

STATE OF NORTH CAROLINA )  
 )  
COUNTY OF FORSYTH )

LEASE

THIS LEASE (the "Lease"), is made as of the 21<sup>st</sup> day of September, 2009, by and between Brookstown Development Partners, LLC, a North Carolina limited liability company (hereinafter "Landlord") and the City of Winston-Salem, a North Carolina municipal corporation (hereinafter "Tenant").

IN CONSIDERATION of the mutual covenants contained herein, the parties agree as follows:

1. DESCRIPTION OF LEASED PROPERTY. Subject to the terms and conditions hereinafter set forth, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, that certain building and related parking located at 930 Brookstown Avenue (Tax Block 103, Lots 106 and 107) and that WSTA Park & Ride Lot located at 115 N. Green Street and 114 N. Broad Street (Tax Block 98, Lot 101C; Tax Block 98, Lot 3B and Tax Block 98, Lots 3A, 101A, 201 and 202A) in the City of Winston-Salem, Forsyth County, North Carolina (hereinafter referred to as the "Premises"); provided, however, save and except that portion of the Premises located at 930 Brookstown Avenue, Landlord reserves the right during the term hereof to lease the parking spaces located on the Premises to Sports Menagerie Stadium, LLC and/or Sports Menagerie, LLC from 6:00 p.m. to 1:00 a.m., Monday through Friday, and at all times on Saturday, Sunday and holidays, for the parking of motor vehicles thereon by patrons of baseball games at the baseball stadium located on "Revised Lot 1" as shown on a plat entitled "Downtown Winston-Salem Baseball Stadium" as recorded in Plat Book 54, Page 182, Forsyth County Registry (the "Landlord Parking Rights"). With respect to that portion of the Premises located at 930 Brookstown Avenue Landlord shall not lease any of the space in the building or in the parking areas to any other party without the prior written consent of Tenant, which consent Tenant may withhold in its sole and absolute discretion.

2. TERM. The term of this Lease shall be for a period of sixty (60) months beginning on September 21, 2009, (the "Commencement Date"), and terminating on the last day of the same 60 month period following the Commencement Date (the "Termination Date") unless the term is terminated earlier as provided hereinbelow.

On or about the date of the Lease, Tenant has loaned to Landlord the sum of Nine Hundred Eighty Thousand Three Hundred Sixty-One and No/100 Dollars (\$980,361.00) as evidenced by a certain Promissory Note executed and delivered by Landlord to Tenant in the amount of Nine Hundred Eighty Thousand Three Hundred Sixty-One and No/Dollars (\$980,361.00) (the "Promissory Note"). The Promissory Note is secured by a Deed of Trust on the Premises. Upon payment by Landlord of the Promissory Note in full and the satisfaction of all of Landlord's remaining obligations under the Deed of Trust securing the same, Landlord shall have the right to terminate this Lease and all of the parties' further obligations hereunder upon sixty (60) days prior written notice given by Landlord to Tenant.

3. RENT. Tenant shall pay to Landlord, at the address specified in Paragraph 20 below (or at such other address as Landlord may designate by notice given to Tenant), as rental

for the Premises, annual rent equal to the Prevailing Rent, annual rental being payable in equal monthly installments in advance on the first (1<sup>st</sup>) day of each month during the term of this lease without any prior offset or deduction to Landlord. "Prevailing Rent" shall mean the base rent that would be received by landlords renting space of quality, size and location comparable to the Premises in the business district of the City of Winston-Salem for a term similar to the term of this Lease and subject to the terms of this Lease, including Landlord's obligation to pay taxes, insurance premiums, utilities and the cost of certain maintenance and repairs to the Premises. The Prevailing Rent shall be determined by the mutual agreement of Landlord and Tenant. In the event Landlord and Tenant are unable to agree upon the Prevailing Rent within thirty (30) days from the date of execution of this Lease, then the Prevailing Rent shall be determined by a board of three licensed real estate brokers. Landlord and Tenant shall each appoint one broker within ten (10) days after the expiration of the thirty (30) day period, or sooner if mutually agreed upon. The two so appointed shall select a third within fifteen (15) days after they have both been appointed. Each broker on said board shall be licensed in the State of North Carolina as a real estate broker, specialized in the field of commercial leasing in the business district of the City of Winston-Salem having no less than five (5) years experience in such field and recognized as ethical and reputable within his or her field. Each broker, within fifteen (15) days after the third broker is selected shall submit his or her determination of Prevailing Rent. Prevailing Rent shall be the mean of the two closest rental rate determinations submitted by the brokers.

Landlord and Tenant shall each pay the fee of the broker selected by it and they shall share equally the payment of the fee of the third broker.

An addendum setting forth the appropriate annual rental shall be executed by Landlord and Tenant within ten (10) days after the determination of the Prevailing Rent.

4. **USE OF PREMISES.** Tenant shall have the right to use the Premises for any lawful purpose and shall conduct its business in a proper, lawful and reputable manner and so as not to permit any use of the Premises which will constitute waste or nuisance.

5. **IMPROVEMENTS AND ALTERATIONS.** Tenant shall not make any alterations to the Premises without first having obtained the prior written consent of Landlord which consent shall not be unreasonably withheld, delayed or conditioned. Any said alterations, additions or improvements shall be in compliance with all applicable building codes. All alterations, additions and improvements in or on the Premises made by either Landlord or Tenant (except Tenant's furniture, trade fixtures, portable lighting fixtures, and any equipment and shelving installed by Tenant or furnished at Tenant's expenses and removable without damaging the Premises in any manner) shall become the property of Landlord and shall remain and be surrendered with the Premises as a part thereof at the termination or other expiration of the term of this Lease or any extension thereof. Notwithstanding the above, any alterations allowed to be made hereunder shall not interfere with the Landlord's Parking Rights.

6. **PERSONAL PROPERTY AND REMOVAL.** Tenant agrees hereby that all fixtures and other property of any nature, description and kind placed in, upon or about the Premises by Tenant, its agents, servants, employees, licensees, and invitees, shall be at the sole risk of the Tenant. Tenant shall have the right at the end of the Lease term, or of any renewal or

extension thereof, if not in default under this Lease, to remove from the Premises any and all equipment and trade fixtures placed in or upon said Premises by Tenant, provided that Tenant shall repair any damage done to the Premises by the removal thereof.

7. TAXES AND UTILITIES.

(a) During the term of this Lease, and any extensions thereof, Landlord shall pay all real estate ad valorem taxes and general and special assessments levied against the Premises.

(b) Tenant covenants and agrees during the term of this Lease to pay promptly when due all license fees and all other charges of any nature and kind whatsoever, imposed, charged, or levied against the Premises, in connection with the use and occupancy of the Premises by Tenant, and the cost of any repairs caused by any negligence or intentional misconduct on the part of Tenant and/or its employees or independent contractors employed by it.

8. ASSIGNMENT AND SUBLETTING. Subject to the limitations hereinafter set forth, this Lease and all terms, conditions and provisions hereof shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto. Except with the written consent of Landlord, which consent Landlord shall not unreasonably withhold, delay or condition, Tenant agrees that neither this Lease nor the term hereby granted, nor any part thereof, will be assigned, mortgaged, pledged, or encumbered in any manner or otherwise transferred by operation of law or otherwise. Tenant further agrees that it will not sublease or assign this Lease or any portion or portions of the Premises except with the written consent of Landlord which consent Landlord shall not unreasonably withhold, delay or condition. No assignment or subleasing shall relieve the Tenant of its liability under the provisions of this Lease.

9. MAINTENANCE AND REPAIRS. Landlord covenants that it will make such repairs to the roof, outside walls, gutters and downspouts and other structural portions of the building of which the Premises is a part as may be necessary in order to keep such building in good condition and repair. Tenant covenants and agrees that during the term of this Lease, at its own expense, it shall keep and maintain the interior of the Premises, in reasonably good, clean and sanitary condition, and that it will surrender same in as good condition as they were at the Commencement Date, ordinary wear and tear excepted. If Tenant defaults in the performance of its obligation hereunder, Landlord shall have the right, after thirty (30) days written notice, except in case of emergency no notice need be given, to perform Tenant's obligations and the cost of same shall be paid by Tenant within ten (10) days of presentation of an invoice for the same.

10. LIENS FOR WORK DONE ON PREMISES. If Tenant shall cause any material to be furnished to the Premises or labor to be performed thereon or therein, Landlord shall, under no circumstances, be liable for the payment of any expenses incurred or for the value of any work done or material furnished. Also such work shall be at Tenant's expense and Tenant shall be solely responsible to all contractors, laborers, and materialmen furnishing any labor and/or material to the Premises. Nothing herein shall authorize Tenant or any persons dealing through, with or under Tenant to charge the Premises, or any interest of the Landlord therein, or this

Lease with any mechanics' or materialmen's liens or other lien or encumbrance. On the contrary, and notice is hereby given, the right and power to charge any lien or encumbrance of any kind against Landlord, this Lease, or the Premises is hereby expressly denied. Notwithstanding the foregoing, should any mechanics', materialmen's or other lien be filed against the Premises, or any part thereof, for any reason whatsoever by reason of Tenant's acts or omissions or because of a claim against Tenant, Tenant shall cause the same to be cancelled and discharged of record by bond or otherwise within thirty (30) days after notice by Landlord and shall hold Landlord harmless and indemnify Landlord from all costs including costs of defense, expenses and attorney's fees.

11. **HOLDOVER.** If Tenant shall holdover beyond the termination of this Lease or any renewal or extension thereof, the occupancy by Tenant subsequent to the termination of this Lease or expiration of the Lease Term, or renewal or extension thereof, shall be from month to month upon the same terms and conditions set forth herein, except rental amounts due hereunder shall be 125% of the rental amounts being paid hereunder at the time of the expiration of the term hereof, and shall not be considered as a renewal or an extension of this Lease.

12. **CHANGE IN OWNERSHIP OF PREMISES.** If the name or address of the party entitled to receive rent hereunder shall be changed, Tenant shall, until receipt of proper notice of such change, continue to pay the rent and other charges herein reserved, accrued and to accrue hereunder, to the party to whom and in the manner in which the last preceding installment of rent or other charge was paid, and each such payment shall, to the extent thereof, exonerate and discharge Tenant.

13. **SERVICES AND UTILITIES.** Landlord shall provide the following utilities and services to or for the Premises: (i) all hot and cold water and lavatory supplies at those points of supply provided for general use of occupants in the building; (ii) automatically operated elevator service at all times; (iii) heating and air conditioning in season Monday through Friday from 9:00 a.m. to 6:00 p.m. and on Saturday from 9:00 a.m. to 12:00 p.m., except for Federal holidays as described in the United States Code; (iv) maintenance of the common areas of the building; (v) electricity for the equipment or machinery of Tenant which is of a type normally used in an office setting, will not necessitate structural changes to the building and does not require high electricity consumption for operation; and (vi) trash removal from loading dock areas of the building. Tenant shall be responsible for all other utilities and services and shall pay directly all costs and charges therefor. Landlord shall provide heat and air conditioning to the Premises at times in addition to those specified in (iii) of this section at Tenant's expense, if so requested by Tenant at least forty-eight (48) hours in advance.

Landlord's inability to furnish to any extent, these defined services, or any cessation thereof, resulting from any causes, shall not render Landlord liable for damages to either person or property, nor be construed as an eviction of Tenant nor work an abatement of any portion of rent, nor relieve Tenant from fulfillment of any covenant or agreement hereof. Landlord shall use reasonable diligence to restore such service properly.

14. **CONDEMNATION.** If the whole of the Premises, or such substantial portion thereof as will make Premises unusable for the purposes referred to herein, be condemned by any legally constituted authority for any public use or purpose, then in either of said events, the term

hereby granted shall terminate at the time when possession thereof is taken by the condemning authority, and rental shall be accounted for as between Landlord and Tenant as of that date. Tenant shall have no claim against Landlord or the condemning authority for any portion of the amount of the condemnation award or settlement that Tenant claims as its damages arising from such condemnation or acquisition or for the value of any unexpired term of the Lease. In the event the portion condemned is such that the remaining portion can, after restoration and repair, be made useable for Tenant's purpose, then this Lease shall not terminate; however, the rent shall be reduced equitably by the amount of the Premises taken. In such an event, Landlord shall make such repairs as may be necessary as soon as the same can be reasonably accomplished.

15. SUBORDINATION. The parties hereto understand that Landlord may, from time to time, desire to encumber Landlord's interest in the Premises with a mortgage(s) or deed(s) of trust, and may desire, in connection with the execution of such mortgage(s) or deed(s) of trust, to cause this Lease to be made subordinate to the lien or liens of such mortgage(s) or deed(s) of trust. Tenant, therefore covenants and agrees that Tenant will, from time to time, at the request of Landlord, execute an instrument or instruments in such form as may be required by Landlord or by the mortgagee of any such mortgage or deed of trust as evidence of such subordination. Landlord, however, will exercise its best efforts to arrange with the holder of any future underlying mortgage or deed of trust for an agreement that if by foreclosure such holder, or any successor-in-interest, shall become the owner of the leased Premises, it will not disturb the possession, use or enjoyment of the Premises by Tenant provided Tenant is not in default hereunder.

16. INSURANCE.

(a) Landlord shall pay during the term hereof, or any extension or renewal thereof, the cost of fire insurance covering the Premises and the cost of insurance covering such other risks as are from time to time included in standard extended coverage endorsements including but not limited to, vandalism and malicious mischief in such amounts as are reasonably acceptable to Landlord. Tenant shall insure all personal property owned by Tenant or others and located on the Premises, and Landlord shall have no responsibility as to any such property. Tenant further agrees that it shall not suffer anything to be or remain upon or about the Premises, nor carry on nor permit on the Premises any trade or occupation, or suffer to be done anything which may render an increased or extra premium payable for the insurance on the Premises against fire, or other perils included under standard extended coverage insurance, unless Landlord shall consent in writing.

(b) Tenant agrees to secure and keep in force at all times during the term of this Lease, or any renewals or extensions thereof, at Tenant's own expense, comprehensive general liability insurance insuring against any liability imposed for, or arising, directly or indirectly, out of injuries to person or property arising out of the ownership, maintenance, occupancy or control of the Premises on an occurrence basis with minimum limits of liability reasonably acceptable to Landlord.

(c) All such policies of insurance obtained by Landlord or Tenant hereunder shall be issued in the names of and for the benefit of both Tenant and Landlord, or its or their designees. Such insurance may not be cancelled or amended except upon thirty (30) days' prior

written notice from the insurance company to the Landlord and the Tenant. Tenant shall deliver to Landlord certificates, binders, or memoranda of insurance at least ten (10) days prior to the Commencement Date, and Tenant shall thereafter deliver to Landlord within ten (10) days after written notice from Landlord, certificates, binders, or memoranda of insurance evidencing the renewal thereof.

(d) Tenant shall indemnify and save Landlord harmless from any and all liability, damages, expenses, causes of action, suits, claims, judgments and costs of defense arising from injury to person in and on the Premises or upon any adjoining sidewalks or public areas of the building in which the Premises are located, which arise out of the act, failure to act or negligence of Tenant, its agents, employees or invitees. Landlord shall indemnify and save Tenant harmless from any and all liability, damages, expenses, causes of actions, suits, claims, judgments and costs of defense arising from injury to person in and on the building on which the Premises are located, or upon any adjoining sidewalks or public areas of the building which arise out of the act, failure to act or negligence of Landlord, its agents or employees.

17. CASUALTY DAMAGE. In the event that the Premises or the building in which the Premises are located are damaged for any reason whatsoever and Tenant is unable, in Landlord's and Tenant's joint determination, to carry on its normal business operations for a period of ninety (90) days or more, Tenant or Landlord shall have the right to terminate this Lease by giving notice of such termination to Landlord no later than thirty (30) days after the occurrence of such damage. Upon such termination, Tenant's obligations hereunder and each of them, including the obligation to pay rent of any kind or nature, shall cease as of the day the Premises were so damaged. During any period that Tenant, in Tenant's and Landlord's joint determination, is unable to conduct its normal business operations because of such casualty damage, rent of any kind or nature due hereunder shall be equitably abated.

In the event the Premises are partially damaged by fire or other casualty and Landlord and Tenant shall determine that Tenant is able to carry on its normal business operations, Tenant shall pay rent for only such portion of the Premises which Tenant may reasonably occupy during the time required to make repairs. All repairs necessary to restore the Premises to its original condition shall be (a) commenced within ninety (90) days after the occurrence of such damage; (b) performed in a diligent and workmanlike manner with material of at least the same quality utilized originally in the construction of the Premises; and (c) completed by Landlord at Landlord's sole expense.

18. USE OF HAZARDOUS MATERIALS. Tenant shall not cause or permit any Hazardous Material (as hereinafter defined) to be brought upon, kept or used in or about the Premises by Tenant, its agents, employees, contractors or invitees. If Tenant breaches the obligations stated in the preceding sentence, then Tenant shall indemnify, defend and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses which arise during or after the Lease term as a result of such contamination.

As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste, including but not limited to those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and

amendments thereto, or such substances, materials and waste that are or become regulated under any similar local state or federal law.

19. WAIVER OF RIGHTS. No waiver by Landlord of any provision hereof shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by Tenant of the same or any other provision. Landlord's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of Landlord's consent to or approval of any subsequent similar act by Tenant. The acceptance of rent hereunder by Landlord shall not be a waiver of any preceding breach by Tenant of any provision hereof, other than the failure of Tenant to pay the particular rent so accepted, regardless of Landlord's knowledge of said preceding breach at the time of acceptance of such rent.

20. NOTICES. All notices provided for herein shall be in writing and shall be deemed to have been received on the third (3rd) business day following deposit in the United States mail, postage fully prepaid, or if sent by overnight courier with guaranteed overnight delivery, on the day following the date delivered to such overnight courier, and directed to the parties hereto at their respective addresses given below:

Landlord:	If hand delivered or commercial courier: Brookstown Development Partners, LLC 104 Cambridge Plaza Drive Winston-Salem, NC 27104 Attn: Billy D. Prim
	If mailed: Brookstown Development Partners, LLC 104 Cambridge Plaza Drive Winston-Salem, NC 27104 Attn: Billy D. Prim
With copy to:	Allman Spry Leggett & Crumpler, P.A. 380 Knollwood Street, Suite 700 Winston-Salem, NC 27103 Attn: Thomas T. Crumpler, Esquire
Tenant:	City of Winston-Salem 101 N. Main Street, Suite 134 Winston-Salem, NC 27102 Attn: City Attorney's office, Angela Carmon
With copy to:	Bell, Davis & Pitt, P.A. 100 N. Cherry Street, Suite 600 Winston-Salem, NC 27101 Attn: Mallory M. Oldham

Either party may, in addition, deliver written notice by hand delivery. Further, the parties hereto may give or receive notice by or from their respective attorneys and may, by like notice, designate a new address to which subsequent notice shall be directed.

21. **DEFAULT BY TENANT.** In the event that Tenant shall fail to make any payment of rent when due, or if Tenant shall violate any other covenant or agreement herein contained which violation shall remain uncured following thirty (30) days written notice to Tenant, then Landlord shall have the right, with or without terminating this Lease, to re-enter and repossess the Premises without prejudice to any other rights provided to Landlord at law or in equity. If Landlord elects to terminate this Lease, everything herein contained on the part of Landlord to be done and performed shall cease without prejudice to the right of the Landlord to recover from Tenant all rent accruing to and through the date of termination of this Lease or the date of recovery of possession of the Premises by Landlord, whichever is later. Should this Lease be terminated before the expiration of the term of the Lease by reason of Tenant's default as herein provided, the Premises may be relet by Landlord for such rent and upon such terms as Landlord deems appropriate, and, if the full rent hereinabove provided is not realized by Landlord, Tenant shall be liable for all damages sustained by Landlord, including without limitation, deficiency in rent, attorneys' fees, brokerage fees and expenses of placing the Premises in first class rentable condition. Any damages or loss of rents sustained by Landlord may be recovered by Landlord at Landlord's option at the time of the reletting, or in separate actions from time to time as said damage shall have been made more easily ascertainable by successive reletting, or at Landlord's option, may be deferred until the expiration of the term of this Lease in which event the cause of action shall not be deemed to have accrued until the date of expiration of said term. The provisions contained in this section shall be in addition to and shall not prevent the enforcement of any claim Landlord may have against Tenant for anticipatory breach of the unexpired term of this Lease.

22. **COMPLIANCE WITH GOVERNING LAWS.** This Lease shall be governed by and construed under the laws of the State of North Carolina and other applicable statutes and regulations of said state, the City of Winston-Salem and the County of Forsyth. Tenant shall promptly execute and comply with all laws, ordinances, rules, regulations and requirements of any or all federal, state and municipal authorities having jurisdiction over the manner in which Tenant's business is conducted, but only insofar as these laws, ordinances, rules, regulations and requirements are violated by the conduct of Tenant's business.

23. **ENTIRE AGREEMENT.** This writing contains and embodies the entire agreement of the parties hereto and no representations, inducements or agreements, oral or otherwise between the parties not contained and embodied herein shall be of any force or effect, and the same may not be modified, changed or terminated in whole or in part, orally or in any other manner than by agreement in writing duly signed by all of the parties hereto.

24. **ATTORNEYS FEES.** Should Landlord file an action to enforce any agreement contained in this Lease or otherwise incur attorneys fees in enforcing any agreement contained in this Lease, the prevailing party in any such action; or the parties settling to its benefit, shall be reimbursed by the other party for reasonable attorney's fees in the action. In any action brought by Tenant concerning this Lease, the prevailing party in any such action; or the parties settling to its benefit, shall be reimbursed by the other party for reasonable attorney's fees in the action.

25. JOINT AND SEVERAL LIABILITY. If two or more individuals, corporation, partnership or other businesses, associations or any combination of two or more thereof, shall sign this Lease as Tenant, the liability of each of them shall be joint and several.

26. QUIET ENJOYMENT. Landlord warrants that it is seized of the Premises in fee simple subject to Deeds of Trust on the Property and has the right and authority to enter into and perform the Lease for the full term hereof. If Tenant substantially complies with each and all of its obligations hereunder, Tenant shall have and enjoy peacefully the possession of the Premises during the term hereof.

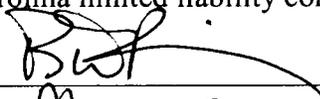
27. ESTOPPELS. At any time and from time to time within ten (10) days following receipt of a written request from either of the parties hereto, or any mortgage lender or secured party having an interest in the Premises, Landlord or Tenant, as the case may be, shall deliver to the party requesting the same a certificate stating (i) whether or not this Lease is in full force and effect, (ii) whether or not this Lease has been modified or amended in any way and attaching a copy of such modification or amendment, (iii) whether or not there are any existing defaults under this Lease to the knowledge of the party executing the certificate and specifying the nature of such defaults, if any are known to the party executing the certificate, (iv) the status of Rent payments and (v) any other commercially reasonable factual information regarding the provisions of the Lease which may be reasonably requested.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Landlord and Tenant have caused this instrument to be executed for the uses and purposes herein stated, pursuant to authority granted, as of the day and year first above written.

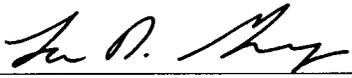
LANDLORD:

BROOKSTOWN DEVELOPMENT PARTNERS, LLC,  
a North Carolina limited liability company

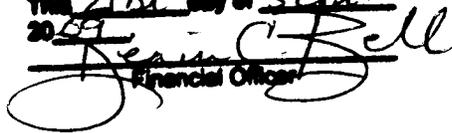
By:   
Title: Manager  
Dated: 9.21.09

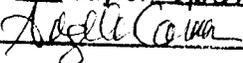
TENANT:

CITY OF WINSTON-SALEM, a North Carolina  
municipal corporation

By:   
Title: City manager  
Dated: 9/21/09

This instrument has been prepared  
in the manner required by the Local  
Government and Fiscal Control Act.  
This 21st day of Sept.  
2009

  
Financial Officer

Approved as to form and legality.  
This 21st day of September 2009  
By  Attorney