *Casualty renders entirely untenable.* If during the term of this Lease, the Demised Premises are damaged by fires, floods, windstorms, earthquakes, explosions, hurricanes, tornadoes, strikes, acts of public enemy, incidences of terrorism, wars or riots, civil disturbances, acts of God, or other casualty, so that the same are rendered untenable, or unsuitable for Tenant's uses, and if said Demised Premises cannot be repaired by Landlord within ninety (90) days from the time of said damage, then this Lease shall terminate as of the date of such damage. In such case, Tenant shall pay the rent apportioned to the time of damage and shall immediately surrender the Demised Premises to Landlord who may enter upon and repossess the same and Tenant shall be relieved from further liability hereunder.
- B. *Casualty renders partially untenable.* If said Demised Premises shall be partially damaged by any of the above casualties as to be partially untenable, or partially unsuitable for Tenant's uses, Landlord shall repair the Demised Premises promptly and during the period from the date of such damage until the repairs are completed, the rent shall be apportioned so that Tenant shall pay as rent an amount which bears the same ratio to the entire monthly rent as the portion of the Demised Premises which Tenant is able to occupy during such period bears to the entire area of the Demised Premises. If the damage by any of the above casualties is so slight that Tenant is not disturbed in his possession and enjoyment of the Demised Premises, then Landlord shall repair the same promptly and in that case the rent accrued or accruing shall not abate.
- C. *Exclusions from Landlord's repairs.* If Landlord undertakes repair of the Demised Premises under this Section, Landlord shall not be obligated to repair, restore or replace

any of Tenant's furniture, fixtures or any other personal property owned by or in the possession of Tenant, and Landlord shall not be under any obligation to repair, restore or replace any alterations to the Demised Premises made by or on behalf of Tenant.

- D. *No diminution of rent for inconvenience.* No compensation or claim or diminution of rent will be allowed or paid by Landlord by reason of inconvenience, annoyance, or injury to business arising from the necessity of repairing the Demised Premises or any portion of the real estate of which the Demised Premises are a part, however the necessity may occur. Tenant understands and agrees that for this reason it is the Tenant's sole responsibility to obtain adequate insurance available to protect its interest in the event of such a casualty.
- E. *Termination if repairs are prohibited by law.* Notwithstanding any provision of this Lease to the contrary, Landlord may terminate this Lease in the event any local ordinance, or any state or federal statute or regulation, prohibits or inhibits any rebuilding, restoration or repair of the Demised Premises. Landlord shall deliver such written notice of termination to Tenant within thirty (30) calendar days after the event causing damage or casualty.
- F. *Termination if Landlord's insurance proceeds are inadequate.* Notwithstanding any provision of this Lease to the contrary, Landlord may terminate this Lease in the event that Landlord's insurance coverage fails to cover the event causing the damage or casualty and/or the costs of rebuilding, restoring or repairing the Demised Premises. Landlord shall provide to Tenant a copy of the determination from the insurance company within fifteen (15) calendar days after receipt of the notice of denial of coverage.
- G. *Landlord's Option to Terminate and Not to Restore.* Notwithstanding any provisions of this to the contrary, if there is substantial damage to the Demised Premises due to a fire or other casualty, then Landlord may elect to terminate this Lease, by delivering written notice of such termination to Tenant, within thirty (30) days of such casualty, the notice to specify a termination date of not less than thirty (30) days after its transmission.
- H. *Mutual Right to Terminate.* Notwithstanding anything herein to the contrary, if the Demised Premises are damaged by casualty during the last six (6) months of the Lease Term, Landlord and Tenant shall each have the right to terminate this Lease by giving the other notice within thirty (30) days of such casualty.

## **ARTICLE IX. FORCE MAJEURE**

- A. *Effect of Events of Force Majeure.* Except as otherwise expressly set forth herein, in the event either Landlord or Tenant shall be delayed or hindered in, or prevented from, the performance of any act or rendering of any service required under this Lease, by reason of strikes, inability to obtain materials, failure of power or other utilities, restrictive governmental laws or regulations, acts of God, incidences of terrorism, wars or riots, civil disturbances, floods, earthquakes, volcanic activity, fire, explosions, epidemics, hurricanes, tornadoes, or other reasons of a similar or dissimilar nature which are beyond the reasonable control of the Landlord or Tenant (collectively known as "Event"), then the performance of any such act or rendering of any such service shall be excused for the period of the resulting delay and the period of the performance or the rendering of the service shall be extended for a period equivalent to the period of such delay. Notwithstanding the foregoing, this paragraph shall not be applied so as to excuse or delay payment of any monies by one party to the other, including any rent.
- B. Except as specifically contained herein or unless otherwise expressly provided in this Lease, nothing contained in this Article shall be applied so as to: (a) permit any delay or

time extension due to shortage of funds; or (b) excuse any nonpayment or delay in the payment of rent; or (c) limit either the Landlord's or the Tenant's rights under this Lease to cure the other party's default.

- C. It shall be a condition to either party's claim of the benefit of this Article, that such party seeking the benefit of this Article give notice to the other party in accordance with Article XXVI within twenty-four (24) hours after the occurrence of any Event, and within forty-eight (48) hours after request shall advise the other party in writing of its good faith estimate of the time required until the delay is ended. The party seeking the benefit of this Article shall have no liability to the other party in the event the good faith estimates of the time needed to cure the delay is not met, however, the party seeking the benefit of this Article shall advise the other party in writing whenever such party learns that the additional time may be required to cure the delay. Upon the request of the other party, the party seeking the benefit of this Article shall advise the other party as to the latest estimate of time needed to cure the delay, and the actions being taken to cure the delay. In case of interruption of all methods of giving notice set forth in this Article, notice shall be deemed given on the second day of reasonably prominent news coverage of the Event reasonably able to be recognized as affecting the Demised Premises.

## ARTICLE X. INSURANCE

- A. *Required insurance coverage.* Tenant shall maintain throughout the term, with a company licensed to do business in the Commonwealth of Virginia, approved by the Landlord, and having a rating satisfactory to Landlord: (a) broad form comprehensive general liability insurance (written on an occurrence basis, including contractual liability coverage insuring the obligations assumed by Tenant pursuant to the following paragraph entitled "Indemnification of Landlord," and an endorsement for personal injury), (b) all risk property insurance, and (c) comprehensive automobile liability insurance (covering automobiles owned by Tenant).
- 1) The broad form comprehensive general liability insurance shall be in the minimum amount typically carried by prudent tenants engaged in similar operations, but in no event shall be in an amount less than one million Dollars (\$1,000,000) combined single limit per occurrence, including a minimum limit of \$100,000 Fire Damage Legal.
  - 2) Tenant's property insurance shall be in an amount not less than that required to replace all fixtures, betterments and improvements and other contents located on the Demised Premises.
  - 3) Tenant's automobile liability insurance shall be in an amount not less than One million Dollars (\$1,000,000).

Landlord reserves the right from time to time to require Tenant to obtain higher minimum amounts of insurance.

- B. All such insurance shall name Landlord as an additional named insured, contain an endorsement that such insurance shall remain in full force and effect notwithstanding that the insured may have waived its claim against any person prior to the occurrence of a loss, provide that the insurer waives all right of recovery by way of subrogation against Landlord, its partners, agents and employees, and, contain an endorsement prohibiting cancellation, failure to renew, reduction in amount of insurance or change of coverage (1) as to the interests of Landlord by reason of any act or omission of Tenant, and (2) without

the insurer's giving Landlord thirty (30) days' prior written notice of such action. Tenant shall deliver evidence of all required insurance and receipts evidencing payment of the premium for such insurance (and, upon request, copies of all required insurance policies, including endorsements and declarations) to Landlord on or before the Commencement Date and at least annually thereafter.

- C. *Indemnification of Landlord.* Tenant shall reimburse Landlord for, and shall indemnify, defend and hold Landlord, its employees and agents harmless from and against, all costs, damages, claims, liabilities, expenses (including attorney's fees), losses and court costs suffered by or claimed against Landlord, directly or indirectly, based on or arising out of, in whole or in part from (a) use and occupancy of the Demised Premises or the use(s), activity(ies) or any business conducted therein by Tenant, (b) any act or omission of Tenant or any invitee, (c) any breach of Tenant's obligations under this Lease, including failure to surrender the Demised Premises upon the expiration or earlier termination of the Lease term, or (d) any entry by Tenant or any invitee upon the Demised Premises prior to the Commencement Date.
- D. *Increase in the rate of insurance caused by Tenant.* Tenant shall not conduct any activity or place any item in or about the Demised Premises which may increase the rate of any insurance on the Demised Premises. If any increase in the rate of such insurance is due to any such activity or item, then (whether or not Landlord has consented to such activity or item) Tenant shall pay the amount of such increase. The statement of any insurance company or insurance rating organization (or other organization exercising similar functions in connection with the prevention of fires or the correction of hazardous conditions) that such an increase is due to any such activity or item shall be conclusive evidence thereof.
- E. *Waiver.* Tenant hereby releases Landlord, its property manager and their respective agents and employees from, and waives all claims for, damage or injury to person or property and loss of business sustained by Tenant and resulting from the Demised Premises or any part thereof, or any equipment therein, becoming in disrepair, or resulting from any accident in or about the Demised Premises. This paragraph shall apply particularly, but not exclusively, to: flooding, damage caused by equipment and apparatus, water, snow, frost, steam, excessive heat or cold, broken glass, sewage, gas, odors, excessive noise or vibration or the bursting or leaking of pipes, plumbing fixtures or sprinkler devices. Without limiting the generality of the foregoing, Tenant waives all claims and rights of recovery against Landlord, its property manager and their respective agents and employees for any loss or damage to any property of Tenant, which loss or damage is insured against, or required to be insured against, by Tenant pursuant to this Article, whether or not such loss or damage is due to the fault or negligence of Landlord, its property manager or their respective agents or employees, and regardless of the amount of insurance proceeds collected or collectible under any insurance policies in effect.
- F. *Financial Condition and Financial Covenants.* Tenant acknowledges that the financial capability of Tenant to perform its obligations hereunder is material to Landlord and that Landlord would not enter into this but for its belief, based on its review of Tenant's financial statements, that Tenant is capable of performing such financial obligations, Tenant hereby represents, warrants and certifies to Landlord that its financial statements and all related documents and information previously furnished to Landlord were at the time given true and correct in all material respects and that there have been no material



subsequent changes thereto as of the date of this Lease. At any time during the Term, within thirty (30) calendar days after Landlord's request therefor, Tenant shall furnish to Landlord Tenant's most recent audited financial statements (including any notes) or, if no such audited statements have been prepared, such other financial statements (and notes) as may have been prepared by an independent certified public accountant or, failing those, Tenant's internally prepared financial statements certified by Tenant's chief financial officer. Tenant shall discuss its financial statements with Landlord and shall give Landlord access to Tenant's books and records in order to enable Landlord to verify the financial statements.

## **ARTICLE XI. LOSS OR DAMAGE TO PROPERTY OR PERSONS**

All personal property belonging to the Tenant, located on or about the Demised Premises shall be there at the sole risk of the Tenant; and neither the Landlord nor Landlord's agent shall be liable for the theft or misappropriation thereof nor for any damage or injury thereto, nor for damage or injury to the Tenant or any of its officers, agents or employees or to other persons or to any property caused by fire, explosion, water, gas, electricity, leaks from the roof or other portion of the , the bursting or leaking of pipes, plumbing, electrical wiring and equipment or fixtures of any kind, or by any act or neglect of other tenants or occupants of the Demised Premises, or due to any other cause whatsoever, unless resulting from the willful acts of the Landlord, its employees, agents or representatives. Tenant shall give immediate notice to Landlord in case of fire or accident in the Demised Premises or of any defects, damage or injury therein or in any fixtures or equipment.

## **ARTICLE XII. REPAIRS AND MAINTENANCE--TENANT**

- A. *Tenant responsibility.* The Demised Premises, and all of the Landlord-owned furniture, fixtures and equipment located therein, (including, without limitation, lighting and electrical fixtures, appliances, plumbing fixtures, build-in cabinetry, heating or air conditioning units or filters located on the interior of the Demised Premises, and all interior plate glass panels, flat glass such as windows and doors, and area skylights, and alterations thereof) (collectively "Demised Premises and Fixtures") shall be kept and maintained by the Tenant in good working order and condition.
- B. *Grounds Maintenance.* Tenant shall reasonably maintain the grounds exterior to the Demised Premises including: onsite walkways, and adjacent public sidewalks; grass mowing; and maintenance of exterior light fixtures.
- C. *Cleaning/Refuse Removal Services.* Tenant shall be responsible for cleaning the Demised Premises, either itself or using a janitorial service, so that the Demised Premises and Fixtures shall be neat and clean at all times. Tenant shall be responsible for removing refuse from the Demised Premises.
- D. *Surrender Obligation.* At the expiration or earlier termination or cancellation of this Lease, Tenant shall surrender all of the Demised Premises and Fixtures to Landlord in as good condition as at the time of delivery, subject to reasonable wear and tear.
- E. *Landlord rights.* If Tenant fails to perform any of its obligations under this Article, then Landlord may perform such obligations and Tenant will pay as additional Rent to Landlord the cost of such performance, including an amount sufficient to reimburse Landlord for overhead and supervision, within thirty (30) calendar days after receipt of Landlord's written demand therefor. For purposes of performing such obligations, or to inspect the

Demised Premises , Landlord may enter the Demised Premises upon reasonable prior notice to Tenant (except in cases of actual or suspected emergency, in which case no prior notice will be required) without liability to Tenant for any loss or damage incurred as a result of such entry (except if directly due to or as a result of the gross negligence or willful misconduct of Landlord, provided, however, Landlord shall have no liability for any special or consequential damages suffered either by Tenant or any party claiming through Tenant); Landlord will take reasonable steps in connection with such entry to minimize any disruption to Tenant's business or its use of the Demised Premises. All injury to the Demised Premises and Fixtures, or any of them, caused by moving any property of the Tenant, its agents, employees, independent contractors, licensees, invitees, or visitors, as well as any other damage due to the neglect of the Demised Premises and Fixtures, or any of them, may be repaired by the Landlord at the expense of Tenant and such costs of repair shall become due and payable upon delivery of a statement of such costs by Landlord to Tenant.

- F. *Other repairs.* All other repairs, including repairs of structural elements, the exterior of the Demised Premises, and the Common Areas, if such repairs have not been necessitated by the act, fault, or negligence of Tenant, or Tenant's agents, shall be the sole responsibility of Landlord.

### **ARTICLE XIII. REPAIRS AND MAINTENANCE--LANDLORD**

- A. *Maintenance of structural elements, etc.* The Landlord shall, at its expense, maintain the Structural Elements and Common Areas, as defined below, in good condition and shall repair the same with reasonable diligence when necessary.

"Structural elements" shall include the roof, exterior walls, structural supports, windows or window systems inherent to architectural profile of the building, and major systems such as fire alarm, plumbing, electrical, heating, air conditioning, and ventilation systems.

"Common areas" include the main lobby, elevator lobbies, elevators, stairways, toilets, hallways, sidewalks and entrances and parking areas, except those elevator lobbies, toilets and hallways that are actually located within the area of the Demised Premises, which shall be the responsibility of the Tenant.

- B. *Maintenance and Repair of Common Areas.* Landlord shall reasonably maintain the foundations, exterior walls, masonry, structural floors, and roof, the portions of the heating, ventilating and air conditioning systems serving the Common Areas of the Property (excluding those which serve only a particular tenant's Demised Premises), and elevators as such elements affect the Demised Premises; but in no event shall Landlord be obligated to repair or maintain glass, windows, skylights, or doors of the Demised Premises (whether interior or exterior), which shall be Tenant's responsibility, nor shall Landlord be obligated to repair or maintain any alterations installed by or on behalf of Tenant or to repair or restore any damage to the Common Areas caused by any act or omission of Tenant or Tenant's employees, agents, contractors or invitees.
- C. *Timing.* Repairs performed by the Landlord shall be at a time and in a manner so as not to unreasonably interfere with Tenant's normal business operations. Landlord's failure to use

all reasonable diligence in making repairs which are Landlord's responsibility under this Lease, shall give Tenant the right to abate his rent by an amount proportionate to the inconvenience thereby caused Tenant.

- D. *Requests for Maintenance and Repair.* Requests for maintenance and repair of the Demised Premises that are the responsibility of Landlord shall be submitted promptly in writing to:

[PropertyManagement@Charlottesville.gov](mailto:PropertyManagement@Charlottesville.gov)

- E. *Property Inspection.* Landlord shall have the right to conduct property inspections at reasonable times such as prior to lease execution, lease renewal or annual lease anniversary date. Landlord will provide Tenant with ample notice and intent of inspection.

#### **ARTICLE XIV. SERVICES AND UTILITIES**

- A. *Separately metered utilities.* Notwithstanding anything to the contrary contained herein, Landlord intends to utilize separate meters with respect to Tenant's use of water/sewer, gas, telephone and electric utility services. In such event, Tenant shall be responsible for the cost of its own metered utility usage only. In the event that one or more of such services cannot be separately metered, Tenant shall pay its Proportionate Share of the cost incurred by Landlord for such services, as additional rent, as set forth within Article V.
- B. Tenant shall be solely responsible for all other utility or other services required by Tenant for or in connection with its use of the Demised Premises (such as internet service, trash removal, etc.).
- C. *Heating, ventilation and air conditioning.* As part of the consideration of the basic rent herein provided to be paid by the Tenant, the Landlord agrees to continue to furnish and provide to the Tenant heating, ventilation and air conditioning in the Demised Premises, if applicable.
- D. *Damages for breakdowns.* Landlord shall not be liable for damages to the Tenant for temporary failure to provide heat and/or air conditioning, or other services or amenities, if such failure results from the temporary breakdown of the plants or systems providing such services; provided, however, that in the event of such temporary failure, the Landlord shall promptly and at its own cost and expense repair the machinery or equipment so that said services will be restored.
- E. *No Liability for Interruptions.* Tenant shall not be entitled to any abatement or reduction of Rent by reason of the unavailability of any of the services referred to in this Article when such failure results from casualty, force majeure, or any other cause beyond Landlord's immediate control, or for stoppages or interruptions of any such services when necessary for Landlord to make repairs or improvements required by this Lease. Failure, stoppage or interruption of any such service shall not be construed as an actual or constructive eviction or as a partial eviction against Tenant, or release Tenant from the prompt and punctual performance by Tenant of the covenants contained herein.
- F. *Other services or amenities--Landlord.* Landlord agrees to provide at its own cost and expense: Once a year: top parking lot bed – trim all trees, pull weeds, trim ivy and spray weed control; beds by sidewalk – trim shrubs, pull weeds, mulch, and spray weed control;

beds in front of steps – trim shrubs, pull weeds, mulch, and spray weed control; beds in front of whole building – trim shrubs, pull weeds, mulch, and spray weed control; bed with sign – trim shrubs, pull weeds, mulch, and spray weed control.

Twice a month, as needed: mulch leaves.

- G. *Other services or amenities.* Upon request by Tenant, Landlord agrees to remove snow and ice from parking areas, sidewalks and walkways. Landlord will submit an invoice to Tenant for these services provided.

## **ARTICLE XV. LANDLORD'S ADDITIONAL RESERVED RIGHTS**

- A. Landlord reserves a right of entry for itself or its contractors, to enter into and upon the Demised Premises at reasonable times and upon reasonable notice given to Tenant, for the purpose of inspecting the Demised Premises, or for performing any action Landlord has a right or obligation to perform.
- B. Notwithstanding anything in this Lease to the contrary, all the perimeter walls of the Demised Premises except the interior surfaces thereof, any space in or adjacent to the Demised Premises used for shafts, stacks, ducts, pipes, conduits, wires and appurtenant fixtures, fan rooms, electrical lines, panels or other equipment used to transmit or store electricity, water lines, storm and sanitary sewer lines, all other utility lines, installations and meters, janitorial or other service areas, and all other facilities to which Tenant has not been granted rights hereunder (the "Reserved Areas and Facilities"), and the use thereof, are expressly excluded from the Demised Premises and reserved to Landlord. In addition, Landlord excepts and reserves the right from time to time, (a) to install, use, maintain, repair, replace and relocate within the Demised Premises any Reserved Areas and Facilities; and (b) to make alterations to the Demised Premises and to alter or relocate any entranceways, Common Areas or other Reserved Areas and Facilities (including without limitation all access driveways, walkways and parking areas, if any) serving the Demised Premises. Landlord further reserves the right, at any time, to lease, license, or otherwise permit the use by any person of such Reserved Areas and facilities.
- C. Landlord reserves the following additional rights: (a) to change the name or street address of the Property and/or the suite number of the Demised Premises; (b) to install, affix and maintain any and all signs on the exterior or interior of the Demised Premises; (c) to make repairs, decorations, alterations, improvements, replacements or modifications, whether structural or otherwise, in and about the Property, and for such any of the purposes identified in this Article, to enter upon the Demised Premises, temporarily close doors, corridors and other areas in the Demised Premises and interrupt or temporarily close services or use of Common Areas. Tenant shall be required to pay Landlord for overtime and similar expenses incurred by Landlord if such work is done other than during Landlord's ordinary business hours at Tenant's request; (d) to retain at all times, and to use in appropriate instances, keys to all doors within and into the Demised Premises; (e) to grant to any person or to reserve unto itself the exclusive right to conduct any business or render any service in the Demised Premises; (f) to show or inspect the Demised Premises at reasonable times and, if vacated or abandoned, to prepare the Demised Premises for re-occupancy; (g) to close any Common Areas to perform such acts as, in Landlord's reasonable judgment are necessary or desirable to maintain or improve the Property; (h) to install, use and maintain in and through the Demised Premises any pipes, conduits, wires and ducts serving the Property, provided that such installation, use and maintenance does

- not unreasonably interfere with Tenant's use of the Demised Premises; (9) to subdivide or re-subdivide the Property; and (i) to take any other action which Landlord deems reasonable in connection with the operation, maintenance or preservation of the Property.
- D. Landlord may exercise the rights set forth in this Article without notice and without liability to Tenant and the exercise of such rights shall not be deemed to constitute an eviction or disturbance of Tenant's use and possession of the Demised Premises and shall not give rise to any claim for set-off or abatement of rent or any other claim.

## **ARTICLE XVI. ALTERATIONS BY TENANT**

- A. *Alterations Prohibited Without Landlord Consent.* Tenant shall not make any replacement, alteration, improvement or addition to or removal from (collectively an "alteration") the Demised Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld, provided any such proposed alteration will not (a) exceed the capacity of the systems or structure, (b) adversely affect the capacity, maintenance, operating costs or integrity of the structure or systems, (c) violate any agreement which affects the Demised Premises or binds Landlord, (d) alter the exterior of the Property in any way, or (e) violate or cause a breach of any mortgage or financing agreement affecting the Demised Premises or Property. Tenant shall not make any alteration to any other parts of the Demised Premises without Landlord's prior written consent, which consent may be withheld in Landlord's sole discretion.
- B. *Procedure; Review of Drawings and Specifications.* In the event Tenant proposes to make any alteration, Tenant shall, prior to commencing such alteration, submit to Landlord for prior written approval: (a) detailed drawings and specifications (copies of which drawings and any other project drawings shall be provided to Landlord and Landlord's agents in the form of a CAD disc upon completion of such alterations); (b) sworn statements, including the names, addresses and copies of contracts for all contractors; (c) all necessary permits evidencing compliance with all applicable Legal Requirements; (d) certificates of insurance inform and amounts required by Landlord, naming Landlord and any other parties designated by Landlord as additional insureds; and (e) all other documents and information as Landlord may reasonably request in connection with such alteration. Neither approval of the drawings and specifications nor supervision of the alteration by Landlord shall constitute a representation or warranty by Landlord as to the accuracy, adequacy, sufficiency or propriety of such drawings and specifications or the quality of workmanship or the compliance of such alteration with applicable Legal Requirements.
- C. *General Requirements.* Tenant shall pay the entire cost of the alteration and, if requested by Landlord, shall deposit with Landlord, prior to the commencement of the alteration, security for the payment and completion of the alteration in form and amount required by Landlord. Each alteration shall be performed in a good and workmanlike manner, in accordance with the drawings and specifications approved by Landlord and shall meet or exceed the standards for construction and quality of materials established by Landlord for the Demised Premises. In addition, each alteration shall be performed in compliance with all applicable legal requirements and all regulations and requirements of Landlord's and Tenant's insurers. Each alteration, whether temporary or permanent in character, unless otherwise specified, made by Tenant in or upon the Demised Premises (excepting only Tenant's furniture, removable equipment and removable trade fixtures) shall become Landlord's property and shall remain upon the Demised Premises at the expiration or

termination of this Lease without compensation to Tenant. Notwithstanding the foregoing, Landlord shall have the right to require Tenant to remove any alteration at Tenant's sole cost and expense.

- D. *ADA Applicability.* Tenant acknowledges that the Demised Premises may constitute a place of public accommodation or a facility under Title III of the Americans with Disabilities Act (the "ADA") and that the ADA is applicable to both an owner and a lessee of a place of public accommodation or facility. Tenant further acknowledges that under the ADA any structural alteration to the Demised Premises must comply with accessibility standards set forth in the rules promulgated by the Department of Justice at 28 C.F.R. 36.101 *et seq.*, Notwithstanding anything in this Lease to the contrary, in the event Tenant makes any structural alteration to the Demised Premises which would require compliance with Title III of the ADA and the accessibility standards promulgated by the Department of Justice, Tenant agrees to design and such structural alterations so as to comply with the ADA and the accessibility standards.
- E. *Liens.* Upon completion of any alteration, Tenant shall promptly furnish Landlord with sworn contractor's acknowledgements of payment in full and final waivers of lien in form and substance satisfactory to Landlord covering all labor and materials included in such alteration. Tenant shall not permit any mechanic's lien to exist against the Property, or any part thereof, arising out of any alteration performed, or alleged to have been performed, or any service or work or material provided or furnished to Tenant or the Demised Premises by or on behalf of Tenant. If any such lien exists, Tenant shall, within ninety (90) days thereafter, have such lien discharged of record or deliver to Landlord a recordable bond in form, amount, and issued by a surety satisfactory to Landlord indemnifying Landlord against all costs and liabilities resulting from such lien and the foreclosure or attempted foreclosure thereof. If Tenant fails to have such liens so released or to deliver such bond to Landlord, Landlord, without investigating the validity of such lien, may pay or discharge the same and Tenant shall reimburse Landlord upon demand for the amount so paid by Landlord, including expenses and attorneys' fees.
- F. *Heating, Ventilation and Cooling.* If Tenant installs any machines, equipment or devices in or about the Demised Premises that do not constitute customary office equipment, and if such machines, equipment or devices cause the temperature in any part of the Demised Premises to exceed (other than to a de minimis extent) the temperature the building's mechanical system would be able to maintain in the Demised Premises were it not for such machines, equipment or devices, then Landlord reserves the right to install, upon prior notice to Tenant, supplementary air conditioning units in the Demised Premises or elsewhere in the building, and Tenant will pay to Landlord all reasonable costs of installing, operating and maintaining such supplementary units.

## **ARTICLE XVII. REPRESENTATIONS OF LANDLORD**

Landlord hereby represents and warrants to Tenant that, as of the date of its execution of this Lease:

- A. *Defective Drywall.* Landlord is not aware of the existence of any defective drywall as defined by Va. Code Ann. § 36-156.1 on the Demised Premises.
- B. *Mold.* Landlord is not aware of the existence of any visible evidence of mold on the Demised Premises in areas readily accessible within the interior of the Demised Premises.

- C. **Authority.** Landlord has full legal authority and right to grant to Tenant the estate hereby demised and the easements and appurtenances thereunto pertaining.
- D. **Zoning.** The City's zoning administrator, in consultation with the City Attorney, has verified that the uses authorized within Article IV of this Lease are allowed by right at the Property under the City's zoning ordinance.

## ARTICLE XVIII. REPRESENTATIONS OF TENANT

Tenant hereby represents and warrants to Landlord that, as of the date of its execution of this Lease:

- A. **Bankruptcy Actions.** There is no bankruptcy action, pending or threatened, against or affecting the Tenant;
- B. **Authorization to do business within Virginia.** Tenant represents and warrants to the Landlord that it is an entity lawfully organized and in good standing under the laws of the Commonwealth of Virginia, and, if Tenant is a corporation, limited liability company, or other entity required to register with the Virginia State Corporation Commission, Tenant represents and warrants that it is active and currently authorized to do business within Virginia.
- C. **Nonprofit status.** If Tenant is required by this Lease to pay only nominal rent for the Demised Premises, Tenant represents and warrants that it is a charitable organization, institution or corporation authorized to receive appropriations, gifts or donations of money or property, real or personal, from the Landlord, under the provisions of Virginia Code Sec. 15.2-953. Records which document Tenant's nonprofit status are attached as **Exhibit C** (if applicable).

## ARTICLE XIX. COMPLIANCE WITH LAWS AND REGULATIONS

The Tenant shall, at its own expense, properly and promptly comply with and execute all laws, ordinances, rules, regulations and requirements, as the same now exist or as the same may hereafter be enacted, amended or promulgated by any federal, state or municipal authority, and/or any department or agency thereof, relating to the Tenant's use of the Demised Premises or of the operation of the Tenant's business therein.

## ARTICLE XX. DEFAULT BY TENANT

- A. **Events of Default.** Tenant shall be deemed to be in default under this Lease, if:
  - 1) The Tenant shall fail to pay any rent due hereunder, or any other costs and expenses for which the Tenant shall be responsible hereunder, within seven (7) days after notice from the Landlord specifying the item or items alleged to be due and unpaid, unless the Tenant shall in good faith dispute its liability therefor or the propriety of the amount claimed (other than rent);
  - 2) Tenant shall fail or neglect to keep and perform each and every one of the other covenants, conditions and agreements herein contained and on the part of the Tenant to be kept and performed, within thirty (30) days after written notice from the Landlord specifying the items alleged to be in default, unless (1) the curing of such default will take more than thirty (30) days, in which event Tenant shall be deemed to be in default only if it does not commence the curing of such default within the said thirty (30) day

period and carry it, in good faith, to prompt completion; or (2) the Tenant shall, in good faith, dispute the existence of any default or the extent of its liability therefor, in which event the Tenant shall be deemed to be in default only if it fails, within thirty (30) days after the agreement or final adjudication, to commence the curing of such default as is adjudged to exist or which the Landlord and the Tenant shall agree exists, and to carry it, in good faith, to prompt completion;

- 3) If the Tenant shall make an assignment of its assets for the benefit of creditors, or if the Tenant shall file a voluntary petition in bankruptcy, or if an involuntary petition in bankruptcy or for receivership be instituted against the Tenant and the same be not dismissed within thirty (30) days of the filing therefor, or if the Tenant be adjudged bankrupt, then and in any of said events, unless otherwise prohibited by the United States Bankruptcy Code, this Lease shall immediately cease and terminate at the option of the Landlord with the same force and effect as though the date of said event was the day herein fixed for expiration of the term of this Lease;
  - 4) In the event the Tenant abandons the Demised Premises, either (i) by removing all of Tenant's personal property from the Demised Premises, or (ii) by Tenant's failure to occupy the Demised Premises for a period in excess of sixty (60) days, the Landlord may, at its option, accelerate the entire unpaid balance of the basic annual rent for unexpired portion of the Lease, and take action to collect same as the Landlord deems appropriate. The Landlord may re-enter the Demised Premises, and such re-entry shall not be deemed a surrender and termination of the Lease. It shall be deemed to be a retaking for the purpose of re-letting the Demised Premises and the Landlord may make such alterations, improvements, repairs, etc. as it deems necessary to prepare the Demised Premises for re-letting. Neither the Landlord's re-entry nor failure to re-enter shall be deemed a waiver of any claim it may have against the Tenant for the remaining portion of the Lease. The Tenant remains liable to the Landlord for the entire unpaid balance plus all damages that the Landlord may have suffered by reason of Tenant's abandonment, less credit given for any rental received by the Landlord from a successor tenant. If the successor tenant pays a rent that exceeds the rent obligation of the Tenant hereunder, the Landlord shall be under no obligation to the Tenant to account for or pay over such excess.
- B. If a default of any covenant, condition or agreement contained in this Lease shall exist, material or otherwise, Tenant's right to possession shall thereupon cease and Landlord shall be entitled to the possession of said Demised Premises and to re-enter the same without demand for rent or for possession. Landlord may proceed forthwith to recover possession of said Demised Premises by process of law, any notice to quit or of intention to exercise such option or to re-enter said Demised Premises being hereby **EXPRESSLY WAIVED BY TENANT**. Further, Landlord at its sole option may accelerate the unpaid rent for the unexpired portion of the Lease, giving credit for any proceeds from the re-letting in whole or in part of the Demised Premises and improvements by Landlord to others. Tenant will be liable to Landlord for all court costs and reasonable attorney's fees in the event Tenant shall become in default and Landlord incurs court costs and/or attorney's fees in obtaining possession of the Demised Premises or in the enforcement of any covenant, condition or agreement herein contained, whether through legal proceedings or otherwise, and whether or not any such legal proceedings be prosecuted to a final judgment.



C. To establish reasonable attorney's fees, the Landlord may present a signed affidavit from legal counsel as to the fees claimed and the services rendered and anticipated to be rendered to collect the unpaid claim of Landlord. All objections to this method of proof are hereby expressly waived by Tenant. The parties agree that future attorney's fees may be claimed hereunder.

D. *Remedies for Default.*

- 1) *Entry/Termination.* Upon the occurrence of a Default, Landlord may elect to terminate this Lease, or, without terminating this Lease, Landlord may terminate Tenant's right to possession of the Demised Premises—in either case, after giving written notice thereof to Tenant. Upon any such termination, Tenant shall immediately surrender and vacate the Demised Premises and deliver possession thereof to Landlord. Tenant grants to Landlord the right, without notice to Tenant, to enter and repossess the Demised Premises, to expel Tenant and any others who may be occupying the Demised Premises, and to remove any and all property therefrom, without being deemed in any manner guilty of trespass and without relinquishing Landlord's rights to any rent or any other right given to Landlord hereunder or by operation of law. In addition, Landlord may alter any locks and other security devices at the Demised Premises.
- 2) *Re-letting the premises.* If Landlord terminates Tenant's right to possession of the Demised Premises without terminating this Lease, Landlord may re-let the Demised Premises or any part thereof. In such case, Landlord shall use reasonable efforts to re-let the Demised Premises on such terms as Landlord shall reasonably deem appropriate; provided, however, Landlord may first lease Landlord's other available space and shall not be required to accept any tenant offered by Tenant or to observe any instructions given by Tenant about such re-letting. Tenant shall reimburse Landlord for the costs and expenses of re-letting the Demised Premises, including, but not limited to, all brokerage, advertising, legal, alteration and other expenses incurred to secure a new tenant for the Demised Premises.
- 3) *Damages.* If Landlord terminates this Lease pursuant to the terms and provisions of this Article Landlord may recover from Tenant, and Tenant shall pay to Landlord, on demand, all rent and other charges payable by Tenant to Landlord through the date of termination, and, in addition, shall pay to Landlord as damages, at the election of Landlord, amounts equal to the rent which would have been payable by Tenant had this not been so terminated, payable upon the due dates therefor specified herein following such termination and until the Expiration Date. A suit for the recovery of such damages, or any installments thereof, may be brought by Landlord from time to time at its election, and nothing contained herein shall be deemed to require Landlord to postpone suit until the date when the Term of this Lease would have expired if it had not been terminated hereunder.
- 4) *Landlord's Lien.* In addition to any statutory lien for rent in Landlord's favor, Landlord (the secured party for purposes hereof) shall have, and Tenant (the debtor for purposes hereof) hereby grants to Landlord an express contract and lien and a continuing security interest to secure the payment of all Rent and the performance of all other obligations due hereunder from Tenant, upon all goods, wares, equipment, fixtures, furniture, inventory, accounts, contract rights, chattel paper and other personal property of Tenant (and any transferees, subtenants or other occupants of the Demised Premises ) presently or hereafter situated on the Demised Premises, and upon all proceeds of any insurance

which may accrue to Tenant by reason of damage or destruction of any such property and all proceeds of any of the foregoing. In the Event of Default under this Lease, Landlord shall have, in addition to any other remedies provided herein or by law, all rights and remedies of a secured party under the Virginia Uniform Code, including without limitation, the right to sell the property described in this paragraph at public or private sale or auction upon thirty (30) days' notice to Tenant, which notice Tenant hereby agrees is adequate and desirable in Landlord's discretion to perfect the security interest hereby conveyed. Any statutory lien for rent is not hereby waived, the express contractual lien herein granted being in addition and supplementary thereto. Landlord and Tenant agree that this Lease and the security interest granted herein serve as a financing statement, and a copy or photographic or other reproduction of this paragraph of this Lease may be filed of record by Landlord and have the same force and effect as the original.

- 5) *Landlord's Right to Cure.* Landlord may, but shall not be obligated, to perform any obligation of Tenant under this Lease, and if Landlord so elects, all costs and expenses paid by Landlord in performing such obligation, together with interest at the rate specified in Article VI, shall be reimbursed by Tenant to Landlord on demand.
- E. *Cumulative Remedies.* Any and all remedies set forth in this Lease: (a) shall be in addition to any and all other remedies Landlord may have at law and/or in equity, (b) shall be cumulative, and (c) may be pursued successively or concurrently as Landlord may elect. The exercise of any remedy by Landlord shall not be deemed an election of remedies or preclude Landlord from exercising any other remedies in the future.
- F. *No Waiver.* No receipt of money by Landlord from Tenant after termination of this Lease or after the service of any notice or after the commencing of any suit or after final judgment for possession of the Demised Premises shall renew, reinstate, continue or extend the Term or affect any such notice or suit. No waiver of any default of Tenant shall be implied from any omission by Landlord to take any action on account of such default if such default persists or be repeated, and no express waiver shall affect any default other than the default specified in the express waiver and then only for the time and to the extent therein stated.
- G. *No Accord and Satisfaction.* No payment by Tenant or receipt and acceptance by Landlord of a lesser amount than the Annual/ Monthly Base Rent and any Additional Rent shall be deemed to be other than part payment of the full amount then due and payable; nor shall any endorsement or statement on any check or any letter accompanying any check, payment of Rent or other payment, be deemed an accord and satisfaction; and Landlord may accept, but is not obligated to accept, such part payment without prejudice to Landlord's right to recover the balance due and payable or to pursue any other remedy provided in this Lease Agreement or by law.
- H. *Agreements Applicable to Tenant's Bankruptcy.* Notwithstanding anything to the contrary contained herein, and without prejudice to Landlord's right to require a written assumption from each assignee, any person or entity to whom this Lease is assigned including, without limitation, assignees pursuant to the provisions of the Bankruptcy Code, 11 U.S.C. Paragraph 101 *et seq.*, (the "Bankruptcy Code") shall automatically be deemed, by acceptance of such assignment or sublease or by taking actual or constructive possession of the Demised Premises, to have assumed all obligations of Tenant arising under this Lease Agreement, effective as of the earlier of the date of such assignment or sublease or the date on which the assignee or sublessee obtains possession of the Demised Premises.

In the event this Lease is assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, any and all monies or other consideration payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to Landlord or shall remain the exclusive property of Landlord and not constitute the property of Tenant or Tenant's estate within the meaning of the Bankruptcy Code. In the event of any Default described above, in order to provide Landlord with the assurances contemplated by the Bankruptcy Code, in connection with any assignment and assumption of this Lease, Tenant must fulfill the following obligations, in addition to any other reasonable obligations that Landlord may require, before any assumption of the Lease is effective: (a) all events of default must be cured within thirty (30) days after the date of assumption; (b) all actual monetary losses incurred by Landlord (including, but not limited to, reasonable attorneys' fees) must be paid to Landlord within thirty (30) days after the date of assumption; and (c) Landlord must receive within thirty (30) days after the date of assumption a security deposit in the form of a letter of credit in an amount equal to three (3) months of Base Monthly Rent (using the Base Rent in effect for the first full month immediately following the assumption) and an advance prepayment of Base Monthly Rent in the amount of three (3) months Base Monthly Rent (using the Base Rent in effect for the first full month immediately following the assumption), both sums to be held by Landlord in accordance with this and deemed to be rent under this Lease for the purposes of the Bankruptcy Code, as amended and from time to time in effect. In the event this is assumed in accordance with the requirements of the Bankruptcy Code and this Lease, and is subsequently assigned, then, in addition to any other reasonable obligations that Landlord may require and in order to provide Landlord with the assurances contemplated by the Bankruptcy Code, Landlord shall be provided with (a) a financial statement of the proposed assignee prepared in accordance with generally accepted accounting principles consistently applied, on a cash basis, which reveals a net worth in an amount sufficient, in Landlord's reasonable judgment, to assure the future performance by the proposed assignee of Tenant's obligations under this Lease; or (b) a written guaranty by one or more guarantors with financial ability sufficient to be in form and content satisfactory to Landlord and to cover the performance of all of Tenant's obligations under this Lease.

## **ARTICLE XXI. DEFAULT BY LANDLORD**

- A. Landlord shall be deemed to be in default under this Lease, if it shall fail to provide the Demised Premises in the condition agreed to herein, free from any interference with Tenant's use and enjoyment thereof, or to provide all services within the standards agreed upon.
- B. In case of Landlord's default, Tenant shall have the following remedies:
  - 1) Tenant shall have the option of terminating this Lease for any material default by Landlord. Such default shall include, but not be limited to, denying Tenant access to the Demised Premises for any reason other than Tenant's prior default, or failure to perform with all reasonable speed and efficiency any repair which is the obligation of the Landlord under this Lease; and
  - 2) If any default by Landlord is due to its failure to make necessary repairs with reasonable dispatch after notice from Tenant that such repairs are needed, Tenant may cause the repairs to be made at its own expense. The reasonable expense of such repairs may then be deducted by Tenant from its next due installment of Base Monthly Rent; and

- 3) Tenant shall have the right to abate its rent proportionately when Landlord, for any cause reasonably within its control, is unable or unwilling to provide the Demised Premises in the condition agreed, free from interference or obstruction, or the services within the standards or the hours agreed.

## **ARTICLE XXII. SURRENDER OF DEMISED PREMISES**

Upon the expiration or other termination of this Lease, Tenant shall quit and surrender the Demised Premises to Landlord in good order, repair and condition, ordinary wear and tear, acts of God, fire, and other casualty (not resulting from Tenant's or Tenant's agents', employees' or invitees' acts or omissions) excepted. Tenant shall on the day of expiration or termination of this Lease, or prior to such date, remove all property of Tenant, and Tenant shall within two weeks after expiration or termination repair all damage to the Demised Premises caused by such removal and make reasonable restoration of the Demised Premises to the condition in which they existed prior to the installation of the property so removed.

## **ARTICLE XXIII. SIGNAGE**

Tenant shall have no right to erect or install canopies, marquees, or advertising devices, including signs, on the exterior of the Demised Premises, and Tenant shall have no right to erect or install any sign within the interior of the Demised Premises that are visible from the exterior of the Demised premises, except with Landlord's prior written approval, which approval shall not be unreasonably withheld or delayed. All signs authorized by the Landlord must comply with applicable requirements of the City's zoning ordinance and the Uniform Statewide Building Code.

## **ARTICLE XXIV. ASSIGNMENT AND SUBLETS**

- A. **Sublets.** Except as expressly stated in Article IV, Paragraph B, Tenant shall not assign or sublet the Demised Premises or any part thereof, without the prior written consent of Landlord.
- B. **Notice of request for assignment.** If Tenant wants to assign, sublet or otherwise transfer all or part of the Demised Premises, the Tenant shall give Landlord written notice ("Tenant's Request Notice") of the identity of the proposed assignee or subtenant and its business, all terms of the proposed assignment or subletting, the commencement date of the proposed assignment or subletting (the "Proposed Sublease Commencement Date") and the area proposed to be assigned or sublet (the "Proposed Sublease Space"). Tenant shall also transmit therewith the most recent financial statement or other evidence of financial responsibility of such assignee or subtenant and a certification executed by Tenant and the proposed assignee or subtenant stating whether any premium or other consideration is being paid for the proposed assignment or sublease. Tenant shall pay the expenses (including all attorney's fees) reasonably incurred by Landlord in connection with Tenant's request for Landlord to give its consent to any assignment, subletting, occupancy or mortgage.
  - 1) **Landlord's right to terminate.** Landlord shall have the right in its sole and absolute discretion to terminate this Lease with respect to the Proposed Sublease Space, by sending Tenant written notice within forty-five (45) days after Landlord's receipt of Tenant's Request Notice.

- 2) If the Proposed Sublease Space does not constitute the entire Demised Premises and Landlord elects to terminate this Lease with respect to the Proposed Sublease Space, then: (a) Tenant shall tender the Proposed Sublease Space to Landlord on the Proposed Sublease Commencement Date as if the Proposed Sublease Commencement Date had been originally set forth in this Lease Agreement as the expiration date of the Lease term with respect to the Proposed Sublease Space, and (b) as to all portions of the Demised Premises other than the Proposed Sublease Space, this Lease shall remain in full force and effect except that the rent and other payments due hereunder shall be reduced proportionately. Tenant shall pay all expenses of construction required to permit the operation of the Proposed Sublease Space separate from the balance of the Demised Premises.
  - 3) If the Proposed Sublease Space constitutes the entire Demised Premises and the Landlord elects to terminate this Lease, then (1) Tenant shall tender the Demised Premises to Landlord on the Proposed Sublease Commencement Date, and (2) the term shall terminate on the Proposed Sublease Commencement Date.
  - 4) **Excess rent or other charges paid by subtenant.** If any sublease, assignment or transfer (whether by operation of law or otherwise) provides that the subtenant, assignee or other transferee is to pay any amount in excess of the rent and other charges due under this Lease, then whether such excess be in the form of an increased rental, lump-sum payment, payment for the sale or lease of fixtures or other Leasehold improvements, or any other form (and if the applicable space does not constitute the entire Demised Premises, the existence of such excess shall be determined on a pro-rata basis), Tenant shall pay to Landlord any such excess upon such terms as shall be specified by Landlord and in no event later than ten (10) days after Tenant's receipt thereof. Landlord shall have the right to inspect Tenant's books and records relating to any sublease, assignment or other transfer. Any sublease, assignment or other transfer shall be effected on forms supplied or approved by Landlord.
- C. In the event that Landlord consents to an assignment, or to a sublease, and the Landlord collects or accepts rent from any assignee, subtenant or occupant, such conduct by Landlord shall not be construed as relieving the Tenant or any assignee, subtenant or occupant from the obligation of obtaining Landlord's written consent to any subsequent assignment, subletting or occupancy, and Tenant hereby assigns to Landlord any sum due from any assignee, subtenant or occupant of Tenant as security for Tenant's performance of its obligations pursuant to this Lease. Tenant authorizes each such assignee, subtenant or occupant to pay such sum directly to Landlord if such assignee, subtenant or occupant receives written notice from Landlord specifying that such rent shall be paid directly to Landlord. Landlord's collection of such rent shall not be construed as acceptance of such assignee, subtenant or occupant as tenant. All restrictions and obligations imposed pursuant to this Lease on Tenant shall be deemed to extend to any subtenant, assignee or occupant of Tenant, and Tenant shall cause such persons to comply with all such restrictions and obligations.
- D. **Assignment pursuant to provisions of Bankruptcy Code.** If this Lease is assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, 11 U.S.C. § 101 *et seq.* (the "Bankruptcy Code"), any and all monies or other considerations payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to the Landlord, shall be and remain the exclusive property of the Landlord, and shall not

constitute the property of the Tenant or of the estate of Tenant within the meaning of the Bankruptcy Code. Any and all monies or other considerations constituting Landlord's property under the preceding sentence not paid or delivered to Landlord shall be held in trust for the benefit of the Landlord and shall be promptly paid and/or delivered to the Landlord.

- E. **Mortgage of Demised Premises prohibited.** Tenant shall not mortgage or encumber the Demised Premises without Landlord's written consent, which consent may be granted or withheld in Landlord's sole and absolute discretion.
- F. **Dissolution, etc. of partnership, limited liability company or corporation deemed assignment.** If Tenant is a partnership, then any dissolution of Tenant or a withdrawal or change, whether voluntary, involuntary or by operation of law, or partners owning a controlling interest in Tenant shall be deemed a voluntary assignment of this Lease. If Tenant is a corporation or limited liability company, then any dissolution, merger, consolidation or other reorganization of Tenant, or any sale or transfer of a controlling interest in its capital stock, shall be deemed a voluntary assignment of this Lease.
- G. *Tenant to Remain Liable.* In no event shall any Transfer (whether or not approved by Landlord or permitted hereunder) release or relieve Tenant from its obligations to fully observe or perform all of the terms, covenants and conditions of this Lease on its part to be observed or performed (including liability arising during any renewal term of this Lease or with respect to any expansion space included in the Demised Premises). It is agreed that the liabilities and obligations of Tenant hereunder are enforceable either before, simultaneously with or after proceeding against any assignee, sublessee, licensee, sublicensee or other transferee of Tenant.
- H. *Attorneys' Fees.* Tenant shall pay Landlord, on demand as additional rent, any attorney's fees and expenses incurred by Landlord in connection with any proposed Transfer, whether or not Landlord consents to such Transfer.

## ARTICLE XXV. HAZARDOUS MATERIAL

- A. For purposes of this Lease "Hazardous Material" means any flammable items, explosives, radioactive material, oil, toxic substance, material or waste or related materials, including any material or substance included in the definition of "hazardous wastes," "hazardous materials" or "toxic substances", now or hereafter regulated under any Legal Requirements, including, without limitation, petroleum-based products, paints, solvents, lead, cyanide, DDT, printing inks, acids, pesticides, ammonia compounds and other chemical products, asbestos, medical waste, polychlorinated biphenyls, and similar compounds. "Hazardous Material" shall also include, without limitation, any materials or substances which could trigger any employee "right to know" requirements or for which any regulatory or other governmental body has adopted any requirements for the preparation or distribution of a material safety data sheet.
- B. Tenant shall not cause or permit any Hazardous Material to be brought upon, produced, stored, generated, used, discharged or disposed of, in, on, under or about the Demised Premises, without the prior written consent of Landlord and then only in compliance with all applicable environmental legal requirements.
- C. Tenant shall execute such affidavits, representations and certifications from time to time as may be requested by Landlord, concerning Tenant's best knowledge and belief regarding

the presence or absence of Hazardous Material in, on, under or about the Demised Premises and/or the Property.

- D. Tenant shall defend, indemnify and hold harmless Landlord from and against any and all claims (including, without limitation, costs and attorneys' fees) arising from any breach of this Article. The indemnity, defense and hold harmless obligations in this Article shall be in addition to all other indemnity, defense and hold harmless obligations contained in this Lease.

## ARTICLE XXVI. NOTICES

- A. Any notice required or permitted by this Lease to be given by either party to the other may be hand-delivered or sent by U.S. Mail, return receipt requested, with the sender retaining sufficient proof of having given such notice. No notice required or permitted by this Lease shall be effective if given only by electronic mail.
- B. All notices required by this Lease, unless otherwise designated in writing, shall be given to:

Tenant            Mailing Address:  
                         McGuffey Arts Association, Inc.  
                         201 2<sup>nd</sup> Street NW  
                         Charlottesville, VA 22902

                         Delivery Address:  
                         McGuffey Arts Association, Inc.  
                         201 2<sup>nd</sup> Street NW  
                         Charlottesville, VA 22902

Landlord        Mailing Address:  
                         Office of the City Manager  
                         City of Charlottesville  
                         P.O. Box 911  
                         Charlottesville, VA 22902  
                         Attn: City Lease

                         Delivery Address:  
                         Office of the City Manager  
                         City of Charlottesville  
                         605 E. Main Street, 2<sup>nd</sup> Floor  
                         Charlottesville, VA 22902  
                         Attn: City Lease

## ARTICLE XXVII. QUIET ENJOYMENT

Upon payment by Tenant of all rent and other sums provided to be paid in this Lease, and the observance and performance of all the covenants, terms and conditions on Tenant's part to be

observed and performed, Tenant shall have the peaceful and quiet use of the Demised Premises , and all rights, servitudes, and privileges belonging to, or in any way appertaining thereto, or granted hereby for the terms stated, without hindrance, or interruption by Landlord or any other person or persons lawfully claiming by, through or under Landlord; subject, nevertheless, to the terms and conditions of this Lease.

### **ARTICLE XXVIII. NO IMPLIED WAIVERS**

A waiver of any covenant or condition of this Lease shall extend to the particular instance only and in the manner specified and shall not be construed as applying to or in any manner waiving any further or other covenants, conditions or rights hereunder.

### **ARTICLE XXIX. ESTOPPEL CERTIFICATES**

Tenant agrees, at any time and from time to time, upon not less than five (5) days' prior written notice by Landlord, to execute, acknowledge and deliver to Landlord a statement in writing (a) certifying that this Lease is in full force and effect (or if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications), (b) stating the dates to which the rent and other charges hereunder have been paid by Tenant, (c) stating whether or not to the best knowledge of Tenant, Landlord is in default in the performance of any covenant, agreement or condition contained in this Lease, and, if so, specifying each such default of which the Tenant may have knowledge, and (d) stating the address to which notices to Tenant should be sent. Any such statement delivered pursuant hereto may be relied upon by any owner, prospective purchaser, or financier of the Tenant's business.

### **ARTICLE XXX. NO PARTNERSHIP CREATED**

Nothing contained in this Lease shall be deemed or construed to create a partnership or joint venture of, or between, Landlord and Tenant, or to create any other relationship between the parties hereto other than that of Landlord and Tenant.

### **ARTICLE XXXI. TENANT'S ORGANIZATION, AUTHORITY AND NET WORTH**

In the event Tenant is a corporation (including any form of professional association), partnership (general or limited), or other form of organization other than an individual (each entity is individually referred to herein as "Organizational Entity"), then Tenant hereby covenants, warrants and represents: (1) that the individual executing this Lease is duly authorized to execute and/or attest and deliver this Lease on behalf of Tenant in accordance with the organizational documents of Tenant, (2) that this Lease is binding upon Tenant, (3) that Tenant is duly organized and legally existing in the state of its organization, and is qualified to do business in the Commonwealth of Virginia, and (4) that the execution and delivery of this Lease by Tenant will not result in any breach of, or constitute a default under any mortgage, deed of trust, lease, loan, credit agreement, partnership agreement or other contract or instrument to which Tenant is a party or by which Tenant may be bound. If Tenant is an Organizational Entity, upon request, Tenant will, prior to the Commencement Date, deliver to Landlord true and correct copies of such organizational



documents of Tenant as may be requested by Landlord in order to verify Tenant's organizational structure and authority to execute this Lease, including, without limitation, copies of an appropriate resolution or consent of Tenant's board of directors or other appropriate governing body of Tenant authorizing or ratifying the execution and delivery of this Lease, which resolution or consent will be duly certified to Landlord's satisfaction by an appropriate individual with authority to certify such documents, such as the secretary or assistant secretary or the managing general partner of Tenant.

## **ARTICLE XXXII. BROKERS**

Tenant represents and warrants that Tenant has not dealt with any broker(s) in connection with this Lease and that, to the best of the Tenant's knowledge, no broker negotiated this Lease or is entitled to any commission in connection herewith. Tenant agrees to indemnify, defend and hold harmless from and against any claims for a fee or commission made by any broker claiming to have acted by or on behalf of Tenant in connection with this Lease.

## **ARTICLE XXXIII. TENDER OF LEASE NOT AN OFFER TO LEASE; EXECUTION AND DELIVERY**

Submission of this instrument for examination or signature by Tenant does not constitute a reservation of space or an option for space, and it is not effective until execution and delivery by both Landlord and Tenant. Execution and delivery of this Lease by Tenant to Landlord, with Tenant's signature, shall constitute an irrevocable offer by Tenant to lease the Demised Premises on the terms and conditions set forth herein, which offer may not be revoked for thirty (30) days after such delivery.

## **ARTICLE XXXIV. NO IMPLIED SURRENDER**

Neither the delivery of keys to any employee of Landlord or to Landlord's agent or any employee thereof, nor the termination or expiration of any sublease or assignment for all or any portion of the Demised Premises, nor the abandonment of the Demised Premises by Tenant, shall operate as any termination of this Lease or an acceptance of surrender of the Demised Premises by Landlord, absent the explicit written agreement of the Landlord to same.

## **ARTICLE XXXV. LIMITATION OF LANDLORD'S LIABILITY**

Landlord shall have the right in its sole and unrestrained discretion, to transfer and assign, in whole or in part, all of its rights and obligations in and to this Lease and/or the Lease or Property. The word "Landlord" is used in this Lease to include the Landlord named above as well as its successors and assigns, each of whom shall have the same rights, remedies, powers, authorities and privileges as it would have had if originally signed this as Landlord. Any such person, whether or not named herein, shall have no liability hereunder after it ceases to hold title to the Demised Premises, except for obligations which may have theretofore accrued. Neither Landlord nor any principal, member, officer, employee or partner of Landlord nor any owner of the Property, whether disclosed or nondisclosed, shall have any personal liability with respect to any of the provisions of this Lease, and neither Landlord, nor any parent or affiliate company, nor any

principal, employee, officer, member or partner of Landlord shall have any personal liability to Tenant for any liability of or claim against Landlord under this Lease beyond the equity of the Landlord in the Demised Premises and the Land.

## **ARTICLE XXXVI. ENTIRE AGREEMENT; MODIFICATION**

- A. This Lease, together with exhibits attached hereto, represents the entire understanding between the parties, and there are no collateral or oral agreements or understandings between the parties as to any subject(s) herein contained.
- B. This Lease shall not be modified unless in writing of equal dignity signed by both parties.

## **ARTICLE XXXVII. PARTIAL INVALIDITY**

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

## **ARTICLE XXXVIII. BINDING EFFECT**

It is agreed that all of the terms and conditions of this Lease are binding upon the parties hereto, their administrators, heirs, successors and assigns, unless otherwise specified herein. All terms and conditions herein are also covenants.

## **ARTICLE XXXIX. APPLICABLE LAW**

This Lease shall be governed in all aspects by the laws of the Commonwealth of Virginia, notwithstanding its conflict of laws provisions.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed by their duly authorized representatives, following below:

*[insert signature pages following]*

CITY OF CHARLOTTESVILLE, VIRGINIA

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

Date: \_\_\_\_\_

Title: \_\_\_\_\_

TENANT: MCGUFFEY ARTS ASSOCIATION, INC.

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

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Exhibit A

Demised Premises



## Exhibit B

### Facilities Definitions and Terms of Use

#### Facilities Definitions:

**Building Grounds and Parking Lot:** Building Grounds and Parking Lot is defined as facility use or related systems found outside the 20-foot building perimeter boundary. Systems to include parking lots and lighting, playgrounds and lighting, swimming pools and lighting, Trail or walkways and lighting, athletic fields and lighting, and grounds requiring irrigation and lawn services. All directional signage, trash or recycling containers, benches and comfort stations are included in this section.

**Component Renewal:** Preventive maintenance activities that recur on a periodic and scheduled cycle of greater than 10 years.

**Corrective Maintenance:** Unscheduled maintenance repairs to correct deficiencies during the year in which they occur.

**Custodial Services:** Defined as services required to maintain interior and exterior building components in a sanitary and presentable condition. Services to include restroom cleaning and sanitizing, office waste removal and cleaning, common area cleaning and sanitizing, window cleaning, floor cleaning and trash pick-up and discarding. LOS would be contingent on building profile, occupancy levels, and cleaning standards as set forth by industry standards and guidelines.

**Deferred Maintenance (DM):** Maintenance that was not performed when it should have been or when it was scheduled and which, therefore, was put off or delayed for a future period. This DOES NOT include constructed asset deficiencies where there is non-compliance to codes (e.g. life safety, ADA, OSHA, environmental, etc.) and other regulatory or Executive Order compliance requirements. It does include engineering and/or contracted A&E services that support planning, design, and execution of deferred maintenance activities.

**Demolition:** Dismantling and removal, or surplus of a deteriorated or otherwise unneeded asset or item of IBE, includes necessary clean-up work, during the year in which the need occurred.

**Emergency Maintenance:** Maintenance activities that are unscheduled repair, to include call outs, to correct an emergency need to prevent injury, loss of property, or return asset to service. These repairs are initiated within a very short time period from which the need is identified, usually within hours.

**Exterior Building Envelope:** The Exterior envelope is defined as the structural components of the building, including roof and supporting architecture, roof drainage systems, load bearing walls, foundation, plumbing and sewer systems, electrical distribution network, HVAC systems including duct network and system controls, all affixed exterior lighting and controls. Exterior envelope can include up to a 20-foot perimeter from exterior walls that may contain walkways or building approaches, trash or recycling containers, walkway pole lighting, and perimeter foliage and irrigation.

**Facility Event Make Ready and Breakdown Services:** Defined as services required to set up or breakdown material to host events. Can include tables, chairs, lighting, custodial items and HVAC modulations. After event cleaning services are stand alone services that are not part of normally scheduled custodial services or provisions.

**FF&E or FFE:** Furniture, Fixtures and Equipment. Defined as movable furniture, fixtures, or other equipment that have no permanent connection to the structure of the building and can be owner or tenant furnished.

**HVAC:** Heating Ventilation and Air-Conditioning. Defined as any number of integrated or dedicated systems designed, and employed, to manage various air environmental conditions in a defined space or area.

**Interior Building Envelope, Conditioned Spaces:** The interior envelope for conditioned spaces includes all building fixtures, furnishings, or equipment (FF&E) integrated, but without dependency on the structural makeup or components of the building model. Interior envelope can include floors, ceiling panels and gridwork, wallboard and finishes, non-architectural equipment such as appliances, sound systems, door hardware, alarm systems, IT Systems and lighting. The Interior envelope for conditioned spaces will always have HVAC systems servicing the space but may also include passive solar or natural lighting systems.

**Interior Building Envelope, Unconditioned Spaces:** The Interior envelope for unconditioned spaces can include all elements as found in the Interior envelope for conditioned spaces but without artificial HVAC systems. Spaces can include warehouses, storerooms, pool pump and mechanical rooms and stand-alone sheds. Space can include passive solar systems or re-directional natural lighting design.

**Level of Service (LOS):** Level of Service as recommended by manufacturer, Best Practices as demonstrated through industry standards, or recommendations presented by prevailing Building or Equipment management. Level of Service can vary between facility due to equipment or building profile, environmental conditions, or previous maintenance activity.

**Maintenance:** Maintenance to repair unscheduled and scheduled deficiencies during the time period in which they occur. This includes preventive maintenance for buildings, structures, and installed building equipment (IBE) as recommended by the manufacturer. It also includes engineering and/or contracted Architectural and Engineering (A&E) services that support planning, design, and execution of maintenance activities.

**Mobile Equipment Maintenance:** All corrective, preventive, emergency, replacement, etc., maintenance done on mobile equipment assets, those assets directly contributing to the Real Property / Facility Maintenance mission.

**OSHA:** Occupational Safety and Health Administration. Responsible for setting and enforcing workplace safety and health standards in the United States. The agency was created in 1970 by the Occupational Safety and Health Act (OSH Act) and is a division of the U.S. Department of Labor.

**NFPA:** National Fire Protection Agency. A global self-funded nonprofit organization, established in 1896, devoted to eliminating death, injury, property and economic loss due to fire, electrical and related hazards.

**Preventive Maintenance:** Scheduled servicing, repairs, inspections, adjustments, and replacement of parts that result in fewer breakdowns and fewer premature replacements and achieve the expected life of constructed assets and IBE. These activities are conducted with a frequency of 1 year or less.

**Recurring Maintenance:** Preventive maintenance activities that recur on a periodic and scheduled cycle of greater than 1 year, but less than 10 years.

**Shared Spaces:** Mechanical, closets, or other shared space utilized concurrently by 2 or more contract participants on an ongoing or consistent manner.

**Weather Related Services:**

- Snow removal services
  - Building perimeter: pedestrian
  - Building vehicular traffic including loading docks
- High Wind
- Rain Events

**Definitions Pertaining to Facility Use Conditions:**

**Assignable Area:**

- Definition: The sum of all areas on all floors of a building assigned to, or available for assignment to, an occupant or specific use.
- Description: Included should be space subdivisions, as applicable, of the ten major room use categories for assignable space – classrooms, labs, offices, study facilities, special use, general use, support, health care, residential and unclassified – that are used to accomplish the organization’s mission.

**Building Service Area:**

- Definition: The sum of all areas on all floors of a building used for custodial supplies, sink room, housekeeping closets, and for occupant rest rooms.
- Description: Included should be housekeeping closets or similarly small cleanup spaces, maintenance material storage areas, trash collection points exclusively devoted to the storage of nonhazardous waste created by the building occupants. Loading docks for the explicit use for material pick up or delivery.

**Circulation Area:**

- Definition: The sum of all areas on all floors of a building required for physical access to some subdivision of space, whether physically bounded by partitions or not.
- Description: Included should be, but is not limited to, public corridors, fire towers, elevator lobbies, tunnels, bridges, and each floor’s footprint of elevator shafts, escalators and stairways. Areas deemed ingress / egress as defined by the Fire Marshall’s Office.

**Electrical Panel / Fire Alarm Control Panel:**

- Definition: The sum of all areas on all floors of a building designed to house electrical sub-panels, fire protection controls, and security controls integrated into the building operations.
- Description: Including electrical distribution sub-panels, Fire Alarm Panels and Security or Access Control Panels.

**Mechanical Area:**

- Definition: The sum of all areas on all floors of a building designed to house mechanical equipment, utility services, and shaft areas.
- Description: Included should be mechanical areas such as HVAC equipment, electrical switch gear and transformers, domestic hot water heaters or boilers.

**Non-Assignable Area:**

- Definition: The sum of all areas on all floors of a building not available for assignment to an occupant or for specific use, but necessary for the general operation of a building.
- Description: Included should be space subdivisions – building service, circulation and mechanical.

**Facilities Terms of Use:**

All Conditions set forth in this 'Terms of Use' are understood by the Tenant to be part of the Lease Agreement as executed between the City of Charlottesville and Tenant and are instituted to supplement agreed to limitations on facility use as set forth in the executed lease agreement.

**Terms of Use:**

- General Conditions:
  - No food products are to remain in an open and unsealed condition at end of business, where promotion of insect or other pest infestations could occur.
  - Gates or other facility modifications for the purpose of securing areas, are not authorized without explicit authorization from the City of Charlottesville Facilities Maintenance and only after review and approvals from the Fire Marshalls Office.
  - Building Fire and Evacuation Drills to be administered in accordance to City Fire Marshall requirements; including but not limited to, conformance of all Fire Marshall Regulations for ingress / egress routes.
  - Tenant shall have 48 hours to correct any space deficiencies unless otherwise approved by City Facilities Maintenance.
- Custodial Services:
  - Tenant to submit in writing upon request, a cleaning service schedule sufficiently detailed to address facility occupancy in all Assignable Areas.
  - Janitorial and sanitizing cleaning agents must only be used and in the manner specified by the product manufacturer.
  - Cleaning agents used for the purpose of cleaning and sanitizing Assignable Areas, must be pre-approved by City Facilities Maintenance Custodial Services.
  - All cleaning chemicals must be stored in accordance to standards through OSHA, NFPA and Industry Best Practices and limited to storing in Building Service Areas.
- Chemical Management:
  - An inventory of all stored chemicals used by tenant must be made available to City Facilities.
  - City Facilities Maintenance reserves the right to deny storage of any chemical or otherwise volatile material that presents a clear hazard to building and / or occupants.
  - A Safety Data Sheet (SDS) for each stored chemical must be displayed in a visible and easily assessable station near stored chemicals.
  - Chemical agents must not be stored on any wood, or otherwise absorbent material and must be stored on City Facilities Maintenance approved shelving systems in a manner consistent with OSHA, NFPA and Industry standards and best practices.
  - Dry goods or other cardboard boxed items to be stored in a manner consistent with industry best practices and in accordance with City Fire Marshall requirements.



- Floor surface to remain clean and clear of any material that presents hazards or rite of passage concerns in all Assignable, Circulation and Building Service Areas.
- Lighting:
  - All lighting fixtures must contain a full contingent of light products as specified by the light fixture. No failed or diminished light bulbs in lighting fixtures.
  - Light fixture diffusers must be periodically cleaned to promote a safe and healthy environment.
- Boiler and Mechanical Rooms:
  - Tenant shall not use and under any circumstance, any space in areas containing Boiler, Mechanical, or main electrical switch gear. Mechanical Areas to be accessible by City Facilities Maintenance staff only unless otherwise authorized by City Facilities Maintenance.
- Electrical Panel / Fire Alarm Control Panel (FACP)
  - Electrical Panel and FACP closets are not authorized to be used for storage by the tenant as found in Mechanical Areas.
  - Electrical Sub-Panel closets may be conditionally used and only under authorization from City Facilities Maintenance.
- Circulation Areas:
  - Under no conditions will stairways and stairway landings be used for storage or as an interim space for inventory replenishment.
  - No non-emergency or non-directional signage or communication notices are authorized to be placed on walls or on any free standing easels on stairway landings.
  - All circulation areas are to be free of obstructions and kept clean in accordance to Industry Best Practices.
  - Conformance to all Fire Marshall Regulations regarding Ingress / Egress routes.
- Heating, Ventilation and Air Conditioning (HVAC)
  - Systems common, or shared with other Tenants are considered “Common Infrastructure” and are the responsibility of the City to maintain.
  - Systems servicing Tenant spaces only, are considered “Dedicated Systems” and are typically smaller units such as residential or window units.
    - The Tenant is responsible for changing the Air Filter on a quarterly basis as determined by City Facilities Maintenance procedures. A written filter changing log is to be maintained and provided to the City upon request.
    - Repair and Maintenance of the system will be the responsibility of the City.
      - The Tenant is responsible for submitting a work request to the City in order to address any equipment concerns.
  - HVAC system operation will integrate energy and water management principles to optimize building performance and meet operational needs while supporting comfort and health. In support of this, the following provisions shall be implemented:
    - Mandatory Provisions:
    - During occupied hours, all thermostatically controlled heating/air conditioning units in City-owned/maintained facilities will be cooled or heated to a pre-determined temperature range:
      - Heating Season: 68 – 72 degrees F
      - Cooling Season: 72 – 76 degrees F



**Exhibit C**

**Tenant's Non-Profit Status**

**BY-LAWS OF MCGUFFEY ARTS ASSOCIATION, INC.**

REVISED 2017

*(herein called the Association)*

**Contents**

ARTICLE I. ASSOCIATION ..... 3

    Section 1.01. Purposes..... 3

    Section 1.02 Principal Office..... 3

    Section 1.03 Registered Office..... 3

ARTICLE II. MEMBERSHIP ..... 3

    Section 1.01. Membership..... 3

    Section 2.02. Eligibility ..... 3

    Section 2.03 Voting..... 4

    Section 2.04. Duties of Members..... 4

    Section 2.05. Term of Membership..... 4

    Section 2.06. Right to Studio Space..... 4

    Section 2.07. Member Agreement / Handbook..... 4

ARTICLE III. MEETINGS OF MEMBERS ..... 5

    Section 3.01. Annual Meetings..... 5

    Section 3.02. Regular Meetings..... 5

    Section 3.03. Special Meetings..... 5

    Section 3.04. Notice of Meetings..... 5

    Section 3.05. Quorum..... 5

    Section 3.06. Organization of Meetings..... 5

    Section 3.07. Business and Order of Business..... 6

    Section 3.08. Voting..... 6

    Section 3.09. Election of Officers and Directors at Annual Meeting..... 6

    Section 3.10. Election of Chairman of Standing Committees..... 6

    Section 3.11. Conduct of Meetings..... 6

ARTICLE IV. DIRECTORS – OFFICERS –EXECUTIVE COUNCIL..... 6

    Section 4.01 General Powers..... 6

    Section 4.02 Term of Office and Qualifications..... 7

    Section 4.03. Removal..... 7

    Section 4.04 Organization..... 7

    Section 4.05 Place and Time of Meetings..... 7

    Section 4.06 Waiver and Notice of Meetings..... 8

    Section 4.07 Quorum and manner of Acting..... 8

Section 4.08 Resignations.....	8
Section 4.09. Vacancies.....	8
ARTICLE V. OFFICERS.....	8
Section 5.01 Officers.....	8
Section 5.02 Election and Term of Office.....	8
Section 5.03 Duties of the President.....	8
Section 5.04 Duties of the First Vice President.....	9
Section 5.05 Duties of the Second Vice President.....	9
Section 5.06 Duties of the Treasurer.....	9
Section 5.07 Duties of the Recording Secretary.....	9
ARTICLE VI. STANDING COMMITTEES.....	9
Section 6.01. House Committee.....	10
Section 6.02. Graphics Committee.....	10
Section 6.03. Gallery Committee.....	10
Section 6.04. Shop Committee.....	10
Section 6.05. Classes Committee.....	10
Section 6.06. Education and Outreach Committee.....	10
Section 6.07. Volunteer Committee.....	10
Section 6.08. Community Relations Committee.....	10
Section 6.09 Publicity Committee.....	11
Section 6.10. Newsletter Committee.....	11
ARTICLE VII. CONTRACTS, CHECKS, DRAFTS, BANK ACCOUNTS, ETC.....	11
Section 7.01. Execution of Contracts and Other Documents.....	11
Section 7.02. Checks, Drafts Etc.....	11
Section 7.03. Deposits.....	11
ARTICLE VIII. MISCELLANEOUS.....	11
Section 8.01. Fiscal Year.....	11
Section 8.02. Acceptance of Gifts, Donations, Etc.....	11
ARTICLE IX. AMENDMENTS.....	12
Section 9.01. By the Executive Council.....	12
Section 9.02. By the Members.....	12
Section 9.03. Recordation of Amendments.....	12

## ARTICLE I. ASSOCIATION

**Section 1.01. Purposes.** The purposes for which the Association is organized are as follows:

- (a) To be a non-stock, non-profit corporation, none of the income of which shall inure to the benefit of any private individual or to any political organization.
- (b) To lease from the City of Charlottesville, Virginia, upon such terms and conditions and for such period of time as may be mutually arranged, the building in the City of Charlottesville known as the McGuffey School (hereafter called the McGuffey Art Center or the Center) and to provide studio space therein for artists and artisans.
- (c) To sublease studio space in the McGuffey Art Center to such artists and artisans as may be from time to time approved and upon such terms and conditions as may be from time to time established by the Board of Directors of the Association.
- (d) To operate a gallery from which the works of tenants and other local artists and artisans may be sold in accordance with rules and regulations adopted from time to time by the Board of Directors.
- (e) To foster the aims of public education in the arts.

**Section 1.02 Principal Office.** The principal office of the Association in Virginia (as required by law) shall be at such place as the Board of Directors shall from time to time by resolution determine, and may, but need not, be at the principal office of the Association.

**Section 1.03 Registered Office.** The registered office of the Association in Virginia (as required by law) shall be at such place as the Board of Directors shall from time to time by resolution determine, and may, but need not be at the principal office of the Association.

## ARTICLE II. MEMBERSHIP

**Section 1.01. Membership.** There shall be one class of voting members, and membership shall be non-transferable. The voting members shall be comprised of individuals who have signed leases for studio space in the McGuffey Art Center and whose leases are current, valid and binding agreements, and all such individuals shall be members.

**Section 2.02. Eligibility.** The eligibility of applicants to become members shall be determined by the Board of Directors or by a committee appointed by the Board of Directors for such purposes. The determination of eligibility shall be based on demonstrated creative ability of the applicant, technical skill, the need and desirability for a particular expression of art or craft to be represented in the Center at the time of consideration, the ability and willingness to participate in the management of a co-operative, and the availability of space compatible with the proposed use. Additional considerations may be from time to time adopted by the Board of Directors and shall be expressed in writing as an amendment to this by-law.

**Section 2.03 Voting.** Each voting member shall be entitled to one vote at any meeting of members duly called in accordance with the provisions of these by-laws.

**Section 2.04. Duties of Members.** The execution of a lease by a member shall be deemed an acknowledgment of the following:

- (a) That the member has read and understands these by-laws;
- (b) That the member agrees to perform all the covenants and conditions contained in the lease and to pay rent for studio space in the amount and at the time determined by the lease;
- (c) That the member agrees to pay all other dues and assessments from time to time levied by the Board of Directors pursuant to authority vested in the Board under the articles of incorporation and these by-laws;
- (d) That the member shall obey all house rules, regulations and policies established by the Board of Directors and shall perform such duties with respect to the operation of the Center as may be assigned by the Board of Directors, a committee designated for such purposes, or by officers of the Association authorized to make such assignments.

**Section 2.05. Term of Membership.** Membership shall be renewable annually by members in good standing upon payment of such dues and assessments as may be levied by the Board of Directors and by execution of a renewal lease satisfactory to the Board. Good standing shall be determined by a periodic evaluation by the Board of Directors, or a committee appointed by the Board for such purpose, of a member's total performance as a member of the Association. Specific criteria shall include, but not be limited to (i) maintenance of acceptable standards of performance in the discipline in which the member is engaged; (ii) performance of duties assigned, (iii) payment of rent, dues and assessments in compliance with rules, regulations and policies properly adopted by the board of Directors; and (iv) a demonstrated supportive and co-operative attitude concerning the Association.

In the event a member is found wanting or deficient in any of the categories enumerated above or any other criteria authorized by the Board for consideration, such member shall be notified in writing. Such notice shall contain reasonable specification of deficiencies, and any member receiving such notification shall, upon request, be entitled to a hearing with respect thereto before the Board of Directors. In the event a majority of the Board determines after a hearing that the deficiencies are unlikely to be corrected, it may terminate the individual's lease and membership in the Association or decline to renew such lease upon its stated termination. Membership may also be terminated at time of lease renewal upon vote of two-thirds of the membership and in such case no cause need be stated.

**Section 2.06. Right to Studio Space.** Regardless of whether a member be in good standing at the end of the term of lease, such member shall not be automatically entitled to renew his or her lease in the same space for the forthcoming year. For the benefit of the operation of the entire Center, the Board may reassign studio space but shall give due consideration to preferences of individual members.

**Section 2.07. Member Agreement / Handbook**

The Association shall have a member agreement pursuant to Section 13.1-852.1 of the Code of Virginia. This member agreement shall be known as the Handbook and shall provide additional guidance on the rights and responsibilities of

members of the Association and shall govern the relationship among the members, directors and Association. If there is any conflict between the Handbook and these by-laws, these by-laws shall govern.

## ARTICLE III. MEETINGS OF MEMBERS

**Section 3.01. Annual Meetings.** An annual meeting of the members of the Association, for the purpose of electing officers and for the transaction of such other business as may properly come before the meeting, shall be held in the month of April, at such time and place as may be designated in the notice of the meeting.

**Section 3.02. Regular Meetings.** The Board of Directors or the members may establish a regular day, time and place for regular meetings of members by adopting a resolution to such effect setting the day, time and place.

**Section 3.03. Special Meetings.** A special meeting of the members may be called at any time by the president, by a majority of the Board of Directors, or by twenty-five percent of the voting members.

**Section 3.04. Notice of Meetings.** Written notice of annual and special meetings shall be posted at appropriate places within the McGuffey Art Center building no less than five days prior to the meeting. Such notice shall state the place, day and hour of the meeting, and in the case of a special meeting the purpose or purposes for which the meeting was called.

A member who attends a meeting shall be deemed to have had timely and proper notice of the meeting, unless he attends for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Notice of any adjourned or recessed meeting need not be given.

In the event the Board of Directors or the members establish a day, time and place for regular meetings as provided in Section 3.02 above, a general notice posted at appropriate places within the McGuffey Art Center not less than five days prior to such regular meeting, stating the day and hour of the meeting, and a description of the matters to come before the meeting, shall be deemed sufficient notice of the meeting.

**Section 3.05. Quorum.** At any meeting of the members the presence of forty percent of the voting members, in person, shall constitute a quorum for the transaction of business. In the absence of a quorum, a majority of the voting members present in person and entitled to vote may adjourn the meeting from time to time and from place to place until a quorum is obtained.

**Section 3.06. Organization of Meetings.** At every meeting of the members, the president, or in the absence of the president, the first vice president, second vice president, treasurer or recording secretary, in that order, shall act as chairman of the meeting.

The recording secretary, or, in the discretion of the chairman, any person designated by him, shall act as secretary of the meeting.



**Section 3.07. Business and Order of Business.** At each meeting of the members such business may be transacted as may properly be brought before such meeting, whether or not such business is stated in a notice of meeting or in a waiver of notice thereof, except as otherwise provided by law or by these by-laws. The order of business of all meetings of members shall be determined by the chairman, but such order of business may be changed by vote of a majority in voting power of the members present in person and entitled to vote at the meeting.

**Section 3.08. Voting.** If a quorum is present, the affirmative vote of a majority in voting power of the members represented at the meeting and entitled to vote on the subject matter shall be the act of the members, unless the vote of a greater number is required by law, by the articles of incorporation, or by these by-laws.

**Section 3.09. Election of Officers and Directors at Annual Meeting.** At the annual meeting of member, an election of officers and directors shall occur in the manner set forth below. All officers shall be directors, and all directors shall be officers, and in their combined functions, they shall be known as the Executive Council, and wherever in these by-laws reference is made to the Board of Directors, such reference shall be construed to mean Executive Council and vice versa. An election of a slate consisting of a president and four directors shall be held. Following nominations from the floor the member receiving the greatest number of votes in the election, for the contested position shall be holder of the office for the forthcoming year, or until the election and qualification of a successor, provided, however, the procedure for electing officer may be varied with the consent of a majority of members present at the meeting, if a written proposal describing the method of electing officers has been posted by a member five days prior to the election meeting.

**Section 3.10. Election of Chairman of Standing Committees.** At the annual meeting of members, the members, following the same procedures set forth in the preceding section, shall elect a chairman for each standing committee.

**Section 3.11. Conduct of Meetings.** To the extent not inconsistent with any express provision of the Association's charter or these by-laws, all meetings of members shall be conducted according to the provisions of Robert's Rules of Order.

## ARTICLE IV. DIRECTORS – OFFICERS –EXECUTIVE COUNCIL

**Section 4.01 General Powers.** The affairs of the Association shall be managed by the Executive Council (which is the board of directors) , consisting of the individuals serving as directors and officers of the Association, and all corporate powers shall be exercised by the Executive Council, except as otherwise expressly required by the articles of incorporation, or by these by-laws, or by law.

By way of illustration, and not by way of limitation, the Executive Council shall have the following powers: (i) to represent the Association in any aspect of its affairs with the City of Charlottesville, including any joint committee from time to time appointed comprised of members of the Association and individuals designated by the City of Charlottesville; (ii) to appoint one or more members of the Association and, in accordance with the provisions of these

by-laws, approve or disapprove applications for membership, execute on behalf of the Association leases for space in the McGuffey Art Center (subject to the approval, if any be required, of the joint committee comprised of members of the Executive Council and individuals appointed by the City of Charlottesville), make all necessary determinations required by or implied from these by-laws with respect to renewal of leases, determination of good standing of members, and continuation of membership; (iii) to establish from time to time auxiliary or supporting groups for the McGuffey Art Center to perform such functions as may be helpful or desirable and to accord members of such groups such privileges as the executive council may deem reasonable, provided, however, no members of such groups shall have voting rights (any such group shall be designated by a suitable name such as associate members, volunteer members, etc); (iv) to promulgate house rules, policies, and regulations for the operation of the McGuffey Art center as may be necessary or desirable; (v) to appoint special or ad hoc committees to make studies, recommendations or to take such action as may be necessary to assist the Executive council to carry out its duties; (vi) to inquire into and take appropriate action with respect to any complaints or recommendations of members or other interested parties with respect to the general operation of the McGuffey Art Center or the conduct of any of the members; and (vii) to hire and fire employees and delegate such duties as appropriate to such employees.

The general powers of the Executive council shall be limited by any action taken by the members at any annual, regular, or special meeting of members duly called and at which a quorum is present, provided such action be approved by a majority of members present in person. Action taken by the members, as the term is used herein, may include, without limitation, (i) review of any specific decision of the Executive Council and reversal thereof to the extent consistent with general law; and (ii) revocation of prior house rules, policies or regulations, and establishment of new policies or regulations in whole or in part. Any such house rule, regulation or policy established by the members shall not be modified or repealed other than by subsequent vote of the members.

**Section 4.02 Term of Office and Qualifications.** The Executive council, five in number, shall be elected annually in the manner provided in these by-laws, and each shall hold his office and directorship until the annual meeting next following his election, or until his successor shall have been elected, or until his sooner death, resignation or removal. No decrease in the number of directors or officers by amendment to the by-laws shall have the effect of shortening the term of any incumbent director or officer. Only voting members may be officers and directors.

**Section 4.03. Removal.** Any member of the Executive Council may be removed from his directorship and office, either with or without cause, by a vote of a majority of members entitled to vote, given in person at any special meeting or the members duly called in accordance with the provisions of these by-laws.

**Section 4.04 Organization.** At each meeting of the Executive Council, the president, or in his absence, the first vice president, second vice president, treasurer or recording secretary, in that order, shall act as chairman. The recording secretary, or in the discretion of the chairman, any person appointed by him, shall act as secretary of the meeting.

**Section 4.05 Place and Time of Meetings.** The Executive Council shall from time to time designate a day, hour and place for regular meetings. Special meetings may be called by the president or any three members of the Executive Council. All meetings of the Executive Council shall be open to members, unless a majority of the Executive Council votes for an Executive Session.

**Section 4.06 Waiver and Notice of Meetings.** No notice shall be required with respect to regular meetings of the Executive Council but an agenda shall be posted prior to the meeting. Notice of special meetings shall be mailed to, delivered personally to, or placed in each director's box in the McGuffey Art Center not more than five nor less than three days prior to the special meeting and shall state the purpose thereof and a copy of the notice shall be posted. Proper notice of any special meeting of the Executive council shall be deemed to have been given to any director if such notice shall be waived by him in writing before or after the meeting, and a director who attends a meeting shall be deemed to have had timely and proper notice thereof, unless he attends for the express purpose of objecting the transaction of any business because the meeting is not lawfully called or convened.

**Section 4.07 Quorum and manner of Acting.** A majority of the number of directors at the time fixed by these by-laws shall constitute a quorum for the transaction of business by the Executive Council. The act of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Executive Council. In the absence of a quorum, a majority of the directors present may adjourn the meeting from time to time until a quorum be had. The directors shall act as the Executive Council, and the individual directors shall have no power as such.

**Section 4.08 Resignations.** Any member of the Executive Council may resign at any time, orally or in writing, by notifying the president, or if the resigning Executive Council member be the president, by notifying the first vice president. Such resignation shall take effect at the time therein specified; and unless otherwise specified, the acceptance of such resignation shall not be necessary to make it effective.

**Section 4.09. Vacancies.** Any vacancy in the Executive Council, caused by death, resignation, removal, disqualification, or any other cause may be filled by the majority vote of the members at the next regular or special meeting of the membership.

## ARTICLE V. OFFICERS

**Section 5.01 Officers.** The officers shall be a president, first vice president, second vice president, treasurer and recording secretary. Each officer shall also be a director of the Association.

**Section 5.02 Election and Term of Office.** The officers shall be elected annually at the annual meeting of the members in the manner provided in Section 3.09 and shall hold office commencing May 1 next following the election for a period of one year until the election and qualification of a successor, or until such officer's death, resignation or removal from office in the manner herein provided.

**Section 5.03 Duties of the President.** The president shall be the chief executive officer of the Association, chairman of the Executive Council, and shall preside at all meetings of the Executive Council and of the members. The president shall also serve as chief liaison officer between the Association and any joint committee comprised of

members of the Association and individuals designated by the City Council of the City of Charlottesville. The president shall be a member, ex officio, of all standing and ad hoc committees except the nominating committee.

Within thirty days after the expiration of his or her term of office, the president shall prepare a written report to the membership of the major activities which occurred during such term, and as a part thereof, may require the chairman of each standing committee to prepare a similar report of the major activities undertaken and accomplished by such committee.

**Section 5.04 Duties of the First Vice President.** The first vice president shall perform the duties of the president in the president's absence at any meeting of the Executive Council, members, and any standing or ad hoc committee. The first vice president shall perform the other functions of the president as chief executive officer of the Association in the event of the extended absence of the president from the community, or in the event of the temporary incapacity of the president. The first vice president shall receive all requests for improvements in the McGuffey Art Center for presentation to the Executive Council.

**Section 5.05 Duties of the Second Vice President.** The second vice president shall perform the duties of the president in the president's and first vice president's absences at any meeting of the Executive Council, members, and any standing or ad hoc committee. The second vice president shall perform the other functions of the president as chief executive officer of the Association in the event of the extended absences of the president and first vice president from the community, or in the event of the temporary incapacity of the president and first vice president. The second vice president shall maintain a current membership roster, both of voting members and any auxiliary or supporting groups established by the Executive Council. The second vice president shall act as a liaison between the Executive Council and committee chairpersons. The second vice president shall be responsible for the orientation of new members.

**Section 5.06 Duties of the Treasurer.** The treasurer shall receive all rents, assessments, commissions and any other funds due the Association, and shall receive any gifts made to the Association. The treasurer shall maintain records of all such receipts and of all disbursements made by or on behalf of the Association. The treasurer shall present financial reports at all meetings of the Executive Council and members and a complete annual financial report at the annual meeting of the members. The treasurer shall be responsible for preparing a proposed annual budget for presentation to the Executive Council at such time as it may be requested and shall maintain and periodically review insurance policies in accordance with instructions from the Executive Council.

**Section 5.07 Duties of the Recording Secretary.** The recording secretary shall keep minutes of all meetings of the Executive Council and members and shall maintain a minute book for the Executive Council and for the members. All minutes of both the Council and the members shall be approved by the presiding officer at or prior to the next following meeting. The recording secretary shall also maintain the Association's articles of incorporation and by-laws with all amendments thereto, shall post or deliver all notices as instructed by the Executive council or the president required by these by-laws, and shall provide a copy of current house rules to each voting member.

## ARTICLE VI. STANDING COMMITTEES

At the annual meeting of members, chairmen shall be elected for the following standing committees which shall have the duties set forth below. Members of such committees, other than the chairman, shall be appointed by the chairman and the president of the Association.

**Section 6.01. House Committee.** (i) Report to first vice-president with respect to any request for improvements or maintenance problems; (ii) supervise maintenance of the building interior; (iii) maintain an adequate supply of housekeeping equipment, cleaning supplies, etc; (iv) provide information to members with respect to any city building code, fire code, safety and health regulation which may affect them or their activities; (v) supervise janitor and other individuals employed for maintenance; (vi) hire and fire the janitor.

**Section 6.02. Graphics Committee.** (i) Design and produce all signs and graphics for public areas within the McGuffey Art Center and for use elsewhere by the Association as may be appropriate, and to coordinate such work with the Publicity Committee; (ii) assist the Gallery Committee in coordinating furnishings, displays, etc., in the public areas of the McGuffey Art Center.

**Section 6.03. Gallery Committee.** (i) Responsible for all exhibitions in the gallery; (ii) responsible for scheduling, hanging and judging gallery exhibitions; (iii) responsible for providing the Association with an exhibition schedule; (iv) responsible for gallery furnishings and supplies.

**Section 6.04. Shop Committee.** (i) Responsible for the acquisition of supplies shared by gallery and shop; (ii) maintain inventory for shop; (iii) establish and rotate displays in the shop and display cases and replenish shop and case displays as needed.

**Section 6.05. Classes Committee.** (i) Publish current list of classes offered and maintain records of all fees due the Association with respect to teaching as may be from time to time established by the Executive Council; (ii) prepare for publication and oversee distribution of listing of quarterly classes; (iii) responsible for scheduling of teaching room.

**Section 6.06. Education and Outreach Committee.** To plan and execute a program for public education in the arts, including scheduling visits to the Center by groups, acting as liaison between the McGuffey Art Center and the public with respect to educational programs, and providing guides for groups as may be necessary.

**Section 6.07. Volunteer Committee.** Formulate and maintain a plan for manning the gallery, arrange schedules for members and volunteers with respect to gallery duty, provide copies of such schedules to all members and volunteers, and provide oral and written instructions with respect to gallery duties, including sales, record keeping, etc.

**Section 6.08. Community Relations Committee.** (i) Act as liaison between McGuffey Art Center and the community; (ii) handle requests from non-members which involve the Center and channel requests to the membership

for approval as needed; (iii) coordinate activities or events held at McGuffey Art Center by non-members; (iv) maintain good public relations on behalf of the Association.

**Section 6.09 Publicity Committee.** (i) Work with various publicity media, such as radio, television, newspaper in publicizing McGuffey Art Center; (ii) place advertisements prepared in cooperation with Graphics Committee for newspapers, etc.; (iii) oversee poster distribution; (iv) prepare news releases for magazine and newspaper publication; (v) keep a current file on publicity; (vi) responsible for approving all ads placed under McGuffey Art Center contract and of informing executive secretary of these ads as they occur.

**Section 6.10. Newsletter Committee.** (i) Plan, design and solicit news and information for a newsletter and/or calendar; (ii) produce and mail a newsletter and/or calendar at least three times a year; (iii) maintain a mailing list for the exclusive use of the organization.

## ARTICLE VII. CONTRACTS, CHECKS, DRAFTS, BANK ACCOUNTS, ETC.

**Section 7.01. Execution of Contracts and Other Documents.** The Executive Council, or any duly authorized standing committee, or the Chief Operating Officer, except as by law or by these by-laws otherwise required, may authorize any member of the Executive Council or the chairman of any standing committee, in the name of and on behalf of the Association, to enter into any contract or execute any other instrument as may be required to carry out the activities contemplated by the charter or by these by-laws, and any such authority may be general or confined to specific instances as the case may require.

**Section 7.02. Checks, Drafts Etc.** All checks, drafts, and other orders for payment of money out of the funds of the Association shall be signed on behalf of the Association by such officer or employee as may be from time to time determined by resolution of the Executive Council.

**Section 7.03. Deposits.** The funds of the Association not otherwise employed shall be deposited from time to time to the order of the Association in such banks or other depositories as the Executive Council may from time to time by resolution designate as depositories of the Association.

## ARTICLE VIII. MISCELLANEOUS

**Section 8.01. Fiscal Year.** The fiscal year of the Association shall be July 1 – June 30.

**Section 8.02. Acceptance of Gifts, Donations, Etc.** Any gift, donation, bequest or subscription to the Association shall be deemed to have been accepted only when acted upon affirmatively by the Executive Council.

## ARTICLE IX. AMENDMENTS

**Section 9.01. By the Executive Council.** The Executive Council, by a majority vote thereof, shall have the power to make, alter, amend or repeal any of the by-laws of the Association at any regular or special meeting of the Council, provided, however the Executive Council shall neither alter, amend or repeal a by-law or adopt a by-law contrary to the provisions of any by-law adopted by the members.

**Section 9.02. By the Members.** The members of the Association by a majority vote thereof shall have the power to make, alter, amend or repeal the by-laws of the Association at any annual, regular or special meeting of the members.

**Section 9.03. Recordation of Amendments.** It shall be the duty of the recording secretary to attach to these by-laws all new by-laws or amendments thereto or a statement to the effect of the repeal of any by-law, along with the date of such action and whether taken by the Executive Council or members. In addition, an appropriate notation shall be placed in the margin of the body of these by-laws indicating a particular by-law has been adopted, repealed, altered or amended, and the date thereof. Periodically, as the need may require, the secretary shall prepare a new and revised set of by-laws incorporating all amendments since the adoption of the original for presentation to the Executive Committee.

The foregoing by-laws were adopted by the Executive Council on April 10, 1985, and approved by the members on April 17, 1985 and amended on July 12, 2017.

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Recording Secretary

**Exhibit E**

**Tenant’s Cost Schedule for City Maintenance Services**

For and in consideration of the payment by Tenant of the Repairs and Maintenance Fees enumerated in Article XII, the following schedule is attached and incorporated into this Lease Agreement pursuant to ARTICLE XXXVI. MODIFICATION. The Landlord and Tenant agree that the payment of the fee schedule herein shall constitute performance by Tenant of their obligations in accordance with ARTICLE XII. REPAIRS AND MAINTENANCE—TENANT. Tenant shall pay for and Landlord shall perform the following services at the Property in accordance with the schedule below.

**ARTICLE XII. REPAIRS AND MAINTENANCE—TENANT PAYMENT SCHEDULE FOR CITY SERVICE**

<p>Grounds Maintenance including grounds exterior to the Demised Premises –</p> <p>March – October: grass mowing, weed eater, trimming, blower</p> <p>November - February: grass mowing, weed eater, trimming, blower, leaf removal</p>	<p>For the monthly payment listed City shall perform the grounds maintenance duties.</p>	<p>Monthly Payment to the City:</p> <p>Year 1:          March – October: \$250.00          November – February: \$350.00</p> <p>Year 2:          March – October: \$257.50          November – February: \$360.50</p> <p>Year 3:          March – October: \$265.20          November – February: \$371.30</p> <p>Year 4:          March – October: \$273.15          November – February: \$382.45</p> <p>Year 5:          March – October: \$281.35          November – February: \$393.90</p>
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**ARTICLE XIV. SERVICES AND UTILITIES —TENANT PAYMENT SCHEDULE FOR CITY SERVICE**

<p>Other services or amenities - remove snow and ice from parking areas, sidewalks and walkways</p>	<p>For the per service payment listed City shall perform the other services or amenities duties.</p>	<p>Per Request for Service Payment to the City:</p> <p>Year 1: \$150.00          Year 2: \$154.50          Year 3: \$159.15          Year 4: \$163.90          Year 5: \$168.80</p>
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Approved by City of Charlottesville: \_\_\_\_\_

Approved by MCGUFFEY ARTS ASSOCIATION, INC: \_\_\_\_\_