

FOURTH AMENDMENT TO AND TERMINATION OF DEED OF LEASE AGREEMENT

THIS FOURTH AMENDMENT TO AND TERMINATION OF DEED OF LEASE AGREEMENT (“*Fourth Amendment*”) is made as of _____, 2015 by and between **1101 WILSON OWNER, LLC**, a Delaware limited liability company (“*Landlord*”), and **THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA**, a body politic (“*Tenant*”).

RECITALS:

A. Landlord and Tenant entered into that certain Deed of Lease dated as of November 20, 2008 (“*Original Lease*”), as amended by First Amendment to Deed of Lease dated June 29, 2009 (the “*First Amendment*”), and further amended by that certain Second Amendment to Deed of Lease dated July 21, 2009 (the “*Second Amendment*”), and that certain Third Amendment to Deed of Lease dated August 3, 2010 (the “*Third Amendment*”) for certain premises as specified therein (the “*Demised Premises*”) in the building located at 1101 Wilson Boulevard, Arlington, Virginia (the “*Building*”). The Original Lease, as amended by the First Amendment, the Second Amendment and the Third Amendment is hereafter referred to collectively as, the “*Lease*.”

B. Tenant exercised its Termination Right pursuant to Exhibit G to the Lease, which Exhibit G was amended and restated in the Second Amendment, by Termination Notice dated June 18, 2015 (the “*Termination Notice*”), effective as of a Termination Date of June 19, 2016.

C. Tenant and Landlord desire and, pursuant to the terms and conditions of this Fourth Amendment, agree, to set forth the terms and conditions by which the Term of the Lease shall terminate effective as of a date that is earlier than the Termination Date set by the Termination Notice.

D. In addition, Tenant and Landlord further desire, and pursuant to the terms and conditions of this Fourth Amendment agree, to acknowledge that Landlord is exercising the Conversion Option (as defined in the Lease) in conjunction with this Fourth Amendment.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the mutual receipt and legal sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. Recitals. The foregoing recitals are incorporated herein by this reference as if fully set forth at this point in the text of this Fourth Amendment.
2. Integration. The recitals and following terms and conditions shall constitute part of the Lease and be incorporated therein by reference.
3. Termination of Lease. Effective as of 11:59 p.m. on October 31, 2015 (the “*Early Termination Date*”), the Lease shall terminate, all of Landlord’s and Tenant’s rights and obligations accruing under the Lease shall terminate, and Tenant shall surrender the Demised Premises in a peaceful manner, subject to the terms and conditions hereof. As a condition of Landlord agreeing to terminate the Lease on the Early Termination Date, Tenant shall, except as otherwise provided by Section 4 below, remain obligated to pay to Landlord eight (8) equal monthly installments of Fifty-nine Thousand Six Hundred Seventy-nine and ^{Fifty-three}/₁₀₀ Dollars (\$59,679.53) due on the first day of each calendar month from November 2015 to June 2016 (the “*Pass-Through Payments*”). The aggregate amount of the Pass-Through Payments is the

equivalent of (i) Seven Hundred Ninety Thousand Dollars (\$790,000.00), minus (ii) the amount of Additional Rent paid by Tenant to Landlord pursuant to Article 5 of the Lease between the date of the Termination Notice and the Early Termination Date. Such Pass-Through Payments shall be made by the same method of payment as provided for under the Lease for the payment of rental amounts thereunder.

4. Condition of Demised Premises. The Demised Premises shall be surrendered by Tenant to Landlord on the Early Termination Date in broom-clean condition and in good order and repair and as otherwise required by the terms of the Lease, free from all liens, tenancies, licensees or occupants. If Tenant does not vacate the Demised Premises and surrender possession thereof to Landlord on or before the Early Termination Date, Tenant shall be deemed to be in holdover under the Lease, and Landlord shall have all rights and remedies available to it under the Lease, at law, and in equity, including, but not limited to, the rights set forth in Section 21 of the Lease (captioned "Holdover"), and Tenant shall remain fully obligated to pay, in lieu of the Pass-through Payments, all Holdover Rent (as defined in Section 21 of the Lease), and all other amounts incurred under the terms of the Lease through the date on which Tenant actually vacates the Demised Premises. Notwithstanding the foregoing or any term of the Lease to the contrary, it is understood and agreed that Tenant has no obligation to remove or restore any Alterations or other improvements performed by Tenant in the Demised Premises or in or about the Building. Promptly after the Effective Date hereof, Landlord and Tenant shall schedule a joint walk-through of the Demised Premises for a date on or before the Early Termination Date.

5. Tenant's Personal Property. Landlord shall have the right to dispose of any of Tenant's Personal Property and other items of personal property of any type whatsoever which remain in the Demised Premises or the Building after Early Termination Date in any manner it shall deem appropriate, and the proceeds of such disposition (or, in the event Landlord elects to retain them, the items themselves) shall belong entirely to Landlord.

6. Termination of Contracts. Tenant hereby represents and warrants to Landlord that as of the Early Termination Date, it has paid for all improvements, work or services performed by or at the request of Tenant on the Demised Premises. Effective as of the Early Termination Date, Tenant shall have cancelled all contracts or agreements, if any, to which Tenant is a party for management, maintenance, or other services relating to the Demised Premises. All contracts and agreements, if any, between Tenant and Landlord, Monday Properties Services, LLC or any other affiliate of Landlord (collectively, the "**Landlord Parties**") for management, maintenance or other services relating to the Demised Premises shall be deemed automatically terminated as of the Early Termination Date.

7. Termination of Sublease and Licenses. Tenant hereby covenants, warrants and represents to Landlord that any and all subleases and licenses of any portion of the Demised Premises between Tenant and any third party shall have been terminated, and no subtenant or licensee shall be in possession of the Demised Premises as of the Early Termination Date. Tenant hereby covenants, warrants and represents to Landlord that nothing has been or will be done or suffered whereby the Lease, or the term or estate thereby granted, or the Demised Premises or any part thereof, have been or will be, encumbered in any way whatsoever by Tenant; and that no one other than Tenant has acquired, or will acquire, through or under Tenant, any right, title or interest in or to the Demised Premises or any part thereof.

8. Termination of Rental Obligations. For avoidance of doubt, it is understood and agreed that except with respect to the Pass-Through Payments, Tenant's obligation for all rental amounts under the Lease, including without limitation, Base Rent, Additional Rent and all other amounts due under the Lease, shall fully cease and terminate as of the Early Termination Date.

9. Release of Tenant. Landlord hereby acknowledges that as of the date hereof, all of Tenant's obligations under the Lease other than the payment of the Pass-Through Payments have been fully satisfied and Landlord hereby fully releases, acquits and forever discharges Tenant, Tenant's successors-in-interest, and Tenant's and its successors' respective officers, officials, members, managers, agents and employees from any and all claims, demands and/or obligations accruing under the Lease from and after the Early Termination Date; provided, however, that Tenant shall remain liable for (i) the payment of the Pass-Through Payments, (ii) Tenant's obligations under Section 4 hereof, (iii) Tenant's obligations under the Lease with respect to any claims by third parties other than Landlord Parties accruing prior to the Early Termination Date, and (iv) any liens that are placed on the Building pursuant to Applicable Law by other than Landlord Parties as a result of work or services performed by or on behalf of Tenant prior to the Early Termination Date. Landlord hereby represents and warrants to Tenant that, as of the date of Landlord's execution of this Fourth Amendment, Landlord has no knowledge of any claim, any potential claim or any facts giving rise to a claim with respect in any manner to the Lease or Tenant's use or occupancy of the Demised Premises.

10. Conversion Option. Landlord and Tenant hereby agree that notwithstanding anything to the contrary contained in Paragraph B of Exhibit G to the Lease that is attached to the Second Amendment, Landlord is entitled to exercise the Conversion Option simultaneously with the full execution and delivery of this Fourth Amendment by and between Landlord and Tenant, and Landlord shall not be obligated to exercise such Conversion Option during the thirty (30) day period following the Termination Date that was set forth in the Termination Notice. In addition, Tenant hereby acknowledges and agrees that as a result of Tenant exercising its Termination Right, Landlord shall have no obligation to pay the Conversion Option Payment. In furtherance of the foregoing, and notwithstanding anything to the contrary contained in the Lease, (i) the Landlord's notice of the Conversion Option, and (ii) the Acknowledgment That Conditions Precedent to Conversion Have Been Fulfilled, the form of which Acknowledgment is attached hereto and made a part hereof as Exhibit M, in replacement of the Exhibit M attached to the Second Amendment (the "**Acknowledgment**"), have been provided by Landlord to Tenant simultaneously with Landlord's execution and delivery of this Fourth Amendment, and Tenant agrees to execute the Acknowledgment and deliver the same to Landlord simultaneously with Tenant's execution of this Fourth Amendment, so that Landlord may record the Acknowledgment in the Land Records of Arlington County, Virginia.

11. Termination of Memorandum of Lease. Landlord and Tenant entered into a Memorandum of Lease (the "**MOL**") in conjunction with the execution of the Original Lease, which MOL was recorded in the Land Records of Arlington County, Virginia. Under the terms of the Lease, Landlord and Tenant are, at Landlord's request, to execute and deliver a Memorandum of Lease Termination in the form attached to the Original Lease as Exhibit I as revised to accurately describe the Lease as currently amended (the "**Memorandum**"). The Memorandum has been provided by Landlord to Tenant simultaneously with Landlord's execution and delivery of this Fourth Amendment, and Tenant agrees to execute the Memorandum and deliver the same to Landlord

simultaneously with Tenant's execution with this Fourth Amendment, so that Landlord may record the Memorandum in the Land Records of Arlington County, Virginia.

12. Lender's Consent. Landlord shall cause Landlord's mortgage lender (the "***Lender***") to provide Lender's written consent to this Fourth Amendment in form and substance acceptable to Tenant in Tenant's sole discretion (the "***Lender's Consent***") on or about the date that Landlord executes and delivers this Fourth Amendment.

13. Authority of Landlord. Landlord hereby represents that Landlord has the right, power, legal capacity and authority to execute, deliver and perform this Fourth Amendment and to bind Landlord to the terms of this Fourth Amendment without further action, and that all consents required as a condition to Landlord's authority to execute, deliver and perform this Fourth Amendment have been obtained.

14. Authority of Tenant. Tenant hereby represents that Tenant has the right, power, legal capacity and authority to execute, deliver and perform this Fourth Amendment and to bind Tenant to the terms of this Fourth Amendment without further action, and that all consents required as a condition to Tenant's authority to execute, deliver and perform this Fourth Amendment have been obtained.

15. Consent of Mortgage Lender. Landlord's mortgage lender has executed the Joinder to this Fourth Amendment to evidence its consent to this Fourth Amendment.

16. Entire Agreement. This Fourth Amendment and the Lease sets forth all covenants, agreements and understandings between Landlord and Tenant concerning the Demised Premises, and there are no other covenants, conditions or understandings, either written or oral, between the parties hereto other than as set forth in this Fourth Amendment and the Lease.

17. Governing Law. This Fourth Amendment shall be governed and construed according to the laws of the Commonwealth of Virginia and shall bind and inure to the benefit of the successors and assigns of the undersigned. Any and all suits or actions in any manner arising under or pursuant to this Fourth Amendment shall be brought in the Circuit Court of Arlington County, Virginia, which court Landlord and Tenant acknowledge and agree is and shall be the sole and exclusive venue for any such suit or action.

18. Conflicts. To the extent that the provisions of this Fourth Amendment conflict with any provisions of the Lease, such provisions of this Fourth Amendment shall prevail and govern for all purposes and in all respects.

19. Defined Terms. Each capitalized term used in this Fourth Amendment shall have the same meaning ascribed to it in the Lease, unless specifically defined in this Fourth Amendment.

20. Counterparts. This Fourth Amendment may be executed in several counterparts and shall be valid and binding with the same force and effect as if all parties executed the same Fourth Amendment.

21. Effective Date. This Fourth Amendment shall only be effective as of the last date that this Fourth Amendment is executed and delivered by and between Landlord and Tenant, and the date that the Lender's Consent is executed and delivered by Lender.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Fourth Amendment as of the day and year written above.

LANDLORD:

1101 WILSON OWNER, LLC, a Delaware limited liability company

By: _____[*seal*]

Name:

Title:

Date: _____, 2015

TENANT:

Approved as to form:

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, a body politic

County Attorney

By: _____[*seal*]

Name:

Title:

Date: _____, 2015

EXHIBITS ATTACHED:

Exhibit M – Form of Acknowledgement that Conditions Precedent to Conversion Have Been Fulfilled

EXHIBIT M

**FORM OF ACKNOWLEDGEMENT THAT CONDITIONS PRECEDENT TO CONVERSION
HAVE BEEN FULFILLED**

**RECORDING REQUESTED BY,
AND WHEN RECORDED MAIL TO:**

**ACKNOWLEDGMENT THAT CONDITIONS PRECEDENT TO CONVERSION HAVE BEEN
FULFILLED**

**THIS ACKNOWLEDGMENT THAT CONDITIONS PRECEDENT TO
CONVERSION HAVE BEEN FULFILLED** (this "Acknowledgment") is dated as of
_____, 2015 and is made by **1101 WILSON OWNER, LLC**, a Delaware limited
liability company, as Landlord, hereinafter "Landlord," and **THE COUNTY BOARD OF
ARLINGTON COUNTY, VIRGINIA**, a body politic, as Grantee, hereinafter "Tenant."

WHEREAS, Landlord and Tenant are parties to a certain Deed of Lease dated as of November 20, 2008, as amended by that certain First Amendment to Deed of Lease dated June 29, 2009, and further amended by that certain Second Amendment to Deed of Lease dated July 21, 2009, that certain Third Amendment to Deed of Lease dated August 3, 2010, and that certain Fourth Amendment to and Termination of Deed of Lease Agreement dated approximately of even date herewith (collectively, the "Lease") with respect to certain space (the "Demised Premises") in the building located at 1101 Wilson Boulevard, Arlington, Virginia, as more particularly described on Exhibit A attached hereto (the "Building");

WHEREAS, upon the terms and conditions specified in the Lease, and in the SP #18 Ordinance and SP #89 Ordinance, Landlord has the right, which is exercisable by delivery of a written notice to the County Manager of Arlington County, Virginia, to convert the Restricted Space (as defined in the Lease) and the Bonus Space (as defined in the Lease) portions of the Demised Premises to unrestricted use by Landlord pursuant to the terms of Section 45 of the Lease (such right being hereinafter referred to as the "Conversion Option"); and

WHEREAS, Landlord has satisfied the applicable conditions for exercise of the Conversion Option and Landlord and Tenant wish to execute and record this Acknowledgement in order to confirm and make a matter of public record Landlord's right to exercise the Conversion Option and effectuation of the conversion of the Restricted Space and Bonus Space portions of the Demised Premises to unrestricted use by Landlord pursuant to the Lease.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) in hand paid, the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant do hereby agree as follows:

1. Acknowledgement. Landlord and Tenant acknowledge and agree that the conditions to exercise of the Conversion Option have been fully satisfied in accordance with the requirements of the Lease and consistent with the terms and conditions of SP #18 Ordinance and SP #89 Ordinance as amended; that the Restricted Space and Bonus Space combined with the Unrestricted Space (as defined in the Lease, and together with the Restricted Space and the Bonus Space, being the Demised Premises under the Lease), comprising an aggregate of 53,862 square feet of area, upon recordation of this Acknowledgement, is converted by Landlord, its successors and assigns, to any unrestricted use permitted by the conditions of SP #18 Ordinance and SP #89 Ordinance.

LANDLORD:

1101 WILSON OWNER, LLC, a Delaware limited liability company

By: _____

Name: _____

Title: _____

STATE/ COMMONWEALTH OF _____)
) ss.
COUNTY/CITY OF _____)

On this __ day of _____, 2015, before me, a Notary Public, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that he/she was authorized to execute the instrument, and acknowledged that he/she is the _____ of **1101 Wilson Owner, LLC**, a Delaware limited liability company, to be the free and voluntary act and deed of said _____ for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

NOTARY PUBLIC

(Print Name)

My appointment expires _____

My ID No _____

EXHIBIT A
LEGAL DESCRIPTION

(1101 Wilson Blvd. and 1700 N. Kent)

All that certain part or parcel of land, and improvements thereon, lying and being situate in the County of Arlington, State of Virginia, being more particularly described as follows:

Beginning at a P.K. Nail set in the asphalt, said point being on the northerly side of the original right-of-way line of Wilson Boulevard and being 125.97 feet along the arc east from the point of curve on the transition filler to North Lynn Street and also being the southeast corner of the property of Plaza West Associates;

thence departing Wilson Boulevard and running with the easterly line of Plaza West Associates the following courses: N 00°16'22" W - 276.80 feet, S 85°41'00" W - 35.79 feet to drill holes set in the concrete loading dock and N 00°18'52" W - 197.80 feet to a point (a common corner to Arland Towers Company and the property of Rosalind C. Barton);

thence departing the easterly line of Plaza West Associates and running the common line between Arland, to the south, and Barton, to the north, along a well defined separation in the floor between parking garages on both properties the following courses: N 83°55'16" E - 36.44 feet, S 03°41'19" W - 9.42 feet, N 89°33'56" E - 46.50 feet, S 00°12'05" E - 15.95 feet and N 87°35'48" E - 3.37 feet;

thence passing through to the outside of a parking garage wall on the Barton property and through a corner common to Barton and property of County Board of Arlington (C.B.A.) at 60.14 feet and continuing along the westerly line of C.B.A. S 00°18'52" E - 101.59 feet to an iron pipe;

thence turning along the southerly line of C.B.A. N 85°41'00" E - 90.95 feet to an iron pipe on the original westerly right-of-way line of North Kent Street;

thence following said line S 04°19'00" E - 68.60 feet to a railroad spike set at the southwest corner of said original right-of-way line;

thence running along the southerly end of said road N 85°41'00" E - 60.00 feet to P.K. Nail on the westerly line of property of Robert H. Smith Et Al, Trustees (R.H.S.); said point also being on the easterly line of an easement for the Loop Road passing over a portion of the building on 1101 Wilson Boulevard;

thence running with said line S 04°17'52" E - 346.01 feet and S 05°43'37" E - 79.44 feet to drill holes in the concrete gutter, the latter of which is also on the original northerly right-of-way line of Wilson Boulevard;

thence following said right-of-way line the following courses: N 57°16'53" W - 95.02 feet, 121.87 feet along the arc of a curve to the left having a radius of 695.27 feet with a chord bearing and distance of N 62°18'11" W, 121.71 feet, N 00°16'22" W - 5.43 feet, 53.13 feet along the arc of a curve to the left having a radius of 700.27 feet with a chord bearing and distance of N 69°40'52" W, 53.13 feet, all P.K. nails in the asphalt, the last of which is the point of beginning, containing 97,634 square feet or 2.24137 acres of land, more or less.

For information purposes only: (RPS Nos. 16039002, 16039003 and 16039021).

TOGETHER WITH those certain beneficial easements set forth in Deed of Cross Easement dated March ___, 1981, and recorded in Deed Book 2053 at page 823, among the Land Records of Arlington County, Virginia; as amended by Amendment to Deed of Cross Easement dated April 25, 2000, and recorded in Deed Book 3062 at page 454, among the aforesaid Land Records.