COUNTY OF OTERO, NEW MEXICO
SPECIAL MEETING AGENDA

County Administration Building
1101 New York Avenue, Room 123
Thursday, April 16, 2026 - 5:00 PM

Commission Chairman: Vickie Marquardt, District 3
Commission Vice-Chairman: Gerald Matherly, District 1
Commission Member: Amy Barela, District 2

CALL TO ORDER & ROLL CALL

APPROVAL OF AGENDA

All items marked “CA” will be approved by a single motion, these items on the “Consent Agenda” are considered routine and should not require further discussion. Items can be removed at the request of a Commissioner.

New Business:

1 Request approval of Resolution #04-16-26/114-72, Authorization of Lease Agreement with Option to Purchase for the Otero II Facility at 26 McGregor Range. Submitted by:
Roy Nichols, Attorney

ADJOURNMENT

Agenda Item Submittal

Otero County Commission

Submitted by: **Roy Nichols, Attorney**

Meeting date: **April 16, 2026**

Subject: **Request approval of Resolution #04-16-26/114-72, Authorization of Lease Agreement with Option to Purchase for the Otero II Facility at 26 McGregor Range.**

Research/Background:

The County owns the Otero County Processing Center (OCPC), a detention and correctional facility located at 26 McGregor Range Road, Chaparral, New Mexico. The facility was financed through the County's Prison Facility and Processing Center Revenue Bonds, Series 2007, which have an outstanding principal balance of approximately $14,330,000. Management & Training Corporation has served as the County's contract manager for the OCPC since 2008. The proposed Lease Agreement would transition MTC from contract manager to independent lessee, providing a dedicated revenue stream of $477,000 per month to service the Series 2007 Bonds through their anticipated retirement in April 2028 and continuing through December 31, 2036. The proposed agreement also grants MTC an option to purchase the facility, with closing deferred to no earlier than April 1, 2028.

Fiscal Impact/Funding Sources:

Annual lease revenue of $5,724,000. No general fund obligation. Revenue bonds only; no tax levy impact.

Staff/Department Recommended Actions:

I, RB Nichols, recommend approval of this item.

County Attorney Review (if needed):

Supporting Documents/Attachments/Links

1. Resolution #04-16-26/114-72
2. MTC Lease Agreement with Option to Purchase 26 McGregor Road

ADMINISTRATION
1101 NEW YORK AVENUE
ALAMOGORDO, NM 88310

WWW.CO.OTERO.NM.US
(575) 437-7427
(575) 443-2928

RESOLUTION NO. 04-16-26/114-172

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF OTERO COUNTY, NEW MEXICO, AUTHORIZING A LEASE OF COUNTY-OWNED REAL PROPERTY LOCATED AT 26 MCGREGOR RANGE ROAD, CHAPARRAL, NEW MEXICO, TO MANAGEMENT & TRAINING CORPORATION; AUTHORIZING THE GRANT OF AN OPTION TO PURCHASE; DIRECTING SUBMISSION TO THE NEW MEXICO STATE BOARD OF FINANCE FOR APPROVAL; AND DELEGATING AUTHORITY TO FINALIZE THE AGREEMENT AS REQUIRED BY THE BOARD.

WHEREAS, the County of Otero (the "County") is a body politic and corporate under the laws of the State of New Mexico and owns that certain real property and all improvements thereon known as the Otero County Processing Center ("OCPC"), located at 26 McGregor Range Road, Chaparral, Otero County, New Mexico (the "Property");

WHEREAS, the Property was financed in part through the issuance of the County's Prison Facility and Processing Center Revenue Bonds, Series 2007 (the "Bonds"), which were duly approved by the New Mexico State Board of Finance (the "Board of Finance") and are payable solely from revenues generated by the Property and do not constitute an obligation against the County's general tax revenues or any tax levy;

WHEREAS, as of the date of this Resolution, the outstanding principal balance on the Bonds is approximately $14,330,000, and the County has a legal obligation to ensure that revenue sufficient to service the Bonds is maintained through their retirement;

WHEREAS, Management & Training Corporation ("MTC") is a Delaware corporation that has served as the County's contract manager for the OCPC since February 2023 pursuant to a management and operational services agreement, and has demonstrated operational experience and financial capacity adequate to fulfill the long-term obligations of a tenant;

WHEREAS, the Board of County Commissioners has determined that leasing the Property to MTC on the terms described herein will provide a stable, long-term revenue stream necessary to service the Bonds, will preserve approximately 284 positions and approximately $21,000,000 in annual wages within Otero County, and will otherwise serve the public interest of the County and its residents;

WHEREAS, a current certified market rent appraisal and market analysis prepared by a General Certified Appraiser and reviewed by the New Mexico Taxation and Revenue Department, Property Tax Division, confirms that the proposed rent of $477,000 per month ($5,724,000 annually) falls within the range of fair market rent for the Property of $5,485,200 to $6,399,400 annually;

WHEREAS, pursuant to 1.5.23.10 NMAC, a lease of county-owned real property to a private entity requires approval by the Board of Finance before the lease may become effective;

WHEREAS, the Board of County Commissioners has further determined that granting MTC an option to purchase the Property, with closing deferred pending retirement of the Series 2007 Bonds, will serve the long-term financial interests of the County by facilitating an orderly transition of ownership upon Bond retirement while protecting the revenue stream required for Bond service;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Otero County, New Mexico, as follows:

Section 1. Authorization of Lease.

The Board of County Commissioners hereby authorizes the County Manager to negotiate and execute a Lease Management Agreement (the "Lease") between the County of Otero, as Landlord, and Management & Training Corporation, as Tenant, on substantially the following terms, subject to the approval of the Board of Finance:

(a) Monthly rent of $477,000, payable in advance on the first day of each month;

(b) A lease term of 128 consecutive monthly payments, terminating December 31, 2036;

(c) A modified net lease structure under which MTC assumes day-to-day operational costs and the County retains responsibility for end-of-life capital replacement of structural components;

(d) An annual escalation provision or periodic review of appraised value as required by 1.5.23.10 NMAC; and

(e) A provision expressly stating that any amendments to the Lease shall be subject to and shall not become effective prior to approval by the Board of Finance.

Section 2. Authorization of Option to Purchase.

The Board of County Commissioners hereby authorizes the County Manager to execute an option agreement granting MTC the right to purchase the Property on the following principal terms, subject to the approval of the Board of Finance:

(a) A nonrefundable option fee of $50,000, payable to the County at execution and credited to the Purchase Price at Closing;

(b) Earnest money in the amount of $457,100, payable within five business days after execution of the Real Estate Purchase Agreement following exercise of the option;

(c) A closing date no earlier than April 1, 2028, following anticipated retirement of the Series 2007 Bonds; and

(d) A purchase price equal to the Buy-Out Amount set forth in the amortization schedule attached to the Lease as Exhibit C, as of the closing date, with the Option Fee credited against the Purchase Price at Closing.

Section 3. Submission to Board of Finance; Condition on Effectiveness.

The County Manager is directed to submit the proposed Lease, option agreement, and all documentation required by 1.5.23.10 NMAC to the Board of Finance for approval. The Lease and option agreement shall not become effective, and the County Manager shall not execute either instrument, until and unless such approval has been obtained. This submission is expressly conditioned on Board of Finance approval.

Section 4. Delegation of Authority to Revise.

Consistent with the recommendation set forth in 1.5.23.10 NMAC, the County Manager, in consultation with the County Attorney, is delegated authority to revise the Lease and option agreement in such respects as the Board of Finance may require as a condition of approval, without the necessity of further action by the Board of County Commissioners, provided that no revision shall materially alter the rental rate, lease term, or purchase option structure set forth in Sections 1 and 2 of this Resolution without further approval of the Board of County Commissioners.

Section 5. Authorization to Execute.

Upon receipt of written approval from the Board of Finance, the County Manager is authorized and directed to execute the Lease and option agreement on behalf of the County and to take all further actions necessary or appropriate to carry out the purposes of this Resolution.

Section 6. Effective Date.

This Resolution shall be effective upon adoption.

PASSED, APPROVED, AND ADOPTED by the Board of County Commissioners of Otero County, New Mexico, at a duly noticed special meeting held on April 16, 2026.

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Vickie Marquardt, Chair

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Gerald Matherly, Vice Chair

____

Commissioner Amy Barela

ATTEST:

____

Selina Maes, County Clerk

APPROVED AS TO FORM:

____

R. B. Nichols, County Attorney

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WHEREAS, the County of Otero (the "County") is a body politic and corporate under the laws of the State of New Mexico and owns that certain real property and all improvements thereon known as the Otero County Processing Center ("OCPC"), located at 26 McGregor Range Road, Chaparral, Otero County, New Mexico (the "Property");

WHEREAS, the Property was financed in part through the issuance of the County's Prison Facility and Processing Center Revenue Bonds, Series 2007 (the "Bonds"), which were duly approved by the New Mexico State Board of Finance (the "Board of Finance") and are payable solely from revenues generated by the Property and do not constitute an obligation against the County's general tax revenues or any tax levy;

WHEREAS, as of the date of this Resolution, the outstanding principal balance on the Bonds is approximately $14,330,000, and the County has a legal obligation to ensure that revenue sufficient to service the Bonds is maintained through their retirement;

WHEREAS, Management & Training Corporation ("MTC") is a Delaware corporation that has served as the County's contract manager for the OCPC since February 2023 pursuant to a management and operational services agreement, and has demonstrated operational experience and financial capacity adequate to fulfill the long-term obligations of a tenant;

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PASSED, APPROVED, AND ADOPTED by the Board of County Commissioners of Otero County, New Mexico, at a duly noticed special meeting held on April 16, 2026.

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Vickie Marquardt, Chair

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Gerald Matherly, Vice Chair

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Commissioner Amy Barela

ATTEST:

____
Selina Maes, County Clerk

APPROVED AS TO FORM:

____
R. B. Nichols, County Attorney

LEASE AGREEMENT WITH OPTION TO PURCHASE

OTERO COUNTY PROCESSING CENTER

May 19, 2026

LEASE AGREEMENT WITH OPTION TO PURCHASE

LANDLORD PROCESSING CENTER

THIS LEASE AGREEMENT WITH OPTION TO PURCHASE (the "Lease Agreement") is made and entered into as of May 19, 2026 (the "Effective Date"), by and between Otero County, a political subdivision of the state of New Mexico ("Landlord") and Management & Training Corporation, a Delaware corporation ("Tenant"). Landlord and Tenant may be individually referred to herein as a "Party", or collectively as the "Parties".

RECITALS

WHEREAS, Landlord owns that certain real property located at 26 McGregor Range Road, Chaparral, New Mexico 88081, and more particularly described in Exhibit A (the "Land"), together with all buildings, foundations, structures and improvements (including fixtures) now or hereafter located thereon (collectively, the "Leased Premises").

WHEREAS, Landlord currently operates the Leased Premises as a civil detention facility known as the Otero County Processing Center (the "Facility"); and Landlord and Tenant desire to transition Tenant from a management contractor to an independent lessee that will operate the Facility in its own name and on its own account, as a private entity, free of any agency relationship with Landlord beyond that of Landlord and Tenant; and upon execution of this Lease Agreement, any prior Operations, Management and Maintenance Agreement between the Parties (the "OMM Agreement") relating to this Facility shall terminate and be of no further force or effect as to the Facility, and this Lease Agreement shall govern all rights and obligations of the Parties with respect to the Leased Premises and the Facility. For avoidance of doubt, the OMM Agreement shall not terminate and remain in full force and effect with respect to the Otero County Prison Facility, which is not the subject of this Lease Agreement.

WHEREAS, the Leased Premises is currently subject to those certain Otero County, New Mexico, Jail Project Revenue Bonds, Series 2007 (the "Bonds") used to fund the construction, acquisition and equipping of the Facility and related improvements.

WHEREAS, the Bonds are governed by various bond documents, including (i) an Ordinance 07-04 of the Issuer, dated April 17, 2007, as supplemented by Resolution No. 05-23-07/95-67, dated May 23, 2007 and amended pursuant to Ordinance No. 17-06, dated June 26, 2017, as supplemented by Resolution No. 06-26-17/105-69, dated June 26, 2017, (ii) an irrevocable and first lien upon the net revenues of the Facility, and (iii) a Deed of Trust dated as of May 1, 2027 (collectively, the "Bond Documents").

WHEREAS, the Bond Documents appoint a third-party trustee (the "Trustee") to manage and oversee the Bonds in accordance with the Bond Documents and ensure that all revenue from the operation of the Facility is collected and used to make all required Bond related payments and distributions.

WHEREAS, the Bonds are scheduled to be paid off on or before April 1, 2028, after which all Bond related liens and encumbrances on the Leased Premises should be released and the Trustee's services should be discontinued;

WHEREAS, Landlord and Tenant believe it is in the best interests of the operation of the Facility to put in place a long term lease agreement to govern Tenant's continued operation of the Facility now and after the Bonds have been repaid, in order to ensure continuity of operations following payoff of the Bonds and ensure an ongoing rental income stream for the County following Bond repayment.

WHEREAS, Landlord and Tenant also believe that it to be in their long-term interests for Tenant to have an option to acquire the Facility from Landlord during at the conclusion of the Lease Term (as defined below).

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the Parties covenant and agree as follows.

ARTICLE I
LEASED PREMISES

1.1 **Lease of Premises.** For and in consideration of the rents to be paid by Tenant and the covenants and agreements herein set forth to be kept and performed by Tenant, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, the Leased Premises for the Lease Term (as hereafter defined), at the rental rate and subject to and upon all of the terms, covenants, and agreements hereinafter set forth.

1.2 **Description of Premises.** Landlord does hereby demise, lease and let unto Tenant, and Tenant does hereby take and receive from Landlord the Leased Premises.

1.3 **Delivery of Leased Premises.** As of the Effective Date, possession of the Leased Premises shall be deemed to have been delivered to Tenant.

ARTICLE II
LEASE TERM

2.1 **Length of Term.** The term of this Lease Agreement shall commence on the Effective Date and continue, unless earlier terminated in accordance with the terms of this Lease Agreement, through December 31, 2036 (the "Lease Term").

2.2 **Early Termination Right: Housing Contract.** This Lease Agreement shall become effective upon execution by both Parties. In the event Tenant has not entered into a direct contractual arrangement with a customer to use the Facility as a correctional, detention, or other residential living facility within sixty (60) days of the Effective Date, Tenant shall have the right to terminate this Lease Agreement upon written notice to Landlord. Such termination shall be without liability to either Party, except that Tenant shall remain obligated for any rent accrued through the date of termination. Upon termination pursuant to this Section, the OMM Agreement shall be deemed reinstated as to the Facility as of the termination date, unless otherwise agreed by the Parties in writing.

2.3 Early Termination.

a. This Lease Agreement may be terminated at any time upon the mutual written consent of both Parties.

b. Additionally, in the event Tenant is unable to maintain any active agreements to house inmates or detainees at the Facility or use the Facility for any other economically viable purpose, Tenant shall have the right to immediately terminate this Lease Agreement.

ARTICLE III
RENTAL PAYMENTS

3.1 Annual Rent. Tenant agrees to pay to Landlord as annual rent ("Annual Rent") at such place as Landlord may designate, without prior demand therefore and without any deduction or set off whatsoever, the total sum of Five Million Seven Hundred Twenty-Four Thousand Dollars ($5,724,000.00). Said Annual Rent shall be due and payable in twelve (12) equal monthly installments of Four Hundred Seventy-Seven Thousand Dollars ($477,000.00) each, to be paid in advance on or before the first day of each calendar month during the Lease Term. Notwithstanding the foregoing, for the period commencing on the Effective Date and continuing through April 30, 2028 (the "Bond Repayment Period"), the Bond interest and principal payments made by the Trustee pursuant to the Bond Documents shall be deemed to be the full and only rental payments owed to Landlord, and such amounts shall be fully credited against Tenant's Annual Rent obligations for the Bond Repayment Period hereunder, such that Tenant shall not owe any additional Annual Rent payments directly to Landlord during the Bond Repayment Period. On the fifth anniversary of the Effective Date, and every five (5) years thereafter, Landlord shall have the right to obtain a re-appraisal of the Leased Premises and, in the event such re-appraisal is obtained, Landlord and Tenant agree to renegotiate the Annual Rent, in good faith, based on the results of such re-appraisal.

ARTICLE IV
PROPERTY TAXES, UTILITIES AND OTHER PAYMENTS

4.1 Real Estate Taxes. Landlord is exempt from the payment of real estate taxes relating to the Leased Premises and, for the duration of the Lease Term, no real estate taxes shall be charged to or become due and owing from Tenant.

4.2 Operating Costs. Except as otherwise set forth in this Lease Agreement, all Operating Costs shall be borne entirely by Tenant. The term "Operating Costs" shall mean all costs or expenses incurred in the operation, cleaning, maintenance, repair, and up-keep of the Leased Premises, including, without limitation, (a) all costs of maintaining and repairing the Leased

Premises, (b) the operation and repair of heating and air-conditioning equipment, intra-building telephone and network cabling, lighting and any other building equipment or systems, (c) the redecoration and renovation of any buildings on the Leased Premises, (d) all repairs and replacements (other than repairs or replacements for which Landlord has received full reimbursement from contractors or from others) necessary to keep the property in good working order, repair, appearance and condition, (e) all costs, including material and equipment costs, for cleaning and janitorial services, (f) all costs of any reasonable insurance carried by Tenant relating to the Leased Premises, (g) all costs related to provision of electricity, heat (including oil, electric, steam and/or gas), air-conditioning, and water (including sewer charges) and other utilities to the Leased Premises, (h) payments under any service contracts relating to the foregoing, (i) all compensation, fringe benefits, payroll taxes and worker's compensation insurance premiums related thereto with respect to any employees of Tenant, its agents or its affiliates engaged in management, security and maintenance of the Leased Premises or the provision of any of the foregoing.

ARTICLE V
USE

5.1 **Use of Leased Premises.** The Leased Premises shall be used and occupied by Tenant during the Lease Term for any lawful purpose, including but not limited to operating a correctional, detention, or other residential living facility, without the prior written consent of Landlord.

5.2 **Affirmative Obligations with Respect to Use.**

(a) Tenant will keep the Leased Premises and every part thereof in a clean, neat, and orderly condition, free of objectionable noise, odors, or nuisances, will in all respects and at all times fully comply with all applicable health, safety, and policy regulations, and will not suffer, permit, or commit any waste upon the Leased Premises.

(b) At all times during the Lease Term, the Parties shall comply with all statutes, ordinances, laws, orders, rules, regulations and requirements now in force or which hereafter may be in force, of any lawful governmental body or authorities having jurisdiction over the Leased Premises, as the case may be, and which shall impose any duty upon Landlord or Tenant with respect to the use, occupation or alterations of the Leased Premises, as the case may be (including, without limitation, all applicable requirements of the Americans with Disabilities Act of 1990 and all other applicable laws relating to people with disabilities, and all rules and regulations which may be promulgated there under from time to time and whether relating to barrier removal, providing auxiliary aids and services or otherwise). As to the Tenant's obligations described herein, Tenant shall deliver to Landlord, upon request, evidence of its compliance to Landlord.

5.3 **Landlord Representations, Warranties and Covenants.**

a. Landlord represents and warrants to Tenant that at the time of delivery of the Leased Premises, all buildings and other improvements on Leased Premises are in compliance with applicable statutes, ordinances, laws, orders, rules, regulations and requirement of all applicable federal, state, county, municipal and other agencies or authorities, then in effect, including, without limitation applicable environmental laws, the Americans with Disabilities Act of 1990, and all other applicable laws relating to people with disabilities.

b. Landlord represents and warrants to Tenant that at the time of delivery of the Leased Premises to Tenant, Landlord holds title to the Leased Premises, the site is properly zoned for Tenant's planned use, and no financing, city approvals, replatting, or other contingencies exist that will delay or prevent delivery of the Leased Premises to Tenant.

c. Landlord represents and warrants to Tenant that any stairwells, elevators, HVAC, life safety and mechanical systems will be of sufficient capacity to serve Tenant's planned use of the Leased Premises.

5.4 **<u>Suitability.</u>** Tenant acknowledges that except as expressly set forth in this Lease Agreement, neither Landlord nor any other person has made any representation or warranty with respect to the Leased Premises or any other portion thereof, and that no representation has been made or relied on with respect to the suitability of the Leased Premises for the conduct of Tenant's business. The Leased Premises (and each and every part thereof) shall be deemed to be in satisfactory condition unless, within sixty (60) days of the Effective Date, Tenant shall give Landlord written notice specifying, in reasonable detail, the respects in which the Leased Premises are not in satisfactory condition.

5.5 **<u>Taxes.</u>** Tenant shall pay all taxes, assessments, charges, and fees which during the Lease Term may be imposed, assessed or levied by any governmental or public authority against or upon Tenant's use of the Leased Premises or any personal property or fixture kept or installed therein by Tenant.

ARTICLE VI
UTILITIES AND SERVICE

6.1 **<u>Tenant's Obligations.</u>** Tenant shall arrange for and shall pay the entire cost and expense of all utilities required to facilitate Tenant's use of the Leased Premises during the Lease Term.

ARTICLE VII
MAINTENANCE AND REPAIRS; ALTERATIONS; ACCESS

7.1 **<u>Maintenance and Repairs.</u>** During the Lease Term, Tenant shall, at its sole cost and expense, maintain the Leased Premises and all improvements, systems, and equipment thereon in good order, condition, and repair, reasonable wear and tear excepted. Landlord shall be responsible for the cost of repair or replacement of any building system or structural component, including the HVAC system, roof, walls, floors, and fixtures, caused by a design or construction defect or necessitated due to any system servicing the Leased Premises having met its life expectancy or otherwise inoperable due to no fault of Tenant; otherwise, Tenant shall be responsible for such repairs or replacements. Landlord shall reimburse Tenant for any expenditure Tenant incurs hereunder provided that Landlord would have been responsible for such expenditure and the expenditure was urgent and could not be timely referred to Landlord for consideration and approval in the normal course of business. All warranties related to the Facility shall be extended to Tenant. Tenant, during the term of this Lease Agreement, shall be authorized to assert on behalf of Landlord, any claim Landlord could assert relating to any warranty on any furniture, fixtures, equipment, or system installed at or in the Facility. Except as expressly set forth above, Tenant shall be otherwise responsible for all repairs, replacements, and maintenance of every kind and nature, including structural, mechanical, electrical, and systems repairs, necessary to keep the Leased Premises in such condition. Tenant shall make reasonable efforts to notify Landlord before incurring expenditures expected to exceed $10,000.00 for which Tenant will seek reimbursement under this Section, except in genuine emergencies requiring immediate action to prevent injury, damage, or loss of facility certification.

7.2 Landlord's Access to Leased Premises. Landlord shall upon providing adequate notice to Tenant, have the right to enter the Leased Premises at all reasonable times to inspect the same.

ARTICLE VIII
ASSIGNMENT

8.1 Assignment Prohibited. Tenant shall not transfer, assign, mortgage, or hypothecate this Lease Agreement, in whole or in part, or permit the use of the Leased Premises by any person or persons other than Tenant, or sublet the Leased Premises, or any part thereof, without the prior written consent of Landlord in each instance, which consent shall not be unreasonably withheld, provided sufficient information is provided to Landlord to accurately represent the financial condition of those to whom this Lease Agreement will be transferred, assigned, mortgaged, or hypothecated. Such prohibition against assigning or subletting shall include any assignment or subletting by operation of law.

Notwithstanding the foregoing, Tenant shall have the right, without the prior consent of Landlord, to assign the Lease Agreement or sublet the whole or any part of the Leased Premises to a corporation or entity (a "Related Entity") which: (i) is Tenant's parent organization, or (ii) is a wholly-owned subsidiary of Tenant or Tenant's parent organization, or (iii) is an organization of which Tenant or Tenant's parent owns in excess of fifty percent (50%) of the outstanding capital stock or has in excess of fifty percent (50%) ownership or control interest, or (iv) is the result of a consolidation, merger or reorganization with Tenant and/or Tenant's parent organization, or (v) is the transferee of substantially all of Tenant's assets.

8.2 <u>Consent Required.</u>

(a) Any assignment or subletting in violation of Section 8.1 shall be void, and shall constitute a default hereunder which, at the option of Landlord, shall result in the termination of this Lease Agreement or exercise of Landlord's other remedies hereunder. Consent to any assignment or subletting shall not operate as a waiver of the necessity for consent to any subsequent assignment or subletting, and the terms of such consent shall be binding upon any person holding by, under, or through Tenant.

(b) Landlord shall have no obligation to consent to the proposed sublease or assignment if the proposed sublessee or assignee or its business is not of equal or greater financial condition and is or may be subject to compliance with additional requirements of the law, including any related rules or regulations, commonly known as the "Americans with Disabilities Act of 1990" or similar state or local laws relating to persons with disabilities beyond those requirements which are applicable to the tenant desiring to so sublease or assign.

8.3 <u>Landlord's Right in the Event of Assignment.</u> If this Lease Agreement is assigned or if the Leased Premises or any portion thereof are sublet or occupied by any person other than the Tenant, Landlord may collect rent and other charges from such assignee or other party, and apply the amount collected to the rent and other charges reserved hereunder, but such collection shall not constitute consent or waiver of the necessity of consent to such assignment, subleasing, or other transfer, nor shall such collection constitute the recognition of such assignee, sublessee, or other party as the Tenant hereunder or a release of Tenant from the further performance of all of the covenants and obligations, including obligation to pay rent, of Tenant herein contained. In the event that Landlord shall consent to a sublease or assignment hereunder, Tenant shall pay to Landlord, the attorney's fees and costs up to and not to exceed One Thousand Dollars ($1,000.00), incurred by Landlord in connection with processing of documents necessary to the giving of such consent.

ARTICLE IX
INDEMNITY

9.1 <u>Indemnification by Tenant.</u> Tenant shall defend and indemnify Landlord and save Landlord harmless from and against any and all suits, actions, damage and claims, liability and expense in connection with loss of life, bodily or personal injury, or properly damage arising from or out of any occurrence in, upon, at or from the Leased Premises, or occasioned wholly or in part by any act or omission of Tenant or its agents, attorneys, contractors, employees, servants, invitees, licensees or concessionaires, except as to claims arising from Landlord's negligence or breach of this Lease Agreement.

9.2 <u>Waiver of Subrogation.</u> All insurance policies carried by Tenant and/or Landlord shall include a waiver of subrogation endorsement which specifies that the insurance carrier(s) will waive any right of subrogation against Tenant and/or Landlord arising out of any insurance claim.

9.3 **Release of Landlord.** Tenant shall store its property in and shall use and enjoy the Leased Premises and all other portions of the buildings thereupon at its own risk, and hereby releases Landlord and Landlord's employees, officers, agents or contractors, to the full extent permitted by law, from all claims of every kind resulting in loss of life, personal or bodily injury, or property damage, except as to claims arising from Landlord's negligence or breach of this Lease Agreement.

9.4 **Notice.** Tenant shall give prompt notice to Landlord in case of fire or accidents in the Leased Premises or any buildings which are a part of the Leased Premises or of defects therein or in any fixtures or equipment.

9.5 **Litigation.** In case Landlord, without fault on its part, shall be made a party to any litigation commenced by or against Tenant, then Tenant shall defend, indemnify and hold Landlord harmless and shall pay all costs, expenses, and reasonable attorneys' fees incurred in the course of such litigation.

ARTICLE X
INSURANCE

10.1 **Insurance on Tenant's Personal Property and Fixtures.** The insurance obligations of the Parties, if any, shall be as set forth in the OMM Agreement.

10.2 **Lender.** Any mortgage lender interest in any part of the Leased Premises may, at Landlord's option, be afforded coverage under any policy required to be secured by Tenant hereunder, by use of a mortgagee's endorsement to the policy concerned.

ARTICLE XII
CONDEMNATION

12.1 **Total Condemnation.** If the whole of the Leased Premises shall be acquired or taken by condemnation proceeding, then this Lease Agreement shall cease and terminate as of the date of title vesting in such proceeding.

12.2 **Partial Condemnation.** If any part of the Leased Premises shall be taken as aforesaid, and such partial taking shall render that portion not so taken unsuitable for the business of Tenant, then this Lease Agreement shall cease and terminate as aforesaid. If such partial taking is not extensive enough to render the Leased Premises unsuitable for the business of Tenant, then this Lease Agreement shall continue in effect except that the Annual Rent shall be reduced in the same proportion that the portion of the Leased Premises (including basement, if any) taken bears to the total area initially demised and Landlord shall, upon receipt of the award in condemnation, make all necessary repairs or alterations to the Building in which the Leased Premises are located, provided that Landlord shall not be required to expend for such work an amount in excess of the amount received by Landlord as damages for the part of the Leased Premises so taken. "Amount received by Landlord" shall mean that part of the award in condemnation which is free and clear to Landlord of any collection by mortgage lenders for the value of the diminished fee. Tenant shall have no claim against Landlord for the occurrence of any condemnation proceeding, or for the termination of this Lease Agreement or a reduction in the Leased Premises as a result of any condemnation proceeding or agreement by Landlord with the condemning authority in settlement of any condemnation proceeding.

12.3 Landlord's and Tenant's Option to Terminate. If more than twenty percent (20%) of the Leased Premises shall be taken as aforesaid, either the Landlord or Tenant, as the case may be, may, by written notice to the other, terminate this Lease Agreement. If this Lease Agreement is terminated as provided in this Section, rent shall be paid up to the day that possession is so taken by public authority and Landlord shall make an equitable refund of any rent paid by Tenant in advance.

12.4 Award. Tenant shall not be entitled to and expressly waives all claim to any condemnation award for any taking, whether whole or partial and whether for diminution in value of the leasehold or to the fee, although Tenant shall have the right, to the extent that the same shall not reduce Landlord's award, to claim from the condemnor, but not from the Landlord, such compensation as may be recoverable by Tenant in its own right for damages to Tenant's business and fixtures.

12.5 Definition. As used in this Article XII the term "condemnation proceeding" means any action or proceeding in which any interest in the Leased Premises is taken for any public or quasi-public purpose by any lawful authority through exercise of eminent domain or right of condemnation or by purchase or otherwise in lieu thereof.

ARTICLE XIII
LANDLORD'S RIGHTS TO CURE

13.1 General Right. In the event of breach, default, or noncompliance hereunder by Landlord, Tenant shall, before exercising any right or remedy available to it, give Landlord written notice of the claimed breach, default, or noncompliance. If prior to its giving such notice Tenant has been notified in writing (by way of Notice of Assignment of Rents and Leases, or otherwise) of the address of a lender which has furnished any of the financing referred to in Article XIV hereof, concurrently with giving the aforesaid notice to Landlord, Tenant shall, by certified mail, return receipt requested, transmit a copy thereof to such lender. For the thirty (30) days following the giving of the notice(s) required by the foregoing portion of this section (or such longer period of time as may be reasonably required to cure a matter which, due to its nature, cannot reasonably be rectified within thirty (30) days), Landlord shall have the right to cure the breach, default, or noncompliance involved. If Landlord has failed to cure a default within said period, any such lender shall have an additional thirty (30) days within which to cure the same or, if such default cannot be cured within that period, such additional time as may be necessary if within such thirty (30) day period said lender has commenced and is diligently pursuing the actions or remedies necessary to cure the breach default, or noncompliance involved (including, but not limited to, commencement and prosecution of proceedings to foreclose or otherwise exercise its rights under its mortgage or other security instrument, if necessary to effect such cure), in which event this Lease Agreement shall not be terminated by Tenant so long as such actions or remedies are being diligently pursued by said lender.

13.2 Mechanic's Lien. Should any mechanic's or other lien be filed against the Leased Premises or any part thereof by reason of Tenant's acts or omissions or because of a claim against Tenant, Tenant shall cause the same to be canceled and discharged of record by bond or otherwise within ten (10) days after notice by Landlord. Tenant shall indemnify, defend and hold Landlord and the Property harmless from any such lien.

ARTICLE XIV
FINANCING; SUBORDINATION

14.1 Subordination. Tenant acknowledges that it might be necessary for Landlord or its successors or assigns to secure mortgage loan financing or refinancing affecting the Leased Premises. Tenant also acknowledges that the lender interested in any given loan may desire that Tenant's interest under this Lease Agreement be either superior or subordinate to the mortgage then held or to be taken by said Lender. Accordingly, Tenant agrees that at the request of Landlord at any time and from time to time Tenant shall execute and deliver to Landlord an instrument whereby Tenant subordinates its interest under this Lease Agreement and in the Leased Premises to any first mortgage or deed of trust covering the Leased Premises (a "Mortgage"); provided, however, that any such instrument or subordination executed by Tenant shall provide that so long as Tenant continues to perform all of its obligations under this Lease Agreement its tenancy shall remain in full force and effect notwithstanding Landlord's default in connection with the Mortgage concerned or any resulting foreclosure or sale or transfer in lieu of such proceedings. Tenant shall not subordinate its interests hereunder or in the Leased Premises to any lien or encumbrance other than the Mortgages described in and specified pursuant to this Section 14.1 without the prior written consent of Landlord and of the lender interested under each Mortgage then affecting the Leased Premises. Any such unauthorized subordination by Tenant shall be void and of no force or effect whatsoever.

14.2 Amendment. Tenant recognizes that Landlord's ability from time to time to obtain construction, acquisition, standing, and/or permanent mortgage loan financing for the Leased Premises may in part be dependent upon the acceptability of the terms of this Lease Agreement to the lender concerned. Accordingly, Tenant agrees that from time to time it shall, if so requested by Landlord and if doing so will not materially and adversely affect Tenant's economic interests hereunder join with Landlord in amending this Lease Agreement so as to meet the needs or requirements of any lender which is considering making or which has made a loan secured by a Mortgage affecting the Leased Premises.

14.3 Attornment. Any sale, assignment, or transfer of Landlord's interest under this Lease Agreement or in the Leased Premises including any such disposition resulting from Landlord's default under a Mortgage, shall be subject to this Lease Agreement and also Tenant shall attorn to Landlord's successor and assigns and shall recognize such successor or assigns as Landlord under this Lease Agreement, regardless of any rule of law to the contrary or absence of privity of contract.

ARTICLE XV
EVENTS OF DEFAULT; REMEDIES OF LANDLORD

15.1 **Default by Tenant.** Upon the occurrence of any of the following events, Landlord shall have the remedies set forth in Section 15.2:

(a) Tenant fails to pay any installment of Annual Rent or any other sum due hereunder within ten (10) days after Tenant receives written notice of rent due, provided that Landlord shall not be required to give more than two (2) such notices in any calendar year.

(b) Tenant fails to perform any other term, condition, or covenant to be performed by it pursuant to this Lease Agreement within thirty (30) days after written notice of such default shall have been given to Tenant by Landlord or, if cure would reasonably require more than thirty (30) days to complete, if Tenant fails to commence performance within the thirty (30) day period or fails diligently to pursue such cure to completion.

(c) Tenant or any guarantor of this Lease Agreement shall become bankrupt or insolvent or file any debtor proceedings or have taken against such party in any court pursuant to state or federal statute, a petition in bankruptcy or insolvency, reorganization, or appointment of a receiver or trustee; or Tenant petitions for or enters into an arrangement; or suffers this Lease Agreement to be taken under a writ of execution.

15.2 **Remedies.** In the event of any default by Tenant hereunder, Landlord may at any time, without waiving or limiting any other right or remedy available to it, terminate Tenant's rights under this Lease Agreement by written notice, reenter and take possession of the Leased Premises by any lawful means (with or without terminating this Lease Agreement), or pursue any other remedy allowed by law. Tenant agrees to pay to Landlord the cost of recovering possession of the Leased Premises, all costs of reletting, and all other costs and damages arising out of Tenant's default, including attorneys' fees. Notwithstanding any reentry, the liability of Tenant for the rent reserved herein shall not be extinguished for the balance of the Term, and Tenant agrees to compensate Landlord upon demand for any deficiency arising from reletting the Leased Premises at a lesser rent than applies under this Lease Agreement. If the Landlord defaults or fails to perform under the terms of the Lease Agreement, Tenant shall have the rights available to it by law. Notwithstanding anything to the contrary herein, in the event Landlord terminates this Lease Agreement, and Tenant vacates the Leased Premises, Tenant shall not be liable for any rent that would have accrued on and after such termination date had the Lease Agreement not been terminated.

15.3 Past Due Sums; Penalty. If Tenant fails to pay, when the same is due and payable, any Annual Rent or other sum required to be paid by it hereunder, such unpaid amounts shall bear interest from the due date thereof to the date of payment at a rate equal to ten percent (10%) per annum. In addition thereto, Tenant shall pay a sum of five percent (5%) of such unpaid amounts as a service fee and not as a penalty.

ARTICLE XVI
PROVISIONS APPLICABLE AT TERMINATION OF LEASE

16.1 Surrender of Premises. At the expiration of this Lease, and unless otherwise agreed by Landlord through the OMM Agreement or otherwise, Tenant shall surrender the Leased Premises in the same condition, less reasonable wear and tear, as they were in upon delivery of possession thereto under this Lease Agreement and shall deliver all keys to Landlord. Before surrendering the Leased Premises, Tenant shall remove all of its personal property and trade fixtures and such property or the removal thereof shall in no way damage the Leased Premises, and Tenant shall be responsible for all costs, expenses and damages incurred in the removal thereof. If Tenant fails to remove its personal property and fixtures upon the expiration of this Lease, the same shall be deemed abandoned and shall become the property of Landlord.

16.2 Holding Over. Any holding over after the expiration of the term hereof or of any renewal term with the prior written consent of Landlord shall be construed to be a tenancy from month to month, and Tenant shall pay to Landlord rent equal to the sum of 150% of last month's rent plus all other charges payable hereunder prorated on a monthly basis at such rates as Landlord may designate and on the terms herein specified so far as possible. Notwithstanding the foregoing, any holdover tenancy shall not exceed six (6) months in duration, after which Landlord shall have the right to immediately terminate Tenant's right to possession upon written notice.

ARTICLE XVII
ATTORNEYS' FEES

In the event that at any time during the term of this Lease Agreement either Landlord or the Tenant institutes any action or proceeding against the other relating to the provisions of this Lease or any default hereunder, then the unsuccessful party in such action or proceeding agrees to reimburse the successful party for the reasonable expenses of such action including reasonable attorneys' fees, incurred therein by the successful party. Tenant shall be responsible for all expenses incurred by Landlord, including, without limitation, attorneys' fees and costs that Landlord incurs in any case or proceeding involving Tenant under or related to any bankruptcy or insolvency law. This Article 17 shall survive the expiration or earlier termination of this Lease.

ARTICLE XVIII
ESTOPPEL CERTIFICATE

18.1 Landlord's Right to Estoppel Certificate. Tenant shall, within fifteen (15) days after Landlord's request, execute and deliver to Landlord a written declaration, in form and substance similar to Exhibit “B”, in recordable form: (l) ratifying this Lease Agreement; (2) expressing the Effective Date and expiration date hereof; (3) to the best knowledge of Tenant, that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended (except by such writing as shall be stated); (4) to the best knowledge of Tenant, that all conditions under this Lease Agreement to be performed by Landlord have been satisfied; (5) to the best knowledge of Tenant, that there are no defenses or offsets against the enforcement of this Lease Agreement by the Landlord, or stating those claimed by Tenant; (6) the amount of advance rent, if any (or none if such is the case) paid by Tenant; (7) the date to which rent has been paid; (8) the amount of security, if any deposited with Landlord; and (9) such other information as Landlord may reasonably request. All the foregoing certifications are subject to the condition that the certifications requested are true and accurate. Landlord's mortgage lenders and/or purchasers shall be entitled to rely upon such declaration.

18.2 Effect of Failure to Provide Estoppel Certificate. Subject to Tenant's objection as to the truth and accuracy of the requested certifications, Tenant's failure to furnish any Estoppel Certificate within fifteen (15) days after request therefore shall be deemed a default hereunder and moreover, it shall be conclusively presumed that: (a) this Lease Agreement is in full force and effect without modification in accordance with the terms set forth in the request; (b) that there are no material breaches or defaults on the part of the Landlord; and (c) no more than one (1) months rent has been paid in advance.

ARTICLE XIX
OPTION TO PURCHASE

19.1 Option to Purchase.

(a) For and in consideration of the Option Fee (defined below) payable to Landlord as set forth herein, Landlord does hereby grant to Tenant the exclusive, irrevocable right and option (the “Option”), exercisable at any time during the Lease Term commencing on the Effective Date, to purchase the Leased Premises upon the terms and conditions set forth herein. Tenant’s right to exercise the Option is not contingent upon the expiration of the Bond Repayment Period or any other condition; provided, however, that the Closing (as defined herein) shall not occur prior to April 1, 2028 unless the Trustee has confirmed in writing that all Bond obligations have been fully satisfied and all liens and encumbrances arising under the Bond Documents have been released.

(b) Tenant shall pay to Landlord, simultaneously with the execution of this Lease Agreement, an option fee in an amount equal to Fifty Thousand and no/100 dollars ($50,000.00) (the “Option Fee”). Receipt of the Option Fee by Landlord simultaneously with execution constitutes full and present consideration for the irrevocable grant of the Option as of the Effective Date. The Parties acknowledge and agree that the Option Fee shall be credited to the Purchase Price (as hereinafter defined) at Closing (as hereinafter defined) in the event Tenant exercises the Option to acquire the Leased Premises pursuant to this Article XIX.

(c) To exercise the Option, Tenant shall deliver written notice of such election to Landlord (the "Option Notice") at any time on or after the Effective Date. Tenant may deliver the Option Notice simultaneously with execution of this Lease Agreement, and the Parties acknowledge that simultaneous delivery is anticipated and encouraged. If Tenant has not delivered an Option Notice prior to the date that is ninety (90) days before the expiration of the Lease Term, an Option Notice shall be deemed delivered as of that date. Upon delivery of an Option Notice, Tenant's right to purchase the Leased Premises at the applicable Purchase Price becomes unconditional and irrevocable, subject only to the Closing Date limitation set forth in Section 19.1(a) above. The Closing Date shall be no earlier than April 1, 2028 (or such earlier date as the Trustee confirms full satisfaction of all Bond obligations) and no later than December 31, 2036. The Option Notice shall specify a Closing Date of on or before December 31, 2036, and the actual Closing Date within that range shall be confirmed by written notice from Tenant to Landlord no later than ninety (90) days prior to the proposed Closing Date, subject to amendment by mutual written agreement of the Parties.

(d) In the event Tenant exercises the Option, Landlord shall sell, and Tenant shall buy the Leased Premises pursuant to a real estate purchase agreement to be entered into by the Parties no later than thirty (30) days after the date Tenant exercises the Option (the "Option Exercise Date"), and which contains the following material terms and conditions (the "Real Estate Purchase Agreement"):

(i) *Closing Date*. The purchase and sale of the Leased Premises shall close on or before December 31, 2036, on a specific date confirmed pursuant to Section 19.1(c) above. The Closing Date may be amended or adjusted upon the mutual written agreement of the Parties, provided that no Closing Date shall be set earlier than April 1, 2028 unless the Trustee has confirmed in writing that all Bond obligations have been fully satisfied.

(ii) *Purchase Price*. The purchase price for the Leased Premises (the "Purchase Price") shall be the "Buy-Out Amount" as specified in the amortization schedule attached hereto as Exhibit C, as of the first day of the month of the Closing Date set forth in Tenant's Option Notice, as the same may be amended by the mutual written agreement of the parties. For example, if the Closing Date set forth in Tenant's Option Notice is January 13, 2031, the Purchase Price would be $28,640,100.89 (the Buy-Out Amount effective as January 19, 2031).

(iii) *Title Company; Earnest Money*. The sale of the Leased Premises shall close through a title company selected by Tenant (the "Title Company"). Within five (5) business days after the effective date of the Real Estate Purchase Agreement, Tenant must deliver to the Title Company an earnest money deposit equal to Four Hundred Fifty-Seven One Hundred Dollarsand No/100 Dollars

($457,100.00), which reflects an amount equal to one percent (1%) of the appraised value of the Facility as of January 30, 2026 (the "Earnest Money"). Upon the Closing, the Earnest Money, including any accrued interest, will be applied to the Purchase Price, with any excess being returned to Tenant. If the Closing does not occur as contemplated pursuant to the Real Estate Purchase Agreement, then the Title Company must disburse the Earnest Money in the manner provided for in the Real Estate Purchase Agreement, which shall require the principal amount to be paid to Landlord with any accrued interest being distributed equally between Landlord and Tenant.

(iv) *Survey; Title Commitment.* Upon execution of the Real Estate Purchase Agreement, Landlord shall deliver any existing survey of the Leased Premises to Tenant which is in the possession of Landlord, if any. Tenant may, at the sole cost and expense of Tenant, obtain an update to the existing survey or a new survey of the Leased Premises. In addition, within ten (10) days after the effective date of the Real Estate Purchase Agreement, Landlord shall cause the Title Company to furnish to Tenant a current Commitment for Title Insurance pertaining to the Leased Premises, for the issuance to Tenant of a standard owner's policy for title insurance, together with good legible copies of all documents constituting exceptions to Landlord's title as reflected in the Title Commitment.

(v) *Closing*. Landlord shall convey to Tenant at closing, by good and sufficient quit claim or special warranty deed in a form reasonably acceptable to Tenant, fee simple title to the Leased Premises, or the applicable portion thereof, free and clear of all to all liens, restrictions, charges, encroachments, easements, tenancies or title encumbrances (collectively "Encumbrances") except such Encumbrances of record that are not deemed objectionable by Tenant, including, without limitation, (i) ad valorem taxes for the then current year, assessed but not yet payable; (ii) applicable zoning ordinances; and (iii) recorded easements for utilities servicing the Leased Premises, if any.

(vii) *Closing Costs; Brokers*. Except as otherwise expressly provided in the Real Estate Purchase Agreement, Landlord and Tenant each agree to bear one-half of all other closing costs and expenses in connection with the transaction contemplated therein, including, but not limited to, the escrow fee. The parties shall be responsible for their own attorney's fees and costs and hereby warrant to each other that there shall be no real estate or brokerage commission paid as a result of the transfer of the Leased Premises, or the applicable portion thereof.

(viii) *Taxes; Prorations*. At Closing, Landlord shall be responsible for (i) all ad valorem taxes and assessments for the Leased Premises with respect to any calendar year prior to the calendar year in which Closing occurs, and (ii) all such taxes and assessments for the Leased Premises with respect to the elapsed portion of the calendar year in which Closing occurs (other than those owed by Tenant pursuant to Section Article V, Section 5 (Taxes on Tenant's use) of this Lease). If possible, Landlord's payment of such amounts must be based upon taxes and assessments actually assessed for the calendar year in which Closing occurs. If ad valorem taxes and assessments for the calendar year in which Closing occurs have not been assessed as of the Closing Date, Landlord and Tenant agree to estimate such amounts based upon ad valorem taxes and assessments for the immediately preceding calendar year.

(ix) *Default by Tenant; Remedies of Landlord*. In the event Tenant, after exercise of the Option, fails to proceed with the Closing pursuant to the material terms and conditions contained herein and/or under the Real Estate Purchase Agreement, and such failure is not caused or contributed to by Landlord's intentional acts or breach of such Real Estate Purchase Agreement, Landlord shall be entitled to retain the Option Fee and the Earnest Money as liquidated damages, and the Option created by this Article 19 shall terminate and be of no further force or effect as to the Leased Premises.

(x) *Default by Landlord; Remedies of Tenant*. In the event Landlord fails to close the sale of the Leased Premises pursuant to the terms and conditions contained herein and/or under the Real Estate Purchase Agreement, Tenant shall be entitled to either (i) sue for specific performance of this Article 19 and/or the Real Estate Purchase Agreement, or (ii) terminate the Real Estate Purchase Agreement and demand that the Earnest Money be refunded to Tenant immediately upon written notice.

(e) Landlord acknowledges and agrees that Tenant may, at Tenant's sole cost, record a memorandum of this Agreement in form and content reasonably acceptable to Landlord, regarding the Option in the real property records of Otero County, New Mexico, and retain the recorded version thereof for its records; provided that Tenant shall provide a recorded copy to Landlord.

ARTICLE XX
MISCELLANEOUS PROVISIONS

20.1 No Partnership. Landlord does not by this Lease Agreement, in any way or for any purpose, become a partner or joint venturer of Tenant in the conduct of its business or otherwise.

20.2 Force Majeure. The Parties shall be excused from performing their obligations under this Lease for the duration of any delay or inability to perform caused by circumstances beyond their reasonable control, including but not limited to acts of God, natural disasters, war, terrorism, civil unrest, governmental actions, labor disputes, shortages of materials or supplies, pandemics, epidemics, and any other events that are unforeseeable and unavoidable.

In the event of such a delay or inability to perform, the affected Party shall promptly notify the other Party in writing, specifying the nature and expected duration of the delay. The obligations of the affected Party shall be suspended for the period of the delay, and the time for performance shall be extended by a period equivalent to the duration of the delay.

If the force majeure event continues for a period of more than ninety (90) days, either Party may terminate this Lease upon written notice to the other Party, without liability for any damages or penalties arising from such termination.

20.3 **No Waiver.** Failure of the Parties to insist upon the strict performance of any provision or to exercise any option hereunder shall not be deemed a waiver of such breach. No provision of this Lease shall be deemed to have been waived unless such waiver is in writing signed by Landlord or Tenant, as the case may be.

20.4 **Notice.** Any notice, demand, request, or other instrument which may be or is required to be given under this Lease shall be delivered in person or sent by United States certified or registered mail, postage prepaid and shall be addressed (a) if to Landlord, at the place specified for payment of rent, which is set forth below, and (b) if to Tenant, either at the Leased Premises or at any other current address for Tenant which is known to Landlord, including the address set forth below. Either party may designate such other address as shall be given by written notice.

Landlord: Otero County, New Mexico
Attn: County Manger
1101 New York Avenue
Alamogordo, NM 88337'

Tenant: Management & Training Corporation
Attn: General Counsel
500 N. Marketplace Drive
P.O. Box 10
Centerville, UT 84014

20.5 **Exhibits**. Exhibits referred to in this Lease Agreement, and any addendums and schedules attached to this Lease shall be deemed to be incorporated in this Lease Agreement as though part thereof.

20.6 **Recording**. Either Party may file this Lease Agreement or a memorandum thereof for record with the Recorder of the County in which the Leased Premises is located.

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

20.8 **Brokers.** Landlord and Tenant each warrant to the other that they have dealt with no real estate brokers, finders, agents or salesmen in connection with this transaction. Each party agrees to indemnify and hold the other harmless from and against all liabilities arising from any claims for brokerage commissions or finder's fees, including any attorneys' fees connected therewith, as a consequence of such party's actions or dealings with any other agent, broker, salesman, or finder.

20.9 Tenant Defined; Use of Pronouns. The word "Tenant" shall be deemed and taken to mean each and every person or party executing this document as a Tenant herein. If there is more than one person or organization set forth on the signature line as the Tenant, their liability hereunder shall be joint and several. If there is more than one Tenant, any notice required or permitted by the terms of this Lease may be given by or to any one thereof and shall have the same force and effect as if given by or to all thereof. The use of the neuter singular pronoun to refer to Landlord or Tenant shall be deemed a proper reference even though Landlord or Tenant may be an individual, a partnership, a corporation, or a group of two or more individuals or corporations. The necessary grammatical changes required to make the provisions of this Lease Agreement apply in the plural sense where there is more than one Landlord or Tenant and to corporations, associations, partnerships, or individuals, males or females, shall in all instances be assumed as though in each case fully expressed.

20.10 Binding Effect. Except as otherwise provided, all provisions herein shall be binding upon and shall inure to the benefit of the parties, their legal representative, heirs, successors, and assigns. Each provision to be performed by Tenant shall be construed to be both a covenant and a condition, and if there shall be more than one Tenant, they shall all be bound, jointly and severally, by such provisions. In the event of any sale or assignment (except for purposes of security or collateral) by Landlord of the Building, the Leased Premises, or this Lease, Landlord shall, from and after the Effective Date (irrespective of when such sale or assignment occurs), be entirely relieved of all of its obligations hereunder.

20.11 Entire Agreement. This Lease Agreement and the Exhibits, and/or Addenda, if any, attached hereto, constitute the entire agreement between the parties. Any guaranty attached hereto is an integral part of this Lease Agreement and constitutes consideration given to Landlord to enter in this Lease Agreement. Any prior conversations or writings are merged herein and extinguished. No subsequent amendment to this Lease Agreement shall be binding upon Landlord or Tenant unless reduced to writing and signed. Submission of this Lease Agreement for examination does not constitute an option for the Leased Premises and becomes effective as a lease with option to purchase only upon execution and delivery thereof by Landlord to Tenant. If any provision contained in the rider or addenda is inconsistent with a provision in the body of this Lease Agreement, the provision contained in said rider or addenda shall control. It is hereby agreed that, except as expressly set forth herein, this Lease Agreement contains no restrictive covenants or exclusives in favor of Tenant. The captions and article and section numbers appearing herein are inserted only as a matter of convenience and are not intended to define, limit, construe, or describe the scope or intent of any section or paragraph. Time is of the essence of each provision of this Lease Agreement.

20.12 Governing Law. The interpretation of this Lease Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico. The Parties hereby expressly and irrevocably agrees that any Party may bring any action or claim to enforce the provisions of this Lease Agreement in the State of New Mexico, County of Otero, and the Parties irrevocably consent to personal jurisdiction in the State of New Mexico for the purposes of any such action or claim. The Parties further irrevocably consent to service of process in accordance with the provisions of the laws of the State of New Mexico. Nothing herein shall be deemed to preclude or prevent the Parties from bringing any action or claim to enforce the provisions of this Lease Agreement in any other appropriate place or forum.

20.13 Recourse by Tenant. Anything in this Lease Agreement to the contrary notwithstanding, Tenant agrees that it shall look solely to the estate and property of Landlord in the Leased Premises, including any buildings and any improvements thereto, and subject to prior rights of any Mortgagee, for the collection of any judgment (or other judicial process) requiring the payment of money by Landlord in the event of any default or breach by Landlord with respect to any of the terms, covenants, and conditions of this Lease Agreement to be observed and/or performed by Landlord, and no other assets of Landlord or any of its members, managers, officers, partners, shareholders, successors, or assigns shall be subject to levy, execution, or other procedures for the satisfaction of Tenant's remedies.

20.14 Authority. The individuals who execute this Lease Agreement represent and warrant that they are duly authorized to execute this Lease on behalf of Landlord or Tenant, as the case may be, that the parties named are all the necessary and proper parties, and that no other signature, act or authorization is necessary to bind such entity to the provisions of this Lease Agreement.

20.15 BOF Approval of Amendments. This Lease Agreement has been approved by the New Mexico State Board of Finance pursuant to Section 1.5.23.10 NMAC. Any amendment, modification, or supplement to this Lease Agreement shall be subject to approval by the New Mexico State Board of Finance and shall not become effective prior to such approval. No amendment shall be binding upon either Party unless it is in writing, signed by both Parties, and approved by the New Mexico State Board of Finance.

20.16 Appropriations. All obligations of Landlord under this Lease Agreement, including without limitation any obligation to reimburse Tenant for expenditures pursuant to Article VII, are subject to and contingent upon the availability of funds lawfully appropriated for such purposes by the Board of County Commissioners of Otero County. Nothing in this Lease Agreement shall be construed to create any obligation of Landlord beyond funds lawfully appropriated and available for the purposes herein, nor shall any provision of this Lease Agreement be construed as creating a general obligation or pledge of the full faith and credit of Otero County.

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IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease Agreement on the date first set forth above.

LANDLORD:

OTERO COUNTY, STATE OF NEW MEXICO

____

By: Pam Heltner
Its: County Manager

Tenant:

MANAGEMENT & TRAINING CORPORATION, a Delaware corporation

____

By: Dan Marquardt
Its: President

Exhibit "A"
Leased Premises

Exhibit "B"
Tenant Estoppel Certificate

TO: ______________________________ **DATE:** ______________________________

RE: ____

____

____

Gentlemen:

The undersigned, Management & Training Corporation ("Tenant"), has been advised that the Lease Agreement has been or will be assigned to you as a result of your financing of the above-referenced property, and as an inducement therefore hereby confirms the following:

1. That it has accepted possession and is in full occupancy of the Leased Premises, that the Lease Agreement is in full force and effect, that Tenant has received no notice of any default of any of its obligations under the Lease Agreement, and that the Effective Date of the Lease Agreement was May 19, 2026.

2. That the improvements and space required to be furnished according to the Lease Agreement have been completed and paid for in all respects, and that to the best of Tenant's knowledge, Landlord has fulfilled all of its duties under the terms, covenants and obligations of the Lease Agreement and is not currently in default there under.

3. That the Lease Agreement has not been modified, altered, or amended, and represents the entire agreement of the parties, except as follows:

   ____

   ____

4. That there are no offsets, counterclaims or credits against rentals, nor have rentals been prepaid or forgiven, except as provided by the terms of the Lease Agreement.

5. That said rental payments commenced on the Effective Date, and the Lease Term expires on December 31,2036. No security deposits were paid to Landlord under the Lease Agreement.

6. That Tenant has no actual notice of a prior assignment, hypothecation or pledge of rents of the Lease Agreement, except: ________________________

   ____.

7. That this letter shall inure to your benefit and to the benefit of your successors and assigns, and shall be binding upon Tenant and Tenant's heirs, personal representatives, successors and assigns. This letter shall not be deemed to alter or modify any of the terms, covenants or obligations of the Lease Agreement.

The above statements are made with the understanding that you will rely on them in connection with the purchase of the above-referenced property.

Very truly yours,

Management & Training Corporation, a Delaware corporation

____
By: __________________________
Its: _____________________________
Date of Signature: _________________