

**THIS LEASE DOES NOT BECOME EFFECTIVE UNTIL EXECUTED
BY THE NORTH CAROLINA DEPARTMENT OF ADMINISTRATION**

STATE OF NORTH CAROLINA

LEASE AGREEMENT

COUNTY OF BUNCOMBE

THIS LEASE AGREEMENT, made and entered into this the __ day of _____, 2022, by and between, **COUNTY OF BUNCOMBE**, a body politic and corporate of the State of North Carolina, hereinafter designated as Lessor, and the **STATE OF NORTH CAROLINA**, a body politic and corporate hereinafter designated as Lessee;

W I T N E S S E T H:

THAT WHEREAS, authority to approve and execute this lease agreement was delegated to the Department of Administration by resolution adopted by the Governor and Council of State on the 1st day of September 1981; and as amended on September 8, 1999 and December 7th, 1999, and October 6, 2020 and

WHEREAS, the parties hereto have mutually agreed to the terms of this lease agreement as hereinafter set out,

NOW THEREFORE, in consideration of the rental hereinafter agreed to be paid and the terms and conditions hereinafter set forth, Lessor does hereby let and lease unto Lessee and Lessee hereby takes and leases from Lessor for and during the period of time and subject to the terms and conditions hereinafter set out certain space in the City of Asheville, County of Buncombe, North Carolina, more particularly described as follows:

Being approximately ±1,472 net square feet of office space on the 8th floor of the Courthouse Building located at 60 Court Plaza, Asheville, Buncombe County, North Carolina, as depicted and described on the floor plan attached hereto and incorporated herein as Exhibit A (the "Premises").

(NORTH CAROLINA DEPARTMENT OF JUSTICE)

THE TERMS AND CONDITIONS OF THIS LEASE AGREEMENT ARE AS FOLLOWS:

1. The term of this lease shall be for a period of **Three (3) years**, commencing on the **1st day of July 2022**, or as soon thereafter as the leased premises are ceded to the Lessee and terminating on the **30th day of June 2025** (the "Term").

2. During the Term of the lease, the Lessee shall pay to the Lessor as annual rent for said premises the sum of **Twenty-Four Thousand Five Hundred and NO/100 (\$24,500.00)** Dollars annually for the duration of the Term, which sum shall be paid in thirty-six (36) equal monthly installments of **Two Thousand Forty-one and 67/100 (\$2,041.67)**.

Said rent to be payable in advance on the first day of each month; provided however, that if possession of the Premises is not ceded to Lessee upon the Commencement Date, then the first payment of rent shall be made within fifteen (15) days after occupancy by Lessee, and shall be for a pro rata part of the first month's rent. The Lessee agrees to pay rent to Lessor at the address specified or, to such other address as the Lessor may designate by a notice in writing at least fifteen (15) days prior to the due date.

3. Lessor agrees to furnish to the Lessee, as a part of the consideration for this lease, the following services and utilities to the reasonable satisfaction of the Lessee.

- A. Heating facilities, air conditioning facilities, adequate electrical facilities, adequate lighting fixtures and sockets, hot and cold-water facilities, and adequate toilet facilities.
- B. Lessor to provide required fire extinguishers and servicing, pest control, and outside trash disposal, including provision for the handling of recyclable items such as aluminum cans, cardboard and paper. All pesticides must be applied by a licensed technician.
- C. Maintenance of lawns, parking areas (including snow removal) and common areas are required.
- D. All utilities except telephone and internet service.
- E. Daily janitorial service and supplies; provided that such services shall only be furnished on weekdays when Lessor's offices are open.
- F. The Lessor covenants that the leased premises are generally accessible to persons with disabilities. This shall include access into the premises from the parking areas (where applicable), into the premises via any common areas of the building and access to an accessible restroom.
- G. Any fire or safety inspection fees and all stormwater fees.
- H. All land transfer tax/fees imposed by the County or City in which the space is located.
- I. All other terms and conditions of the signed "Proposal to Lease to the State of North Carolina" Form PO-28 and Attachment A "Specifications for Non-advertised Lease".

4. During the lease term, the Lessor shall keep the leased premises in good repair and tenantable condition, to the end that all facilities are kept in an operative condition. Maintenance shall include but is not limited to furnishing and replacing electrical light fixture ballasts, air conditioning and ventilating equipment filter pads, if applicable, and broken glass. In case Lessor shall, after notice in writing from the Lessee in regard to a specified condition, fail, refuse, or neglect to correct said condition, or in the event of an emergency constituting a hazard to the health or safety of the Lessee's employees, property, or invitees, it shall then be lawful for the Lessee in addition to any other remedy the Lessee may have, to make such repair at its own cost

and to deduct the amount thereof from the rent that may then be thereafter become due hereunder. The Lessor reserves the right to enter and inspect the leased premises, at reasonable times, and to make necessary repairs to the premises.

5. It is understood and agreed that Lessor shall, at the beginning of said lease term as hereinabove set forth, have the leased premises in a condition satisfactory to Lessee, including repairs, painting, partitioning, remodeling, plumbing and electrical wiring suitable for the purposes for which the leased premises will be used by Lessee.

6. The Lessee shall have the right during the existence of this lease, with the Lessor's prior consent, to make alterations, attach fixtures and equipment, and erect additions, structures or signs in or upon the leased premises. Such fixtures, additions, structures or signs so placed in or upon or attached to the leased premises under this lease or any prior lease of which this lease is an extension or renewal shall be and remain the property of the Lessee and may be removed therefrom by the Lessee prior to the termination of this lease or any renewal or extension thereof, or within a reasonable time thereafter. The Lessee shall have no duty to remove any improvement or fixture placed by it on the premises or to restore any portion of the premises altered by it. In the event Lessee elects to remove his improvements or fixtures and such removal causes damage or injury to the demised premises, Lessee will repair only to the extent of any such damage or injury.

7. The parties hereto acknowledge and agree that Lessor leases or intends to lease one office in the suite where the Premises is located to the Buncombe County Bar (the "Bar") for use by that organization's administrator. The Bar and its personnel shall have access to and the use of certain areas and facilities that are appurtenant to the Premises. Lessee agrees that such lease of space to the Bar by Lessor and the use of certain areas and facilities appurtenant to the Premises by Bar Personnel shall not constitute an infringement of Lessee's quiet enjoyment of the Premises or a deprivation of any right of Lessee hereunder.

8. If the said premises be destroyed by fire or other casualty without fault of the Lessee, this lease shall immediately terminate, and the rent shall be apportioned to the time of the damage. In case of partial destruction or damage by fire or other casualty without fault of the Lessee, so as to render the premises untenable in whole or in part, there shall be an apportionment of the rent until the damage has been repaired. During such period of repair, Lessee shall have the right to obtain similar office space at the expense of Lessee or the Lessee may terminate the lease by giving fifteen (15) days written notice to the Lessor.

9. Lessor agrees that the Lessee's decision to self-insure satisfies all insurance requirements of the lease applicable to the Lessee.

10 As between Lessee and Lessor, Lessee, subject to terms of this Lease, will be primarily liable for negligent or intentional acts or omissions of its officers and employees. As to third parties, Lessee is an immune sovereign and is not ordinarily subject to suit. However, Lessee has enacted Chapter 143, Article 31, of the North Carolina General Statutes (the "Tort Claims Act");

pursuant to which Lessee may be liable within the terms of the Act for the torts of its officers, employees and agents. Accordingly, with regard to Lessee's lease of the Premises, its liability for any claims arising from any accident, injury, or damage whatsoever, however caused to any person or persons or to the property of any person, persons, corporation or corporations shall be within the coverage of the Tort Claims Act. No provision of this Lease shall be construed as constituting a waiver of Lessee's sovereign immunity of Lessee's immunity under the Eleventh Amendment of the Constitution of the United States.

11. As between Lessor and Lessee, Lessor, subject to the terms of this Lease, shall be primarily liable for the negligent or intentional acts or omissions of its officers, agents and employees. As to third parties, Lessor, as allowed under applicable law and solely to the extent indemnified by an insurance policy such that any amounts paid by Lessor to Lessee comes from insurance proceeds and not from Lessor's funds, agrees to save Lessee harmless from and against any and all loss damage, claim, demand, liability, or expense, including reasonable attorney fees, by reason of damage to any person(s) or property on or about the Premises, which may arise or be claimed to have arisen as a result of the use of the Premises by Lessee, its agents or employees, except where such loss or damage arises from the willful or negligent misconduct of Lessee, its agents or employees.

12. Lessor shall be liable to Lessee for any loss or damages suffered by Lessee which are a direct result of the failure of Lessor to perform an act required by this lease, and provided that Lessor could reasonably have complied with said requirement.

13. Upon termination of this lease, the Lessee will peaceably surrender the leased premises in as good order and condition as when received, reasonable use and wear and damage by fire, war, riots, insurrection, public calamity, by the elements, by act of God, or by circumstances over which Lessee had no control or for which Lessor is responsible pursuant to this lease, excepted.

14. The Lessor agrees that the Lessee, upon keeping and performing the covenants and agreements herein contained, shall at all times during the existence of this lease peaceably and quietly have, hold, and enjoy the leased premises free from the adverse claims of any person.

15. The failure of either party to insist in any instance upon strict performance of any of the terms and conditions herein set forth shall not be construed as a waiver of the same in any other instance. No modification of any provision hereof and no cancellation or surrender thereof shall be valid unless in writing and signed and agreed to by both parties.

16. Any holding over after the expiration of the Term, shall be construed to be a tenancy from month to month, and shall otherwise be on the terms and conditions herein specified, so far as applicable; however, either party shall give not less than sixty (60) days written notice to terminate the tenancy.

17. The parties to this lease agree and understand that the continuation of this lease agreement for the term period set forth herein is dependent upon and subject to the appropriation, allocation or availability of funds for this purpose to the agency of the Lessee responsible for payment of said rental. The parties to this lease also agree that in the event the agency of the Lessee or that body responsible for the appropriations of said funds, in its sole discretion, determines, in view of its total local office operations that available funding for the payment of rents are insufficient to continue the operation of its local offices on the premise leased herein, it may choose to terminate the lease agreement set forth herein by giving Lessor written notice of said termination, and the lease agreement shall terminate immediately without any further liability to Lessee.

18. All notices herein provided to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified and postage prepaid and addressed as follows:

to Lessor: County of Buncombe
c/o Tim Love
200 College Street, Ste. 300
Asheville, North Carolina 28801

to Lessee: North Carolina Department of Justice
c/o Property Manager
PO Box 629
Raleigh, North Carolina 27602-0629

w/ copy to: State Property Office,
Attn: Leasing Manager,
1321 Mail Service Center,
Raleigh, North Carolina 27699-1321

Nothing herein contained shall preclude the giving of such notice by personal service. The address to which notices shall be mailed as aforesaid to either party may be changed by written notice.

19. Each person executing this Lease on behalf of Lessor does hereby represent and warrant that, if applicable: (a) Lessor is duly organized and in good standing in the State of its organization and, if different, qualified to do business and in good standing in the State of North Carolina, (b) Lessor has full lawful right and authority to enter into this Lease and to perform all of its obligations hereunder, and (c) each person signing this Lease on behalf of Lessor is duly and validly authorized to do so.

20. This Lease shall be binding upon and inure to the benefit of Lessor and Lessee, their successors and permitted assigns.

21. This Lease shall be governed by, construed and enforced in accordance with the laws of the State of North Carolina, regardless of conflict of law principals, and court actions arising therefrom may be brought only within the courts of the State of North Carolina.

22. In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Lease shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. No provision of hereof shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party's having or being deemed to have prepared or imposed such provision.

23. N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

24. Lessor and Lessee shall adhere to applicable State and/or local regulations regarding financial reporting and accounting associated with leases.

25. Prior to the Commencement Date, Lessor agrees to construct, upfit, repair and maintain the Premises in accordance with (a) the approved floor plan attached hereto as Exhibit A and (b) the applicable regulation and building code provisions of the governmental authority having jurisdiction over the Premises. If applicable, Lessor shall provide Lessee, prior to Lessee taking possession of the Premises, with a copy of any certificate of occupancy, compliance or completion issued by the appropriate governmental authority.

[signatures begin on following page]

IN TESTIMONY WHEREOF, this lease has been executed by the parties hereto, in duplicate originals, as of the date first above written.

LESSOR:

COUNTY OF BUNCOMBE

By: _____ (SEAL)
Avril M. Pinder, County Manager

ATTEST:

Lamar Joyner, Clerk to the Board

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public in and for the County and State aforesaid, do hereby certify that **Lamar Joyner** personally came before me this day and acknowledged that (s)he is Clerk of the Buncombe County Board of Commissioners and that by authority duly given and as an act of the County of Buncombe, the foregoing instrument was signed by Avril M. Pinder, its County Manager, attested by himself/herself as Clerk and Sealed with the common seal.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal this the ____ day of _____, 2022.

Notary Public
Printed Name: _____

My Commission expires _____

LESSEE:

STATE OF NORTH CAROLINA

By: _____(SEAL)
Tim Walton, Director
State Property Office

STATE OF NORTH CAROLINA

COUNTY OF WAKE

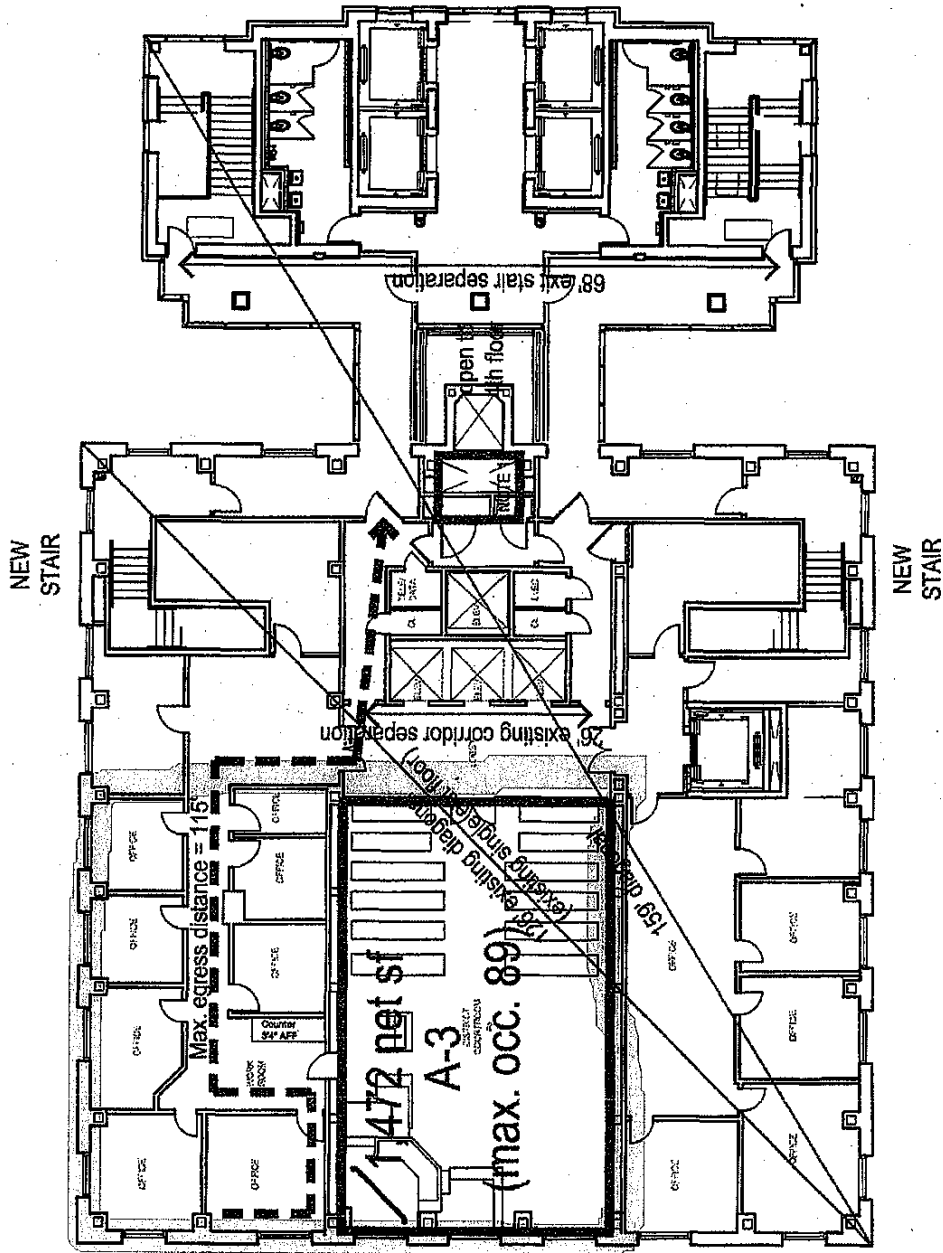
I, _____, a Notary Public in and for the County and State aforesaid, do hereby certify that _____, personally appeared before me this date and acknowledged the due execution by him of the foregoing instrument as _____ of State Property Office of the Department of Administration of the State of North Carolina, for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal this the ____ day of _____, 2022.

Notary Public
Printed Name: _____

My Commission expires _____

EXHIBIT A



8TH FLOOR AREA = 10,880 SF
Mix of A-3 and Business
89 + 94 = 183 occupants

ATTACHMENT - A

SPECIFICATIONS FOR NON-ADVERTISED LEASE

1. A floor plan to scale or a plan with room dimensions is required. Plan should show building exits for the proposed space. Also provide the year the building was constructed.
2. This facility must provide environment that is barrier free and easily accessible to physically disabled staff, visitors and clientele. Compliance with the State Building Code and the Americans with Disabilities Act is required. Toilet facilities shall be ADA accessible and code compliant.
3. Air conditioning and heating system shall be maintained by Lessor including frequent filter cleaning and replacement. Year-round ventilation shall be provided to prevent stale air problems and unacceptable CO2 content. Waiting areas, LAN room and
4. All lighting and electrical maintenance shall be furnished by Lessor including the replacement of ballasts, light tubes and replacement bulbs.
5. The Lessor shall provide required fire extinguishers and servicing, pest control (by a licensed technician) and outside trash disposal including provision for the handling of recycling items such as aluminum cans, cardboard and paper. Frequent trash and recycling pick -up required. Year-round maintenance is required to maintain a neat and professional appearance of the site at all times.
6. Lessor shall provide internal and external sign that will provide easy identification of the office by the general public.
7. Lessor shall shampoo all carpet and clean the outside of the building windows annually.
8. Lessor shall be responsible for snow and debris removal as quickly as possible to avoid work delays.
9. All parking areas shall be adequately lighted and located within a reasonable distance of the office.
10. Lessor is responsible for providing all cleaning supplies and paper and soap products for kitchen and bathrooms regardless of who contracts for janitorial services.