

ORIGINAL

RESOLUTION NO. 2014-018

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF DELAWARE, INDIANA, APPROVING A LEASE OF A SHELL BUILDING BY THE DELAWARE COUNTY REDEVELOPMENT COMMISSION FROM DELAWARE ADVANCEMENT CORPORATION, AND RELATED MATTERS

WHEREAS, the Delaware County Redevelopment Commission (the "Redevelopment Commission") proposes to enter into a lease (the "Lease"), substantially in the form of Exhibit A attached hereto, of a shell building from Delaware Advancement Corporation; and

WHEREAS, pursuant to the Lease, the Redevelopment Commission would make lease payments solely from revenues from the Magna Allocation Area and the Industria Centre Allocation Area (collectively, the "TIF Revenues"), and from certain incremental state gross retail and use taxes and incremental state and local income taxes (as described in Indiana Code 36-7-13-2.6 and -3.4, as amended) generated within the Magna Community Revitalization Enhancement District (the "CRED Revenues"); and

WHEREAS, to facilitate the pledge by the Redevelopment Commission of the CRED Revenues to the payment of lease payments under the Lease, the Board of Commissioners has determined that it is desirable to enter a Joint Interlocal Cooperation Agreement (the "Interlocal Agreement") with the Delaware County Advisory Commission on Industrial Development (the "Commission") at the time the Redevelopment Commission enters into the Lease, substantially in the form of Exhibit B hereto, for the purpose of meeting the requirements of Indiana Code 36-7-13-21, as amended, to permit the pledge of CRED Revenues to the payment of lease payments under the Lease;

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of the County of Delaware, Indiana, as follows:

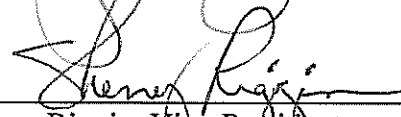
1. The Board of Commissioners hereby approves the Lease in substantially the form set forth in Exhibit A.
2. The pledge by the Redevelopment Commission of the CRED Revenues to the payment of lease payments under the Lease (together with the TIF Revenues) is hereby approved. The Board of Commissioners hereby approves the Interlocal Agreement in substantially the form set forth in Exhibit B, with such changes as the proper officers of the County shall approve, such approval to be evidenced by their execution thereof.
3. This Resolution shall be in full force and effect from and after its passage by the Board of Commissioners as required by law.

DULY PASSED on this 17th day of March, 2014, by the Board of Commissioners.

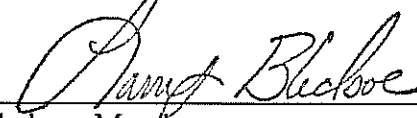
BOARD OF COMMISSIONERS OF THE
COUNTY OF DELAWARE, INDIANA



James King, President

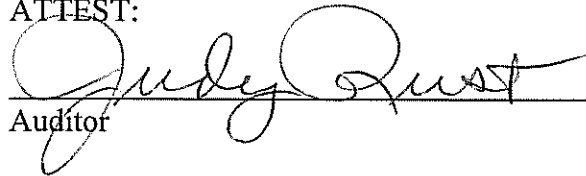


Sherry Riggin, Vice-President



Larry Bledsoe, Member

ATTEST:


Auditor

ORIGINAL

TERM NOTE

\$8,100,000.00

March __, 2014

FOR VALUE RECEIVED, the undersigned Delaware Advancement Corporation, an Indiana non-profit corporation, with an office at 401 S. High Street, Muncie, Indiana 47305 ("Borrower") promises to pay to the order of Delaware County Garmon Development Company, LLC, an Indiana limited liability company ("Lender"), at 3050 Poplar Street, Terre Haute, Indiana 47803, or at such other place as the holder hereof may designate, in lawful money of the United States of America and in immediately available funds, the principal sum of Eight Million One Hundred Thousand and 00/100 Dollars (\$8,100,000.00), or so much thereof as shall be properly advanced hereunder and as shall be outstanding from time to time for the following costs to be incurred by Lender in connection with the completion of the Project (as defined in that certain Economic Development Agreement by and among Delaware County, Indiana, the Delaware County Redevelopment Commission ("Redevelopment Commission"), Lender and Borrower dated of even date herewith (the "EDA") (provided, however, that a minimum of \$5,850,000, as set forth on Schedule A attached hereto, of such \$8,100,000 shall be applied to actual hard costs of construction of the Project): (i) the actual cost to construct the Project, including the cost of planning, design and construction of the building and all other improvements in accordance with that certain Design/Build Agreement (Cost Plus with GMP) by and between Lender and Borrower (the "Construction Contract"), including a construction management fee equal to 10 % of the actual "hard" costs incurred pursuant to the Construction Contract as so provided in the Construction Contract, (ii) the actual reasonable out-of-pocket costs of maintaining the building and improvements to the extent not otherwise maintained by other parties, and (iii) all costs reasonably incurred by Lender from time to time and related to the Project and the sale or marketing thereof, including but not limited to all reasonable costs related to interim financing during construction (including interest, but excluding any late fees or default interest), legal fees (associated with the operation of the Project, but excluding fees incurred by Lender due to the enforcement of any agreements, to include loan documents, to which Lender is a party and which are not solely incurred due to a default by the Redevelopment Commission under its lease with DAC), marketing expenses (including reasonable travel expenses incurred in connection therewith), real estate taxes not paid by others and a developer fee equal to 5 % of the "hard" costs (such developer fee to expressly exclude the amount of the construction management fee from the calculation thereof) actually incurred by Company in connection with the initial construction of the Project pursuant to the Construction Contract as described in subsection (i) above, with attorneys' fees and costs of collection and without relief from valuation and appraisal laws. Lender shall provide Borrower and the Redevelopment Commission semiannual reports of all costs incurred by Lender which are obligations under this Term Note, including those incurred during the preceding semiannual period. Borrower shall have the right, upon demand, to request an advance of the loan evidenced hereby in order to pay costs related to the Project including amounts owed to Lender under the Construction Contract. To the extent the cost to install utilities at the Project, anticipated to be \$500,000 does not have to be paid by Lender or Borrower as part of the construction of the Project, the portion of the \$500,000 not utilized for the installation of such utilities shall not be available for use by the

Borrower or Lender for any other use, and the maximum principal amount of this Promissory Note shall be reduced by such amount.

1. INTEREST:

(a) Interest. The outstanding principal balance of this Note shall bear interest (the "Loan Rate") at the rate equal to 0.50% plus the Prime Rate as published from time to time in The Wall Street Journal as its "prime rate". The Prime Rate shall be adjusted as of January 1 and July 1 of each year if the same has increased or decreased from the prior period. In the event the Wall Street Journal stops or suspends publication of a Prime Rate, Lender may designate another source for the determination of the Prime Rate. Interest shall be calculated on the basis of a three hundred sixty (360)-day year for the actual number of days elapsed in any portion of a month for which interest may be due. All payments of principal and interest made on account of the indebtedness evidenced by this Note shall be made in currency of the United States of America which shall be legal tender for public and private debts at the time of payment in immediately available funds.

(b) Default Interest. From and after an Event of Default under this Note, the Maturity Date (as hereinafter defined) of this Note, or such earlier date as all principal owing hereunder becomes due and payable by acceleration or otherwise, the outstanding principal balance of this Note shall bear interest until paid in full at an increased rate per annum (computed on the basis of a 30-day month, 360-day year) equal to three percent (3%) per annum plus the Loan Rate.

(c) Late Payments. In the event any scheduled interest payment due hereunder shall become overdue for a period in excess of ten (10) days, Borrower shall pay to the holder hereof a "late charge" of five (.05) cents for each dollar so overdue, in order to defray part of the cost of collection. Notwithstanding the foregoing, the late charge provided for herein shall not apply to a failure to pay off the loan evidenced hereby at the Maturity Date or other acceleration of the indebtedness.

2. REPAYMENT AND PREPAYMENT:

(a) Repayment. All accrued interest shall be payable semi-annually on the first day of January and July of each year commencing on the Commencement Date under the Lease. If the Commencement Date is not the first day of January or July, interest for the partial semi-annual period shall be payable on the first day of the semi-annual period following the Commencement Date. The outstanding principal balance and all accrued interest shall be due and payable on the earlier of (i) the closing of the sale of the Project by Borrower, or (ii) the execution of a Long Term Lease (as defined in that certain Lease between Borrower as landlord and the Delaware County Redevelopment Commission as tenant of even date) of the Demised Premises (as defined in the Lease), or (iii) March ___, 2024 (the "Maturity Date").

(b) Application of Payments. Each payment made on this Note shall be credited first, to the costs of collection, second, to any interest then due and third, to the outstanding principal balance hereof.

(c) Prepayment. Borrower may voluntarily prepay, in whole or in part, the principal balance and all accrued interest under this Note without penalty or premium.

3. SECURITY:

This Note is secured by a Real Estate Mortgage (the "Mortgage") executed concurrently herewith made by Borrower to Lender creating a first lien on certain real property (the "Premises") legally described in Exhibit A attached to the Mortgage, the Assignment of Account Control Agreement executed contemporaneous herewith by Borrower to Lender and the Assignment of Assignment and Pledge Agreement executed contemporaneous herewith by Borrower to Lender. Reference is hereby made to such documents (which are incorporated herein by reference as fully and with the same effect as if set forth herein at length) for a statement of the covenants and agreements contained therein, a statement of the rights, remedies, and security afforded thereby, and all matters therein contained.

4. EVENTS OF DEFAULT:

The occurrence of any of the following shall constitute an "Event of Default" under this Note:

(a) The failure to pay any principal, interest, fees or other charges within thirty (30) days of Borrower's receipt of written notice from Lender of such failure to timely make payment hereunder.

(b) The filing of a petition by or against Borrower under any provisions of the Bankruptcy Reform Act, Title 11 of the United States Code, as amended or recodified from time to time, or under any similar or other law relating to bankruptcy, insolvency, reorganization or other relief for debtors; the appointment of a receiver, trustee, custodian or liquidator of or for any part of the assets or property of Borrower; Borrower becomes insolvent, makes a general assignment for the benefit of creditors or is generally not paying its debts as they become due; or any attachment or like levy on any property of Borrower pledged by Borrower to Lender as security herefor, and any order is entered in any proceeding described above which remains in effect for sixty (60) days.

5. MISCELLANEOUS:

(a) Remedies. Upon the occurrence of any Event of Default, the holder of this Note, at the holder's option, may declare all sums of principal and interest outstanding hereunder to be immediately due and payable without presentment, demand, notice of nonperformance, notice of protest, protest or notice of dishonor, all of which are expressly waived by Borrower. Borrower shall, subject to the limitations set forth herein, pay to the holder immediately upon demand the full amount of all payments, advances, charges, costs and expenses, including reasonable attorneys' fees, expended or incurred by the holder in connection with the enforcement of the holder's rights and/or the collection of any amounts which become due to the holder under this Note, and the prosecution or defense of any action in any way related to this Note, including

without limitation, any action for declaratory relief, whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise, and including any of the foregoing incurred in connection with any bankruptcy proceeding (including without limitation, any adversary proceeding, contested matter or motion brought by Lender or any other person) relating to any Borrower or any other person or entity.

Notwithstanding anything to the contrary, except as specifically provided below, Lender shall not enforce the liability and obligation of Borrower to perform and observe the obligations contained in this Note by any action or proceeding wherein a money judgment or any deficiency judgment shall be sought against Borrower, except that Lender may bring a foreclosure action, an action for specific performance or any other appropriate action or proceeding to enable Lender to enforce and realize upon its interest under the Mortgage, the rents, or any other collateral given to Lender provided, however, that, except as specifically provided below, any judgment in any such action or proceeding shall be enforceable against Borrower only to the extent of Borrower's interest in the collateral under the Mortgage, in the rents and in any other collateral given to Lender, and Lender, by accepting the Note, agrees that it shall not sue for, seek or demand any deficiency judgment against Borrower in any such action or proceeding under or by reason of or under or in connection with the Note. The provisions of this Section shall not, however (i) constitute a waiver, release or impairment of any obligation evidenced or secured by any of the documents provided to Lender; (ii) impair the right of Lender to name Borrower as a party defendant in any action or suit for foreclosure and sale under the Mortgage; (iii) affect the validity or enforceability of the Account Control Agreement, Account Control Agreement Assignment, Assignment and Pledge Agreement, or Assignment and Pledge Agreement Assignment made in connection Note or any of the rights and remedies of Lender thereunder; (d) impair the right of Lender to obtain the appointment of a receiver; or (e) impair the enforcement of any assignment of leases contained in the Mortgage.

(b) Governing Law. This Note shall be governed by and construed in accordance with the laws of the State of Indiana.

(c) WAIVER OF RIGHT TO JURY TRIAL. BORROWER AND LENDER, BY ACCEPTANCE OF THIS NOTE, ACKNOWLEDGE AND AGREE THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS NOTE WOULD BE BASED UPON DIFFICULT AND COMPLEX ISSUES AND THEREFORE, BORROWER AND LENDER, BY ACCEPTANCE OF THIS NOTE, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY AGREE THAT ANY COURT PROCEEDING ARISING OUT OF ANY SUCH CONTROVERSY WILL BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

(d) Notices. All notices, communications and waivers under this Note shall be in writing and shall be (i) delivered in person or (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iii) by overnight express carrier, addressed in each case to the party at the address on page one of this Note, or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto, as such party shall designate in a written notice to the other

party hereto. All notices sent pursuant to the terms of this paragraph (d) shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received. A copy of each notice sent to Borrower hereunder shall also be sent to:

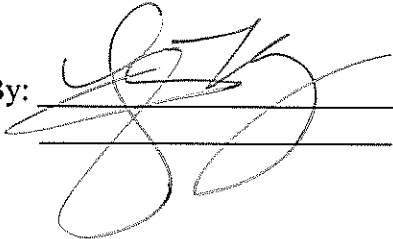
Delaware County Redevelopment Commission
c/o Board of Commissioners
100 West Main Street
Muncie, IN 47305

(e) Jurisdiction and Venue. BORROWER HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS INITIATED BY BORROWER AND ARISING DIRECTLY OR INDIRECTLY OUT OF THIS NOTE OR ANY OF THE OTHER LOAN DOCUMENTS SHALL BE LITIGATED IN THE CIRCUIT OR SUPERIOR COURT OF DELAWARE COUNTY, INDIANA OR THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF INDIANA. BORROWER HEREBY EXPRESSLY SUBMITS AND CONSENTS IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR PROCEEDING COMMENCED BY LENDER IN ANY OF SUCH COURTS, AND HEREBY WAIVES PERSONAL SERVICE OF THE SUMMONS AND COMPLAINT, OR OTHER PROCESS OR PAPERS ISSUED THEREIN, AND AGREES THAT SERVICE OF SUCH SUMMONS AND COMPLAINT OR OTHER PROCESS OR PAPERS MAY BE MADE BY CERTIFIED MAIL ADDRESSED TO BORROWER AT THE ADDRESS TO WHICH NOTICES ARE TO BE SENT PURSUANT TO THE MORTGAGE. BORROWER WAIVES ANY CLAIM THAT ANY OF THE AFOREMENTIONED COURTS IS AN INCONVENIENT FORUM OR AN IMPROPER FORUM BASED ON LACK OF VENUE. SHOULD BORROWER, AFTER BEING SO SERVED, FAIL TO APPEAR OR ANSWER TO ANY SUMMONS, COMPLAINT, PROCESS OR PAPERS SO SERVED WITHIN THE NUMBER OF DAYS PRESCRIBED BY LAW AFTER THE MAILING THEREOF, BORROWER SHALL BE DEEMED IN DEFAULT AND AN ORDER AND/OR JUDGMENT MAY BE ENTERED BY LENDER AGAINST BORROWER AS DEMANDED OR PRAYED FOR IN SUCH SUMMONS, COMPLAINT, PROCESS OR PAPERS.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned has executed this Note as of March ____, 2014.

DELAWARE ADVANCEMENT CORPORATION, an Indiana non-profit corporation

By:  _____, _____

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____, _____ of Delaware Advancement Corporation, an Indiana non-profit corporation, who, being duly sworn upon his oath, acknowledged his execution of the above and foregoing instrument for and on behalf of such non-profit corporation.

Dated this ___ day of March, 2014.

My Commission Expires:

_____, Notary Public

(Printed)

County of Residence:

ORIGINAL

LEASE AGREEMENT

This Lease Agreement ("Lease") is made and entered into as of the ___ day of March, 2014 (the "Effective Date"), by and between Delaware Advancement Corporation, an Indiana non-profit



Garmong--Delaware County Shell Building--Timetable.NRL corporation (hereinafter referred to as "Lessor"), with an office address at 401 S. High Street, Muncie, IN 47305 and Delaware County Redevelopment Commission (hereinafter referred to as "Lessee"), with an office address at _____, Muncie, IN _____, and Delaware County Garmong Development Company, LLC, an Indiana limited liability company ("Garmong"), with an office address at 3050 Poplar Street, Terra Haute, IN 47803.

SECTION ONE
DESCRIPTION OF DEMISED PREMISES; USE

The Lessor leases to the Lessee all those certain lands more specifically described in Exhibit A attached hereto (the "Real Estate") and a 200,000 square foot shell building (the "Shell Building") to be constructed for Lessor pursuant to the terms of a certain Design/Build Agreement (Cost Plus with GMP) between Garmong and Lessor (the "Construction Contract"). The Real Estate, Shell Building and all other improvements now or hereafter located on the land (collectively the "Demised Premises") shall be for the use of the Lessee and the Lessor in marketing Delaware County, Indiana for business interests seeking to locate or expand a business venture in Delaware County, Indiana and to lease the same to one or more parties to use in connection with their respective businesses.

SECTION TWO
TERM; RENT

The term of this Lease shall commence upon substantial completion of the Shell Building in accordance with the Construction Contract (the "Commencement Date") and continue until the earlier of (i) March ___, 2024 and (ii) the date the Demised Premises are sold and title transferred or leased to a party other than Lessee for a term of at least ten (10) years, including renewal options ("Long Term Lease"). Upon any sale or Long Term Lease of the Demised Premises by Lessor, Lessor or Lessee may terminate this Lease upon thirty (30) days written notice to the other. Lessee will commence paying the semiannual lease payments on the Commencement Date and on January 1 and July 1 of each semiannual period thereafter in advance and without setoff or deduction, except as provided herein. If the Commencement Date is not the first day of the applicable semiannual period, the first lease payment shall be on the next January 1 or July 1 but shall be prorated for the number of days in such semiannual period using a 30 day month. For purposes hereof, "substantial completion", "substantially complete" and words of similar import shall mean that all work has been completed by Garmong under the Construction Contract (including procurement of a certificate of occupancy) subject only to minor punchlist items which would not impair Lessee's or any other prospective user's ability to operate from the Demised Premises.

The amount of each semiannual lease payment shall be equal to the semi-annual interest payment due by Lessor to Garmong on January 1 and July 1 of each year under that certain Term Note executed by Lessor in favor of Garmong in the original principal amount of \$8,100,000.00 dated

of even date herewith (the "Term Note"), substantially in the form of Exhibit B hereto. The payments due on January 1 and July 1 shall be calculated based on the interest rate and balance due on January 1 and July 1 of each year. On January 1 and July 1 of each year, and again at lease end, Lessor and Lessee shall complete a "true up" of the rental amount paid for the preceding semiannual period, which will be necessary since the semiannual rental payments will be paid in advance, but the amount of rent over such period will be based upon the principal amount due on the Term Note during such semi-annual period. In the event Lessee has overpaid based on the "true up", Lessor shall, within ten (10) business days of such determination, refund the overpayment to the Lessee, and, in the event the Lessee has not paid all amounts due based on the "true up", the Lessee shall pay all amounts due on the next semiannual payment date.

The first year of lease payments actually paid by Lessee shall be refunded to the Lessee by Lessor within sixty (60) days of the closing of a sale of the Demised Premises or the entry into a Long Term Lease of the Demised Premises by the Lessor to a third party (other than Garmong or any affiliate) if such sale or Long Term Lease occurs within one (1) year of the Commencement Date unless such repayment is waived in whole or in part by the Lessor, in order to facilitate the sale of the Demised Premises and the improvement of area employment opportunities.

Notwithstanding anything in this Lease, the Economic Development Agreement among Delaware County, Indiana, Lessor, Lessee and Garmong of even date herewith or any other documents between Lessor, Lessee and/or Garmong to the contrary, the annual rents and other amounts due by Lessee hereunder shall be payable only to the extent of, and from, funds provided under that certain "RESOLUTION OF THE DELAWARE COUNTY REDEVELOPMENT COMMISSION IRREVOCABLY PLEDGING CERTAIN CRED REVENUES, TAX INCREMENT REVENUES FROM THE MAGNA ALLOCATION AREA, AND TAX INCREMENT REVENUES FROM THE INDUSTRIA CENTRE ALLOCATION AREA TO THE PAYMENT OF CERTAIN LEASE PAYMENTS" dated March __, 2014 (the "Resolution"), and no other funds or assets of Lessee shall be available to make any payments under this Lease. Neither Lessor, Garmong nor their respective successors or assigns, shall have any right whatsoever to enforce the liabilities and obligations of Lessee under this Lease or any other documents to which Lessee is a party by any action or proceeding wherein a money judgment or any deficiency judgment shall be sought against Lessee, except that Lessor or Garmong, as applicable, may bring an action for specific performance or any other appropriate action or proceeding to enable Lessor or Garmong, as applicable, to enforce and realize upon its interest in that certain "2014 Shell Building Lease Payment Account" described in the Resolution, provided, however, that any judgment in any such action or proceeding shall be enforceable against Lessee only to the extent of Lessee's interest in the cash collateral in such 2014 Shell Building Lease Payment Account, and each of Lessor and Garmong each expressly agree that it shall not sue for, seek or demand any deficiency judgment against Lessee in any such action or proceeding under or by reason of or under or in connection with this Lease or other documents to which Lessee is a party.

SECTION THREE
OCCUPANCY; FAILURE TO GIVE POSSESSION

The Lessor shall deliver actual possession of the Demised Premises to the Lessee substantially completed which shall occur no later than December 31, 2014. Provided, however, that the date for delivery of possession shall be extended in the event construction of the proposed improvements is delayed by anything beyond the control of Garmong, including but not limited to strikes, lockouts, labor troubles, inability to procure material, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of Lessor or Garmong in performing work or doing as required under this Lease, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

SECTION FOUR REPAIRS

From and after the Commencement Date Lessee shall inspect the Shell Building no less frequently than every month and notify Lessor and Garmong of any maintenance issues. Garmong shall perform all maintenance and repairs necessary to maintain the Demised Premises, including without limitation, the Shell Building in good condition and repair, including to perform all structural repairs and/or replacements (including with respect to the roof, skylights, sidewalks, side walls utility lines inside and outside of the Building Shell and all parking areas) and repairs and/or replacements to any electrical, plumbing, heating, air conditioning, sprinkler and hot water systems to be included in the Shell Building, any repairs necessitated by water seepage, and any repairs or changes which may be necessary to make the improvements on the Demised Premises comply with applicable laws, ordinances, orders or regulations of any federal, state, county, or municipal authority now in effect. Lessee shall be responsible for routine site maintenance, including but not limited to, grass cutting, snow and ice removal and trash pickup. The parties hereto acknowledge that Garmong's responsibilities under this Lease shall be paid for by Garmong and included in the principal balance of that certain Term Note as so provided in the Term Note.

SECTION FIVE ASSIGNMENT OR SUBLETTING

The Lessee shall not assign or sublet the Demised Premises or any part of the Demised Premises without the consent of Garmong and Lessor, such consent not to be unreasonably withheld, delayed or conditioned. Lessee is granting Lessor a security interest in and pledge of certain assets to secure the lease payments under this Lease, which assets are being assigned to Garmong to secure the payment of the Term Note.

SECTION SIX DESTRUCTION BY FIRE OR OTHER CASUALTY

If at any time during the term of this Lease the Demised Premises shall be damaged or destroyed by fire or other casualty for which adequate proceeds are available to Lessor by Garmong's lender to rebuild the Demised Premises, the Lessor shall repair and restore the same at the Lessor's expense. Rent and other payments due hereunder shall abate until the Demised Premises have been restored. If the insurance proceeds are inadequate to pay the entire cost of restoring the Demised Premises, Lessor or Lessee may terminate this Lease upon notice to the other and Lessor and Lessee shall have no right, title or interest in the insurance proceeds. In such event, Garmong shall, at Lessor's or Lessee's request, raze the Shell Building and restore the site upon which such Shell Building was located to good condition.

SECTION SEVEN CONDEMNATION

Upon receipt of any notice of condemnation of the Demised Premises or any portion thereof, Lessor will promptly notify Lessee of such notice and Lessor and Lessee agree to coordinate their efforts concerning the defense of such condemnation. If the entire Demised Premises, or such portion thereof as would make the remainder unsuitable for sale or lease to a third party, is condemned by any legally constituted authority or if a conveyance or other acquisition in lieu of such condemnation is made, then this Lease shall terminate as of the date possession is required by the condemnor. If a portion of the Demised Premises is condemned and this Lease is not terminated, the rent for the rest of the term shall not abate. All compensation paid in connection with the condemnation shall belong to and be the sole property of and paid to Garmong and shall be applied to reduce the balance due on the Term Note.

SECTION EIGHT RIGHT OF LESSOR TO ENTER; FOR-SALE OR FOR LEASE SIGNS

Lessor and Garmong and their respective agents, employees and representatives shall have the right to enter and/or pass through the Demised Premises at any time or times upon at least 48 hours prior notice (except in the event of emergency in which event Lessor and/or Garmong shall not be required to provide prior notice), to examine and inspect the Demised Premises and to show them to actual and prospective lenders, prospective purchasers, tenants or mortgagees of the Demised Premises. Lessor and Garmong each agree to use their best efforts to minimize interference with Lessee's and Lessee's tenants and invitees use of the Demised Premises.

SECTION NINE QUIET ENJOYMENT

The Lessee shall quietly enjoy the Demised Premises for the full term and for all extensions provided for in this Lease subject to the rights of Lessor to complete its construction of the Demised Premises, and sales and marketing activities contemplated by Lessor and Lessee.

SECTION TEN REAL ESTATE TAXES

Garmong shall be responsible for payment of all real estate taxes, if any.

SECTION ELEVEN SUBORDINATION

Provided Lessor delivers a subordination, non-disturbance and attornment agreement to Lessee from any mortgagee agreeing not to disturb Lessee's tenancy hereunder as long as Lessee is not in default hereunder beyond applicable grace and/or cure periods, this Lease shall be subject and subordinate to the lien of any first mortgage now against the Demised Premises or which may in the future be placed against the Demised Premises, provided that the lien of such mortgage shall not encumber any of Lessee's fixtures, alterations or improvements which, by law or the terms of this Lease, Lessee is permitted to remove from the Demised Premises. Garmong shall not have the right to grant a mortgage on the Demised Premises, and Lessor shall have no obligation to subordinate its fee interest in the Demised Premises to any mortgage requested by Garmong's lender (s). [NOTE: Changes to be discussed]

SECTION TWELVE CHANGES AND ALTERATIONS

The Lessee shall not make any structural or non-structural changes, alterations, additions, and improvements to the Demised Premises without the written approval of Lessor and Garmong, such approval not to be unreasonably withheld, delayed or conditioned. Provided Garmong's cost to complete the same is equal to or less than the other bids procured for such tenant improvements, Garmong shall have the right to construct the tenant improvements to Demised Premises; provided, however, that Garmong agrees to consider foregoing such right upon request of Lessee. All tenant improvements required under a lease for the Demised Premises shall be bid out to at least three (3) general contractors approved by Lessee.

SECTION THIRTEEN EVENTS OF DEFAULT

Any of the following shall be deemed an Event of Default:

- a. The failure to pay any installment of rent when the same become due and the failure continues for thirty (30) days after written notice thereof to Lessee.
- b. Lessee's failure to perform or observe any other covenant, term or condition of this Lease to be performed or observed by Lessee and the failure continues for thirty (30) days after notice thereof is given to Lessee, provided, if the failure is not susceptible of cure within thirty (30) days, Lessee shall have such additional time as is necessary to cure the same provided Lessee commences the cure within such thirty (30) day period and thereafter diligently prosecutes the same to completion.
- c. The filing of the voluntary or involuntary petition in bankruptcy filed against Lessee; the filing of petition against Lessee seeking appointment of a receiver; a general assignment for benefit of creditors by Lessee; or the taking of any part of the leasehold by foreclosure, levy, execution, attachment or other process of law or equity.
- d. Lessee's default under the Assignment and Pledge Agreement from Lessee to Lessor or the Assignment of Assignment and Pledge Agreement from Lessor to Garmong, which default continues uncured for thirty (30) days after Lessee's receipt of written notice thereof from Garmong.
- e. Lessee's default under the Account Control Agreement among Lessor, Lessee and _____ Bank or the Assignment of Account Control Agreement from Lessor to Garmong, which default continues uncured for thirty (30) days after Lessee's receipt of written notice thereof from Garmong.

Notwithstanding anything in this Lease to the contrary, no Event of Default shall be deemed to occur if Lessee fails to make any payment of rent or other amounts due under this Lease because insufficient funds are available under the Resolution for payment of the same.

SECTION FOURTEEN LANDLORD'S REMEDIES

Upon the occurrence of any Event of Default Lessor may, at its option, in addition to any other remedy or right it has hereunder or by law, resume possession by an action in law or equity or by force or otherwise and without being liable in trespass or for any damages and without terminating this lease and relet the Demised Premises and recover from Lessee an amount equal to the rent and other payments provided for in this lease which would have become due and owing hereunder from time to time during the unexpired term plus the cost and expenses paid or incurred by Lessor from time to time in connection with:

- a. Obtaining possession of the Demised Premises (including Lessor's reasonable attorney fees) and removal and storage and disposition of Lessee's or other occupant's property;
- b. Care, maintenance and repair of the Demised Premises while vacant;
- c. Reletting the whole or any part of the Demised Premises;
- d. Repairing, altering, renovating, partitioning, enlarging, remodeling or otherwise putting the Demised Premises into condition acceptable to, and reasonably necessary to obtain new lessees;
- e. Making all repairs, alterations and improvements required to be made by Lessee hereunder and of performing all covenants of the Lessee relating to the condition of the Demised Premises, less the rent and other payments, if any, actually collected and allocable to the Demised Premises or to the portions thereof relet by Landlord.

Lessor shall not have the right, under any circumstance, to accelerate the rent or other payments due hereunder.

SECTION FIFTEEN

LANDLORD DEFAULT AND TENANT'S REMEDIES

If Lessor fails to perform any of its obligations hereunder, Lessor shall not be in default and Lessee shall not have any rights or remedies growing out of such failure unless Lessee gives Lessor written notice setting forth in reasonable detail the nature and extent of such failure and such failure is not cured within thirty (30) days following Lessor's receipt of such notice or such longer period as may otherwise be provided herein. If such failure cannot reasonably be cured within thirty (30) days, the length for curing shall be extended as reasonably required provided Lessor has commenced to cure the same within such thirty (30) day period and thereafter diligently prosecutes such cure to completion. Lessee shall be entitled to all remedies available at law or in equity in the event of a default or other claim against Lessor under this Lease. Any amounts owed by Lessor to Lessee for any breach or failure by Landlord to perform shall be due with interest at 12% per annum from the date due until paid in full. Further, Lessee shall have the right, in the event Lessor does not pay any amounts owed by Lessor to Lessee hereunder in full within thirty (30) days of demand, to offset the amount owed from rents and other amounts due hereunder until Lessee has been paid in full.

SECTION SIXTEEN MECHANIC'S LIEN

Lessee shall not permit any Statement of Intention to hold a Mechanic's Lien or any other lien (collectively "Lien") to be filed against the Demised Premises or any part thereof or against any interest

or estate therein as a result of the acts or omissions of Lessee, its agents, contractors or employees. If such Lien shall be filed, Lessee shall, upon demand by Lessor, cause said Lien to be released of record and indemnify and hold the Lessor harmless from the operation thereof and from any expense (including attorneys' fees) incurred by Lessor in connection therewith, or Lessor may compel the prosecution of an action for foreclosure of such Lien, by the lienor and if any action is commenced to foreclose such Lien, Lessee shall cause such action to be promptly dismissed within thirty (30) days of Lessor's request. Nothing in this Lease shall be construed to constitute consent to or request to any parties to perform any labor or furnish any services or materials for the improvement, alteration or repair of the Demised Premises nor as giving the Lessee the right or authority to contract for, authorize or permit the performance of any labor or services or the furnishing of any material that would permit the attaching of a Lien to the subject Demised Premises or any claim or interest therein.

SECTION SEVENTEEN INDEMNIFICATION AND RELEASE

Regardless of whether or not separate, several, joint or concurrent liability may be imposed upon Lessor, Lessee shall indemnify and hold harmless Lessor and Garmong from and against all damages, claims and liability arising from or in connection with Lessee's control or use of the Demised Premises, including without limitation, any damage or injury to person or property but expressly excluding any and all damages, claims or liabilities arising from or in connection with Lessor's or Garmong's acts or omissions. If Lessor or Garmong shall, without fault, become a party to litigation commenced by or against Lessee, then Lessee shall indemnify and hold Lessor and Garmong harmless from the same. The indemnification provided by this section shall include the respective legal costs and fees of Lessor and Garmong in connection with any such claim, action or proceeding.

SECTION EIGHTEEN SURRENDER

Upon the expiration or sooner termination by Lessor of this Lease, Lessee shall surrender to Lessor the Demised Premises in good and clean condition and in the same order and condition as that in which Lessee received the Demised Premises, ordinary wear and tear and damage from casualty or condemnation excepted and shall, on or before the expiration or earlier termination by Lessor, remove all of Lessee's property from the Demised Premises. Lessor may, at Lessee's expense, remove and store any of Lessee's property which remains in the Demised Premises at the expiration or termination hereof and any property not claimed by Lessee within thirty (30) days is hereby agreed to be abandoned to Lessor and may be sold by Lessor with proceeds applied to damages, costs and expenses incurred by Lessor.

SECTION NINETEEN CONSEQUENTIAL DAMAGE

Neither Lessor, Garmong nor Lessee shall be liable to the other for any consequential damages for injury to person or property because or in any way related to any breach of this Lease by any of such parties or with respect to the condition of the Demised Premises and without regard to such party's negligence. For the purposes of this Lease, consequential damages shall mean such damages, loss or injuries that do not flow directly from the act of a party, but rather from the consequences or results of such an act.

SECTION TWENTY NOTICES

Any notice or demand that, under the terms of this Lease Agreement or by any statute or ordinance, must or may be given or made by a party to this Lease, shall be in writing and shall be given by certified mail, return receipt requested or by recognized overnight courier sent to the other party at the address of its principal office listed at the beginning of this Lease, or to such other address as such party may from time to time designate by notice. Any notices to Lessor or Lessee shall also be sent to Garmong at 3050 Poplar Street, Terre Haute, Indiana 47803.

SECTION TWENTY-ONE INSURANCE TO BE MAINTAINED BY LESSOR

Lessor shall keep in full force and effect throughout the term the following policies of insurance: (a) "all-risk" property insurance covering the entire Demised Premises (excluding Lessee's property), at its full replacement cost; and (b) commercial general or excess liability insurance, including personal injury and property damage, in the amount of not less than \$1,000,000.00 per occurrence, and \$2,000,000.00 annual general aggregate. To the extent permitted by law, and without affecting the coverage provided by insurance required to be maintained hereunder, Lessor and Lessee each waive any right to recover against the other for (a) damages to property, (b) damages to all or any portion of the Demised Premises, (c) claims arising by reason of the foregoing, to the extent such damages and claims are insured against, or required to be insured against, by Lessor or Lessee under this Lease, or (d) claims paid by Lessee's workers' compensation carrier. This provision is intended to waive, fully and for the benefit of each party, any rights and/or claims which might give rise to a right of subrogation by any insurance carrier. The coverage obtained by Lessor pursuant to this Lease shall include, without limitation, a waiver of subrogation by the carrier which conforms to the provisions of this section. All insurance policies carried hereunder shall include the interests of Lessor and Lessee, and shall name Lessor, Garmong and Lessee as additional insureds.

SECTION TWENTY-TWO SIGNS

Lessee may, upon obtaining any necessary permits from governmental authorities, erect and maintain at its own expense, during the term of this Lease, signs of such dimensions and materials as it may desire at locations of its choice on the Real Estate.

SECTION TWENTY-THREE BINDING EFFECT

The covenants and agreements contained in this Lease shall inure to the benefit of and be binding on the parties to this Lease and successors or assigns.

SECTION TWENTY-FOUR NON-LIABILITY

Neither Lessor nor its affiliates, owners, partners, members, managers, directors, officers, agents and employees (collectively "Lessor's Agents") shall be liable to Lessee for any loss, injury, or damage, to Lessee or to any other person, or to its or their property, irrespective of the cause of such injury, damage or loss unless attributable to Lessor, Lessor's Agents or Garmong's acts or omissions or Garmong's obligations under the Construction Contract. Neither Lessor nor Lessor's Agents shall be liable (a) for any damage caused by other persons in, upon or about the Demised Premises, or caused by operations in construction of any public or quasi-public work; (b) with respect to matters for which Lessor is liable, for consequential or indirect damages purportedly arising out of any loss of use of the Demised Premises or

any equipment or facilities therein by Lessee or any person claiming through or under Lessee; (c) any defect in the Demised Premises; (d) injury or damage to person or property caused by fire, or theft, or resulting from the operation of heating or air conditioning or lighting apparatus, or from falling plaster, or from steam, gas, electricity, water, rain, snow, ice, or dampness, that may leak or flow from any part of the Demised Premises, or from the pipes, appliances or plumbing work of the same or (c) any claims relating to or arising out of this Lease.

SECTION TWENTY-FIVE BROKER

Lessor and Lessee covenant, warrant and represent to each other that there is no broker to whom brokerage fees or commissions are due as a result of the parties' execution of this Lease. Each party agrees to and hereby does defend, indemnify and hold the other harmless against and from any brokerage commissions or finder's fees or claims therefor by a party claiming to have dealt with the indemnifying party and all costs, expenses and liabilities in connection therewith, including, without limitation, reasonable attorneys' fees and expenses, for any breach of the foregoing. The foregoing indemnification shall survive the termination or expiration of this Lease.

SECTION TWENTY-SIX NON-WAIVER

The failure of either party to insist, in any one or more instances, upon the strict performance of any one or more of the obligations of this Lease, or to exercise any election herein contained, shall not be construed as a waiver or relinquishment for the future of the performance of such one or more obligations of this Lease or of the right to exercise such election, but the Lease shall continue and remain in full force and effect with respect to any subsequent breach, act or omission. The receipt and acceptance by Lessor or Agent of rent or other payments due hereunder with knowledge of breach by Lessee of any obligation of this Lease shall not be deemed a waiver of such breach.

SECTION TWENTY-SEVEN LEGAL COSTS

Any party in breach or default under this Lease (the "Defaulting Party") shall reimburse the other party (the "Nondefaulting Party") upon demand for any legal fees and court (or other administrative proceeding) costs or expenses that the Nondefaulting Party incurs in connection with the breach or default, regardless whether suit is commenced or judgment entered. Such costs shall include legal fees and costs incurred for the negotiation of a settlement, enforcement of rights or otherwise. Furthermore, in the event of litigation, the court in such action shall award to the party in whose favor a judgment is entered a reasonable sum as attorneys' fees and costs, which sum shall be paid by the losing party. Lessee shall pay Lessor's attorneys' reasonable fees incurred in connection with Lessee's request for Lessor's consent under provisions of this Lease governing assignment and subletting, or in connection with any other act which Lessee proposes to do and which requires Lessor's consent.

SECTION TWENTY-EIGHT GOVERNING LAW; CONSTRUCTION

This Lease shall be governed by and construed in accordance with the laws of the state of Indiana. If any provision of this Lease shall be invalid or unenforceable, the remainder of this Lease shall not be affected but shall be enforced to the extent permitted by law. The captions, headings and titles in this Lease are solely for convenience of reference and shall not affect its interpretation. This Lease shall

be construed without regard to any presumption or other rule requiring construction against the party causing this Lease to be drafted. Each covenant, agreement, obligation, or other provision of this Lease to be performed by Lessee, shall be construed as a separate and independent covenant of Lessee, not dependent on any other provision of this Lease. All terms and words used in this Lease, regardless of the number or gender in which they are used, shall be deemed to include any other number and any other gender as the context may require. This Lease may be executed in counterpart and, when all counterpart documents are executed, the counterparts shall constitute a single binding instrument.

SECTION TWENTY-NINE
AUTHORITY OF LESSEE

Lessee shall deliver to Lessor and Garmong, concurrently with the delivery to Lessor and Garmong of an executed Lease, certified resolutions of Lessee's commissioners or other governing person or body (i) authorizing execution and delivery of this Lease and the performance by Lessee of its obligations hereunder and (ii) certifying the authority of the party executing the Lease as having been duly authorized to do so.

SECTION THIRTY
WAIVER OF TRIAL BY JURY

THE LESSOR AND THE LESSEE, TO THE FULLEST EXTENT THAT THEY MAY LAWFULLY DO SO, HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT BY ANY PARTY TO THIS LEASE WITH RESPECT TO THIS LEASE, THE DEMISED PREMISES, OR ANY OTHER MATTER RELATED TO THIS LEASE OR THE DEMISED PREMISES.

SECTION THIRTY-ONE
CONSENTS OR APPROVALS

If Lessor is required to consent or approve any matter, and Lessee disagrees with Lessor's failure to provide such consent or approval, Lessee's sole remedy shall be to file suit for the court to determine if Lessor's failure to consent or approve such matter was appropriate, and Lessor shall have no liability for damages, consequential or otherwise, if Lessor's failure to consent or approve is held to be inappropriate and should have been given.

SECTION THIRTY-TWO
TERMINATION RIGHT

Lessor shall have the right to terminate this Lease if a third party desires to lease the Demised Premises under terms and conditions acceptable to Lessor, Lessee and Garmong in their sole discretion. Lessor shall also have the right to amend this Lease by removing part of the Demised Premises leased to Lessee if a third party desires to lease only part of the Demised Premises under terms and conditions acceptable to Lessor and Garmong in their sole discretion.

SECTION THIRTY-THREE
NO ORAL MODIFICATION

This Lease may not be modified except by an instrument in writing, signed by the parties to this Lease, their heirs, legal representatives, successors, or assigns.

SECTION THIRTY-FOUR HAZARDOUS MATERIALS

If, at any time or from time to time during the Term (or any extension thereof) any Hazardous Material (defined below) is generated, transported, stored, used, treated or disposed of at, to, from, on or in the Demised Premises: (i) Lessee shall, at its own cost, at all times comply (and cause all others to comply) with all laws (federal, state or local) relating to Hazardous Materials, including, but not limited to, all Environmental Laws (defined below), and Lessee shall further, at its own cost, obtain and maintain in full force and effect at all times all permits and other approvals required in connection therewith; (ii) Lessee shall promptly provide Lessor with complete copies of all communications, permits or agreements with, from or issued by any governmental authority or agency (federal, state or local) or any private entity relating in any way to the presence, release, threat of release, or placement of Hazardous Materials on or in the Demised Premises, or the generation, transportation, storage, use, treatment, or disposal at, on, in or from the Demised Premises, of any Hazardous Materials; (iii) Lessor and their respective agents and employees shall have the right, at Lessee's cost and expense, to (a) enter the Demised Premises and (b) conduct appropriate tests for the purposes of ascertaining Lessee's compliance with all applicable Laws (including Environmental Laws), rules or permits relating in any way to the generation, transport, storage, use, treatment, disposal or presence of Hazardous Materials on, at, in or from the Demised Premises or any portion thereof; and (iv) upon written request by Lessor, Lessee shall provide Lessor with the results of reasonably appropriate tests of air, water or soil to demonstrate that Lessee complies with all applicable Laws relating in any way to the generation, transport, storage, use, treatment, disposal or presence of Hazardous Materials on, at, in or from the Demised Premises or any portion thereof. This **Section 34** does not authorize the generation, transportation, storage, use, treatment or disposal of any Hazardous Materials at, to, from, on or in the Demised Premises in contravention of this **Section 34**. Lessee shall indemnify, defend and hold harmless, Lessor from and against any and all damages, claims, costs, expenses (including legal fees) and any other liability in any way related to the presence of Hazardous Materials on the Demised Premises during the Term or the violation of any Environmental Law during the Term. Lessee shall not enter into any settlement agreement, consent decree or other compromise with respect to any claims relating to any Hazardous Materials in any way connected to the Demised Premises without first obtaining Lessor's written consent (which consent may be given or withheld in Lessor's sole discretion) and affording Lessor the reasonable opportunity to participate in any such proceedings. As used herein, the term (x) "Environmental Laws" shall mean any and all Laws pertaining to Hazardous Materials or that otherwise deal with or relate to air or water quality, air emissions, soil or ground conditions or other environmental matters of any kind; and (y) "Hazardous Materials" shall mean any waste, material or substance (whether in the form of liquids, solids or gases, and whether or not air-borne) that is or may be deemed to be or include a pesticide, petroleum, asbestos, polychlorinated biphenyl, radioactive material, urea formaldehyde or any other pollutant or contaminant that is or may be deemed to be hazardous, toxic, ignitable, reactive, corrosive, dangerous, harmful or injurious, or that presents a risk to public health or to the environment, and that is or becomes regulated by any Environmental Law. Lessee's obligations under this Section 34 shall expressly exclude Hazardous Materials introduced to the Demised Premises by Garmong or Garmong's employees, agents, contractors or invitees for which Garmong shall be liable. The undertakings, covenants and obligations imposed on Lessee under this **Section 34** shall survive the termination or expiration of this Lease.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed as of the Effective Date.

DELAWARE ADVANCEMENT CORPORATION,
an Indiana non-profit corporation

DELAWARE COUNTY REDEVELOPMENT
COMMISSION

By: _____
_____, President

By: _____
(Signature)

(Printed Name and Title)

DELAWARE COUNTY GARMONG DEVELOPMENT
COMPANY, LLC

By: _____

(Printed Name and Title)

EXHIBIT A