

# **VISITOR'S INFORMATION CENTER LEASE FRANKLIN COUNTY**

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This is a legally binding contract, if not understood, consult an attorney

**THIS LEASE IS MADE AND ENTERED INTO** by and through the Board of County Commissioners of Franklin County, Kansas, on behalf of Franklin County, Kansas, hereinafter referred to as "Landlord" and the Franklin County Historical Society, hereinafter referred to as "Tenant" on this the \_\_\_\_ day of \_\_\_\_\_, 2022, which is the effective date of this Lease. This Lease supersedes any prior agreement or understanding of the parties with regard to the leasing of the Premises.

## **WITNESSETH**

In consideration of the obligation of Tenant to pay rent and in consideration of the other terms, covenants and conditions hereof, Landlord hereby leases to Tenant, the Premises to have and to hold for the lease term specified herein, all upon the terms and conditions set forth in this Lease.

## **BASIC PROVISIONS**

1. The following basic provisions shall be construed in conjunction with, and limited by reference thereto in other provisions of this Lease:

A. "Landlord" – The Board of County Commissioners of Franklin County, Kansas, on behalf of Franklin County, Kansas. Address of Landlord: Franklin County Courthouse, 315 S. Main St., Ottawa, Kansas 66067.

B. "Tenant" – Franklin County Historical Society. Address of Tenant: P.O. Box 145, Ottawa, KS 66067

C. "Premises" – Certain portions of the building commonly known as the Franklin County Visitors Information Center, which is located at 2011 East Logan, Ottawa, KS 66067. Exclusive Premises to Tenant shall be the following: the entire second floor, the entire basement, and the entire ground floor, except that the ground floor Meeting Room (as labeled in the attachment) is not part of these rented Premises, and the restrooms, northeast entryway and parking are a non-exclusive part of Premises which are shared with the other tenant at this address. Please see Attachment A for a specific layout of the Premises. For purposes of this Lease, the Premises shall not include any future storage buildings constructed on the Visitor's Information Center property or any future additions to the Visitor's Information Center that occur after the effective date of this Lease.

D. "Lease Term" – A period of five (5) years commencing on the 1<sup>st</sup> day of \_\_\_\_\_, 2022, hereinafter referred to as the "Commencement Date," and ending on the \_\_\_\_ day of

\_\_\_\_\_, 2027, hereinafter referred to as the “Expiration Date,” unless sooner terminated in accordance with the provisions of this Lease. Provided Tenant remains in compliance with the provisions of this Lease, Tenant shall have the right to renew for three (3) subsequent five-year lease terms. Tenant shall exercise the right to renew by delivering to landlord written notice that it is exercising the option, with such notice to be given not less than 60 days prior to the expiration date of the then current lease term.

E. “Base Rent” - Rent shall be paid at the rate of Twelve Hundred Dollars (\$1200.00) annually. Rent shall be paid to the Landlord by tendering payment to the Franklin County Clerk, located in the Franklin County Courthouse, 315 S. Main St., Ottawa, KS 66067.

### **PAYMENT OF RENT**

2. Tenant agrees to pay Base Rent in monthly installments, in advance, on the 1<sup>st</sup> day of \_\_\_\_\_, 2022, and subsequently on the first day of each and every month during the term of this Lease, with proration for any partial month’s occupancy, without demand, setoff, or deduction. Any rent payment not received by Landlord within ten (10) days after its due shall be subject to a delinquency charge of five percent (5%) of the amount due for each full or partial calendar month the rent remains unpaid. Failure by Tenant to pay the late charge within ten (10) days after receipt of notice from Landlord that it is due shall, in addition to any other default, constitute a default of this Lease by Tenant.

### **QUIET ENJOYMENT**

3. Landlord hereby covenants that Tenant, upon paying rent as provided, and performing all covenants and agreements contained in this Lease to be performed by Tenant, shall peacefully and quietly have, hold, and enjoy the Premises. Nothing in this section shall prevent Landlord from performing alterations or repairs on the building, nor shall performance of such alterations or repairs be construed as a breach of the covenant by Landlord.

### **ASSIGNMENT-SUBLETTING**

4. Tenant shall not sublet, assign, transfer, mortgage, pledge, hypothecate, or encumber this Lease or any interest herein or any portion hereof, or permit or suffer any other person (the employees, agents, servants, and invitees of Tenant excluded) to occupy or use the Premises, or any portion thereof, without the prior written consent of Landlord. In lieu of granting its consent to a subletting or assignment, Landlord may, at its sole option, terminate this Lease by notice to Tenant given within five (5) business days from the receipt of request for permission to sublet or assign. Such termination shall be effective on the same date as the commencement date of the proposed subletting or assignment. Tenant shall have the right to negate any such termination by withdrawing its request within five (5) days after receipt of Landlord’s notice of termination, in which event the Lease shall remain in full force and effect. In the event of any assignment or subletting, Tenant shall remain the principal obligor under all covenants of this Lease, and by accepting any assignment or subletting, an assignee or subtenant shall become bound by and shall perform, and shall become entitled to the benefit of, all of the terms, conditions, and covenants

by which the Tenant is bound. A consent to any such assignment, subletting, occupation, or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation or use by another person. Any such assignment or subletting without such consent shall be void, and shall, at the option of the Landlord constitute a default under the Lease. This Section shall not preclude Tenant from periodically renting the facility or meeting rooms for community or private events.

### **USE**

5. Tenant shall only use and occupy the Premises for purposes of conducting Historical Society business and for no other purpose without the Landlord's prior written consent. Tenant agrees to maintain the Premises in a clean, orderly, healthful condition and to comply with all laws, ordinances, rules and regulations of all governmental agencies. Tenant will not use the Premises for any unlawful, disrupting, or extra-hazardous purpose; or any public or private nuisance; or to disturb the quiet enjoyment of any other tenant; or permit any operation which might emit offensive odors into other portions; or use any apparatus which might make undue noise or set off vibrations; or permit anything which would increase the fire insurance rate or other insurance rates on the building or contents, Tenant will not permit the Premises to be used for any purpose that, in Landlord's opinion, impairs the reputation or character of the building. Tenant shall not install nor permit the installation of any signs in or upon the Premises that are visible from the exterior thereof without the written consent of Landlord (such consent shall not be unreasonably withheld, provided that the signs are promoting the Franklin County Historical Society Archives). Tenant shall not obstruct or use the sidewalks, entries, passages, vestibules, halls, elevators, or stairways of the building for any purpose other than ingress or egress to and from the Premises, or throw, or sweep, or put anything out of the windows or doors, or in the passages or corridors of the building.

### **REPAIRS AND IMPROVEMENTS**

6. Tenant has inspected and is satisfied with the physical condition of the Premises and services provided and Tenant's possession shall be conclusive evidence of such fact. Tenant acknowledges that there have been no representations, agreements or promises to decorate, alter, repair or improve the Premises either before or after the execution of this Lease, other than those specifically mentioned in this Section. Upon termination or expiration of this Lease, Tenant will surrender the Premises to Landlord in the same condition as it was upon Tenant's entry, ordinary wear and tear excluded. Any damage to the Premises or building, not covered by the proceeds from Landlord's fire and extended coverage insurance, resulting from acts or neglect of Tenant, his employees, agents, servants, invitees or guests, shall be repaired or replaced at Tenant's sole expense. Landlord has agreed to install HVAC on the second floor of the Premises and said HVAC shall be installed prior to Tenant taking possession of the Premises. Landlord will also ensure that distinct door locks are provided on the doors to the Tenant's Premises.

## **ALTERATIONS**

7. Tenant shall not alter or change the Premises without prior written consent of Landlord (such consent shall not be unreasonably withheld), and, unless otherwise provided in writing, all work shall be done by or under the direction of Landlord at Tenant's sole expense by a contractor employed by Tenant. Any alteration shall be of a quality equal to or exceeding the building standard. Landlord reserves the right to require any contractor to provide lien waivers or payment or performance bonds and liability insurance and such other instruments as may be necessary to protect Landlord against any loss, as shall be determined by Landlord in its sole discretion. Any alterations, physical additions or improvements, except movable office furniture and any installed or mounted artifacts placed by Tenant, shall at once become property of Landlord and shall be surrendered to Landlord upon termination of this Lease. Landlord, at Landlord's option, may require Tenant to restore the Premises to its original condition at the termination of this Lease, normal wear and tear excluded. Notwithstanding anything herein to the contrary, any increase in Ad Valorem taxes or insurance premiums resulting from such improvements shall be the sole responsibility of Tenant.

## **DESTRUCTION OF PREMISES**

8. A. Partial or total destruction of the Premises will not render this Lease void or voidable, nor will it terminate the Lease except as herein provided. If Premises are partially or totally destroyed during the term of the Lease, and the cost of restoration or repair would not exceed thirty-three and one-third percent (33 1/3 %) of the total reasonable estimated replacement costs of all improvements on the leased Premises, then the Landlord shall be obligated to restore or repair the Premises to their condition prior to the damage, injury, or destruction. Such restoration or repair shall be commenced within thirty (30) days after the damage, injury, or destruction has occurred and shall be completed with due diligence by the Landlord, but no longer than one hundred eighty (180) days from the date of damage, injury, or destruction. If, however, such restoration or repair would exceed thirty-three and one-third percent (33 1/3 %) of the total reasonable estimated costs of replacement of all improvements on the leased Premises, then the Landlord may, but need not, restore or repair the leased Premises. In either case as set forth in this paragraph, the Landlord shall provide Tenant with written notice of Landlord's intention to restore or repair or not to restore or repair within fifteen (15) days after any such damage, injury, or destruction shall occur.

B. If the leased Premises become so destroyed that the costs of restoration or repair would exceed thirty-three and one-third percent (33 1/3 %) of the total reasonable estimated replacement costs of all improvements on the leased Premises, and if the Landlord, under those circumstances elects not to restore or repair the leased Premises, then the Tenant may elect to restore or repair said Premises. In such event of the Tenant's restoring or repairing the leased premises, the Landlord shall assign to the Tenant any rights accruing to the Landlord as a result of insurance covering the injury or damages suffered by the leased Premises. If the Tenant elects to restore or repair the damaged or destroyed Premises, the work shall be commenced by the Tenant within forty-five (45) days after the Landlord has elected not to restore or repair the leased Premises, and shall be completed with due diligence, barring delays beyond the control of the Tenant. In the event of such restoration or repair by the Tenant, the Tenant shall

reoccupy the leased Premises for the purposes set forth in this Lease immediately upon the completion of the restoration or repair.

C. If the provisions of this Section which give Landlord or Tenant an election to restore or repair the leased Premises become applicable, and neither Landlord nor Tenant elects to do so, then in such case this Lease shall cease and terminate on the day after the Tenant would have been required to commence the restoration or repair work had it elected to do so.

D. Irrespective of the rental payment provisions set forth in Section 2, if the leased Premises ever become totally unusable by Tenant because of injury or damage thereto, or destruction thereof, then the basic rental payments herein provided, shall be abated during the period that such unusability occurs.

E. During any period of reconstruction or repair of the leased Premises, Tenant shall continue the operation of its business on the leased Premises to the extent such operation is reasonably practicable from the standpoint of good business policy.

F. If, by reason of any such damage, injury, or destruction and/or repair or reconstruction of the same, there is a substantial interference with the operations of the business of Tenant in the demised Premises, having regard to the extent to which Tenant may be required partially or wholly to discontinue its business in the demised Premises, and if, as a result of such interference with Tenant's business or of such discontinuance of Tenant's business in the demised Premises, in any month during which such interference with, or discontinuance of Tenant's business shall occur, the guaranteed rent for that month shall be abated, and such abatement shall apply to those months wholly or partially occurring during the period commencing with such destruction or damage and ending with the completion of such work, repair, and/or construction as shall be necessary to restore the Premises.

G. If destruction of the Premises is because of the negligence or misconduct of Tenant, then Tenant will not be able to terminate this Lease and the rent abatements provided for above will not apply.

## **MAINTENANCE/UTILITIES**

9. A. All structural and/or mechanical maintenance of the Visitor's Information Center, including HVAC and plumbing, shall be the responsibility of the Landlord. Landlord is also responsible for the ongoing routine maintenance of the portions of the Visitor's Information Center that fall outside of the leased Premises. This includes all exterior maintenance of the Visitor's Information Center, including maintenance of the parking lot and grounds. Regarding the interior of the Visitor's Information Center, Landlord shall be responsible for the routine maintenance of the bathrooms and the conference room. Tenant shall be responsible for the routine maintenance of the areas located within the leased Premises. For purposes of this Section, routine maintenance is considered to be cleaning, replacing lightbulbs, filters, glass, paint, ceiling tiles, carpet and/or other items constituting Tenant finish.

B. Landlord shall be responsible for paying for the following utilities to the Premises: electricity, water, gas and trash. As referenced above, the Premises does not include any future storage buildings or additions to the Visitor's Information Center that occur after the effective date of this Lease. Utilities associated with future storage buildings or additions to the Visitor's Information Center shall be the sole responsibility of the Tenant. Tenant shall be responsible for paying all fees associated with its phone and internet connection.

### **ENTRY**

10. Landlord, its officers, agents and representatives shall have the right to enter into and upon the Premises at reasonable times to inspect the same or clean or make repairs or alterations or additions as Landlord may deem necessary, or for any purpose whatsoever relating to the safety, protection or preservation of the building, and Landlord may and shall at all times, have master keys or pass keys to the Premises. Tenant shall not change any locks or install locks in the doors of the Premises, or install other devices or systems which would restrict access to the Premises, without Landlord's prior written consent. If Tenant shall not be present to open and permit entry into the Premises then Landlord may enter the same by master key or pass key or may forcibly enter the same without rendering Landlord liable therefore, provided that during such entry Landlord shall take reasonable care of Tenant's property. Landlord shall have the right at any time for the purposes of inspection, maintenance, adjustment and balancing the controls of the HVAC systems, repair, environmental audits or abatement to erect, use, maintain, repair, replace or relocate pipes, ducts, wiring conduits and similar devices in and through the Premises and to enter upon the Premises for the purpose of the performance of any such work whether same are used in the supply of services to the Tenant or the other occupants of the building. Landlord shall further have the right to enter the Premises at reasonable hours to exhibit the same to prospective purchasers, lenders or tenants and to inspect the Premises to see that Tenant is complying with all of its obligations hereunder, or to make repairs or modifications to any adjoining space or to the building; however, recognizing Tenant's interest in safeguarding the artifacts under its protection, said right to enter and exhibit shall be subject to providing Tenant with reasonable opportunity to have its agent, representative or staff member present for the duration of all such exhibitions.

### **CONDEMNATION**

11. Should the Premises or the building be taken or condemned in whole or in part under the power of eminent domain, or sold or disposed of under threat of condemnation, then Landlord shall receive the entire award for such taking or shall receive the entire payment made in lieu of condemnation and Tenant shall have no claim thereto: provided, however, Landlord shall not be entitled to any award made directly to Tenant for loss of Tenant's business, depreciation to and cost of removal of stock and office furniture. In the event of total condemnation or conveyance in lieu thereof the Lease term shall terminate on the date the condemning authority takes possession of the building, and in the event of a partial taking or conveyance in lieu thereof the Landlord may

at its option, terminate the Lease Term as of the date of the taking of possession or the partial taking by the condemning authority.

## **LIABILITY**

12. A. Landlord shall not be liable to Tenant for any loss or damage to any person or property, including the person and property of Tenant, its employees, agents, servants, invitees or guests, occasioned by theft, the acts of any other tenant, or the acts of any employee or agent of any other tenant, leaks, casualty, rain, water, condensation, fire, acts of God, public enemy, injunction, riot, strike, insurrection, picketing, mob action, bombing, explosion, war, court order, latent defects, requisition or order of government authority, the construction, repair, maintenance, or alteration of any part, improvement of the building as a whole, or any other cause not due to Landlord's willful act or gross negligence. Tenant shall indemnify Landlord and hold it harmless from all suits, actions, damages, liability and expense in connection with loss of life, bodily or personal injury or property damage arising from, or out of any occurrence in, upon, at, or from the Premises or the occupancy or use by Tenant of the Premises or any part thereof or occasioned wholly or in part by any action or omission of Tenant, its employees, agents, servants, invitees or guests. If Landlord shall be made a party to any action commenced against Tenant, the Tenant shall protect and hold Landlord harmless and shall pay all costs, expenses and attorney's fees incurred by Landlord.

B. Landlord shall, throughout the term of this Lease, maintain fire and extended coverage insurance on the Premises in an amount equal to the full insurable value thereof, subject to any allowances for coinsurance rating provisions utilized by Landlord. Landlord shall also carry owner's public liability and property damage insurance coverage on the Premises with limits not less than one million dollars (\$1,000,000) combined single limits. Subject to the provisions hereof, all such insurance shall be for the sole benefit of the Landlord and under his sole control.

C. Tenant, at Tenant's cost and expense, shall maintain comprehensive general liability insurance with contractual and cross liability coverage protecting and indemnifying Landlord and Tenant against any and all claims of liability for injury or damage to persons or property or for the loss of life or of property occurring upon, in, or about the Premises, and the public portions of the building caused by, or resulting from, any act or omission (in whole or in part) of Tenant, its employees, agents, servants, invitees or guests; such insurance to afford minimum protection during the term of this Lease, of not less than one million dollars (\$1,000,000) for personal injury to any one person, including death, and one million dollars (\$1,000,000) for personal injury, including death to more than one person arising out of any one occurrence and not less than one million dollars (\$1,000,000) with respect to property damage. All such insurance shall be effected under valid and enforceable policies: shall be issued by insurers of recognized responsibility and authorized to do business in the state; shall name the Landlord as an additional insured and shall contain a provision whereby the insurer agrees not to cancel without thirty (30) days prior written notice to Landlord. On or before the Commencement Date, Tenant shall furnish Landlord with certificates evidencing the aforesaid insurance coverage,

together with evidence of payment of the premium, and renewal policies or certificates therefore shall be furnished to Landlord at least thirty (30) days prior to the expiration date of each policy for which a renewal certificate was therefore furnished .

D. Notwithstanding the fact that any liability of Tenant to Landlord may be covered by Tenant's insurance, Tenants liability shall in no way be limited by the amount of its insurance recovery.

E. Landlord hereby waives all claims for recovery from Tenant for any loss or damage to Landlord or its property insured under valid and collectible insurance policies to the extent of the proceeds collected under such insurance policies; provided, however, that this waiver shall be effective only as allowed by the applicable insurance policy of Landlord. All merchandise and property in or about the Premises shall be at Tenant's risk, and Tenant does hereby now and forever release Landlord from any claims for damages thereto or any of same however caused.

### **HOLDING OVER**

13. If Tenant retains possession of the Premises after the expiration or termination of the Lease Term or any extension thereof by lapse of time or otherwise, Tenant shall pay Landlord rent at a rate equal to 150% of the rate payable for the month immediately preceding the expiration or termination of the Lease Term, computed on a per month basis for each month or part thereof without reduction for any such partial month that Tenant remains in possession. In addition thereto, Tenant shall pay Landlord all damages, consequential as well as direct, and for all attorney's fees and expenses incurred by Landlord in enforcing its rights hereunder sustained by reason of Tenant's retention of possession . Such retention of possession shall constitute a month-to-month lease. The provisions of this section shall not exclude Landlords right of re-entry or any other right hereunder if Landlord has not elected to renew this Lease, nothing herein contained shall preclude Landlord from terminating such retention of possession by service of thirty (30) days' notice as provided by law. The acceptance by Landlord of any payment of rent subsequent to the commencement of such retention of possession by Tenant shall not be deemed to constitute a waiver by Landlord of any of the provisions of this section.

### **RULES AND REGULATIONS OF BUILDING**

14. Tenant, its employees, agents, servants, invitees and guests will comply fully with all regulations of the Rules and Regulations of the building as may have been established or which may hereafter be established by Landlord. Landlord shall at all times have the right to change such Rules and Regulations or to amend them in such reasonable manner as may be deemed advisable for safety, care, cleanliness, exterior and interior appearance of the premises and building, and for the preservation of good order and control therein and throughout. All of the Rules and Regulations, changes and amendments thereto will be forwarded to Tenant, and after Tenant's notice of same, Tenant shall carry out and observe all of such rules, regulations, changes and amendments. Tenant shall save and hold Landlord harmless from expense or damage resulting from failure to do so.



## **RIGHTS RESERVED AND RETAINED BY LANDLORD**

15. Landlord retains and reserves unto itself all rights not expressly granted to Tenant in this Lease. In addition, Landlord or Landlord's Agent reserves the following rights exercised without liability to Tenant for (i) damage or injury to property, person or business; (ii) causing an actual or constructive eviction, from the Premises: or (iii) disturbing Tenant's use or possession of the Premises through the following actions:

- A. To name the building and to change the name or street address of the building;
- B. To install and maintain all signs on the exterior and interior of the building and premises (with the exception of signs promoting the Franklin County Historical Society Archives, which must be approved by Landlord prior to installation); and
- C. To grant utility easements or other easements in, or re-plat, subdivide or make other changes in the legal status of the land underlying the building or the premises as Landlord shall deem appropriate in its sole discretion, provided such changes do not substantially interfere with Tenant's use of the Premises for the permitted purpose.

## **SUBORDINATION AND ATTORNMENT**

16. Tenant hereby subordinates all of Tenant's rights, title and interest under this Lease to the lien of any existing and all future mortgages and deeds of trust on the building. Tenant agrees to execute and deliver promptly such agreement and other documents as Landlord may request to confirm and acknowledge the foregoing subordination agreement, and Tenant hereby appoints Landlord as Tenant's agent to execute and deliver all such agreements and other documents for and on behalf of Tenant. In the event the lien of any such mortgage or deed of trust is foreclosed or title to the building is conveyed in lieu of foreclosure. Tenant hereby agrees to attorn to the purchaser of the building at any foreclosure sale and the grantee of any such deed and to confirm this Lease and recognize such purchaser or grantee as the Landlord hereunder. So long as Tenant is not in default, this Lease shall remain in full force and effect for the full term hereof.

## **ESTOPPEL CERTIFICATE**

17. Tenant shall within ten (10) days after written request by Landlord, deliver to Landlord in writing an executed statement certifying that this Lease is unmodified and in full force and effect, or in the case of lease modifications, that the Lease as modified is in full force and effect, the dates to which rent or other charges have been paid, the amount, if any, of prepaid rent and deposits paid by Tenant to Landlord, the nature and kind of concessions, rental or otherwise, if any, which Tenant has received or is entitled to receive, and that Landlord is not in default under any provision of this Lease, or if in default, a detailed description thereof Tenant hereby appoints Landlord as Tenant's attorney-in-fact with full power and authority to execute and deliver in the name of Tenant any such certificate in the event Tenant fails to do so on request.

## DEFAULT AND REMEDIES

18. A. In the event: (a) Tenant fails to comply with any term, provision, condition, or covenant of this Lease, including the payment of all monies due; (b) Tenant deserts or vacates the Premises for thirty (30) consecutive days or more without notice to Landlord and without making the current rental payment; (c) Any petition is filed by or against Tenant under any Section or Chapter of the Federal Bankruptcy Act, as amended, or under any similar law or statute of the United States or any state thereof; (d) Tenant becomes insolvent or makes a transfer in fraud of creditors; (e) Tenant makes an assignment for benefit of creditors; or (f) A receiver is appointed for Tenant or any of the assets of Tenant; then in any of such events, Tenant shall be in default and Landlord shall have the option to do any one or more of the following: (i) Upon ten (10) day's prior written notice, excepting the payment of rent for which no demand or notice shall be necessary in addition to and not in limitation of any other remedy permitted by law, to enter upon the Premises or any part thereof, either with or without process of law, and to expel, remove and put out Tenant or any other persons who might be thereon, together with all personal property found therein; or (ii) Landlord may terminate this Lease, or it may from time to time, without terminating this Lease, re-let said Premises or any part thereof for such term or terms and at such rent and upon such other term and conditions as Landlord in its sole discretion may deem advisable, with the right to repair, renovate, remodel, redecorate, alter and change said Premises. At the option of Landlord, rents received by Landlord from such reletting shall be applied first to the payment of any indebtedness from Tenant to Landlord other than rent and additional rent due hereunder; second, to the payment of any cost and expenses of such reletting, including, but not limited to, attorney's fees, advertising fees and real estate brokerage fees, and to the payment of any repairs, renovations, remodeling, redecorations, alterations and changes in the Premises; third, to the payment of rent and additional rent due and payable hereunder and interest thereon, and if, after applying said monies there is any deficiency in the rent and additional rent and interest to be paid by Tenant under this Lease, Tenant shall pay any such deficiency to Landlord and such deficiency shall be calculated and collected by Landlord monthly. No such re-entry or taking possession of said Premises shall be construed as an election on Landlord's part to term this Lease unless a written notice is given to Tenant.

B. If Tenant vacates or abandons the Premises any property that Tenant leaves on the Premises shall be deemed to have been abandoned and may either be retained by Landlord as the property of Landlord or may be disposed of at public or private sale in accordance with applicable law as Landlord shall determine in its sole discretion. The proceeds of any public or private sale of Tenant's property, or the then current fair market value of any property retained by Landlord, shall be applied by Landlord against (i) the expenses of Landlord for removal, storage or sale of the property; (ii) the arrears of rent or future rents payable under this Lease; and (iii) any other damages to which Landlord may be entitled hereunder.

C. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach and default. Should Landlord at any time terminate this Lease by reason of any default, in addition to any other remedy it may have, it

may recover from Tenant the amount at the time of such termination of the excess of the amount of rent reserved in this Lease for the balance of the term hereof over the then reasonable rental value of the Premises for the same period. Landlord shall have the right and remedy to seek redress in the courts at any time to correct or remedy any default of Tenant by injunction or otherwise, without such resulting or being deemed a termination of this Lease, and Landlord, whether this Lease has been or is terminated or nor, shall have the absolute right by court action or otherwise to collect any and all amounts of unpaid rent or unpaid additional rent or any other sums due from Tenant to Landlord under this Lease which were or are unpaid at the date of termination. In case it should be necessary for Landlord to bring any action under this Lease, to consult or place said Lease or any amount payable by Tenant thereunder with an attorney concerning or for the enforcement of any of Landlord's rights hereunder, then Tenant agrees in each and all such cases to reimburse Landlord for its reasonable attorney's fees. All other remedies herein provided shall be cumulative to all other rights or remedies herein given to Landlord by law. A waiver by Landlord of any default by Tenant in the performance of any of the covenants, terms or conditions hereof shall not be considered or treated as a waiver of any subsequent or other default as to the same or any other matter. If Tenant shall default in the performance of any covenant, agreement, provision or condition herein contained, Landlord, without thereby waiving such default, may perform the same for the account and at the expense of Tenant, without notice in the case of emergency. Bills for any expense, incurred by Landlord in connection with any such performance by Landlord for the account of Tenant, as well as bills for any property, material, labor or services provided, furnished or rendered, or caused to be provided, furnished or rendered, by Landlord to Tenant may be sent by Landlord to Tenant monthly, or immediately, at Landlord's option, and shall be due and payable by Tenant upon notice of the amount or amounts and the amount or amounts thereof shall be deemed to be Additional Rent under this Lease. Tenant shall promptly give to Landlord notice as herein provided of any defects in the Premises including the failure of Landlord to do anything required to be done by law or by the terms of this Lease or the doing or permitting to be done anything prohibited by law or by the terms of this Lease. Unless Tenant has given said notice and Landlord has failed to commence to cause the cure of said defect within ten (10) days after receipt of said notice, Tenant shall have no right to terminate the said Lease or to declare a forfeiture and in no event shall rent abate except as in this Lease specifically provided. Landlord shall not be obligated to notify Tenant of the due date of rent nor demand payment thereof on its due date, the same being expressly waived by Tenant. The acceptance of any sums of money from the Tenant that is less than the actual amount owed is considered a partial payment and does not relieve Tenant from the full amount that is owed Landlord.

### **SURVIVAL OF OBLIGATION**

19. The obligation of Tenant with respect to the payment of rent accrued and unpaid during the term of obligation of the Lease shall survive the expiration or earlier termination of the Lease.

## HEADLINES

20. The titles and headings in this Lease are used only to facilitate reference and in no way to define or limit the scope or intent of any provisions of this Lease.

## ENTIRE AGREEMENT – AMENDMENTS

21. This Lease constitutes the entire agreement between the parties with respect to the Premises and this Lease covers, merges and includes all agreements, oral or written, between the parties hereto whether made prior to or contemporaneous with the execution of this Lease. This Lease cannot be modified or changed by any verbal statement, promise or agreement and no modification, change or amendment shall be binding on the parties unless it shall have been agreed to in writing. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the person or persons may require.

## SEVERABILITY

22. In the event any provisions of this Lease may be officially found to be contrary to law, or void as against public policy or otherwise, such provisions shall be either modified to conform to the law or considered severable with the remaining provisions hereof continuing in full force and effect.

## SUCCESSORS AND ASSIGNS

23. It is agreed that all the covenants, agreements and conditions herein contained shall extend to, and be binding upon the respective successors, heirs, executors, administrators, assigns, receivers or other personal representatives of the parties to this Lease.

## NOTICES

24. Any notices required hereunder shall be in writing and shall be deemed given when delivered in person or when mailed, by certified or registered first class mail, postage prepaid, return receipt requested, addressed to the parties at the addresses below or to such other addresses of which a party shall have notified the other in accordance with the provisions of this Section.

If to the Tenant: Diana Staresinic-Deane  
P.O. Box 145  
Ottawa, KS 66067

If to the Landlord: Derek L. Brown  
1428 South Main Street, Suite 2  
Ottawa, KS 66067

## TIME OF THE ESSENCE

25. Time is of the essence of this Lease agreement.

## SUPPLEMENTAL PROVISIONS

26. Landlord and Tenant further agree as follows:

A. No payment by Tenant or receipt by Landlord of a lesser amount than the rent provided for in this Lease shall be deemed to be other than on account of the earliest due rent. Nor shall any endorsement or statement on any check or letter accompanying any check or payment as rent be deemed in accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of the rent or pursue any other remedy provided for in this Lease. In connection with the foregoing, Landlord shall have the absolute right in its sole discretion to apply any payment received from Tenant to any amount or other payment of Tenant then not current and due or delinquent. The receipt and acceptance by Landlord of delinquent rent shall not constitute a waiver of any other default, but shall constitute only a waiver of timely payment for the particular payment involved. Any waiver by Landlord of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of the Lease.

B. If any provision contained in an addendum to this Lease is inconsistent with any other provision herein, the provision contained in the addendum shall control, unless otherwise provided in the addendum.

C. If any action or proceeding is brought by either party pertaining to or arising out of this Lease, the prevailing party shall be entitled to recover all costs and expenses, including reasonable attorney's fees incurred on account of such action or proceeding.

D. Landlord may from time to time seek from one or more financial institutions some part or all of the funds to finance improvements on the property of which the Premises are a part. Neither Landlord nor Tenant shall unreasonably withhold its consent to changes or amendments to the Lease requested by the financing institution on Landlord's interest, so long as these changes do not alter the basic business terms of this Lease or otherwise materially diminish any rights or any obligations of the party from whom consent to such change or amendment is requested.

E. The parties agree to promptly sign all changes or amendments reasonably requested to give effect to the provisions of this Lease.

F. This Lease shall be construed and enforced in accordance with the laws of the State of Kansas.

G. Notwithstanding anything contained in the Lease to the contrary, Tenant shall have no claim and hereby waives the right to any claim against Landlord for money damages by reason of any refusal, withholding or delaying by the Landlord of any consent, approval or statement of satisfaction, and

in such event, Tenant's only remedies shall be an action for specific performance, injunction or declaratory judgment to enforce any right to such consent, etc.

H. If Tenant is a corporation or partnership, each individual signing this Lease on behalf of the Tenant represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of the corporation or partnership and this Lease is binding on Tenant in accordance with its terms. Tenant shall, at Landlord's request deliver a certified copy of a Resolution of its Board of Directors or other partner(s) authorizing such execution.

I. Financial Statement: Any person signing this Lease on behalf of Tenant hereby personally represents and warrants to Landlord any financial statements delivered to Landlord prior to the execution of this Lease properly reflect the true and correct value of all the assets and liabilities of Tenant. Tenant acknowledges upon entering into this Lease, Landlord is relying upon the accuracy and completeness of such statements.

J. As the premises is a county-owned building, and in accordance with current law, the premises constitutes a smoke-free building. Tenant agrees that Tenant shall not, nor shall Tenant permit any employee of Tenant, nor any invitee, guest, or other individual on or in the area occupied by Tenant, to smoke. A pattern of violations of this sub-section shall be cause for termination of the Lease.

K. Tenant shall have no responsibility to assist or further the purposes of the Franklin County Visitor Center. While the Visitor Center is also a tenant on the same property, nothing herein shall be construed so as to imply a responsibility of Tenant for aid or assistance of said visitor center.

**IN WITNESS WHEREOF**, the parties have executed this Lease on the date and year below written.

Franklin County

Franklin County Historical Society

\_\_\_\_\_  
Name:  
Title: Chair, Franklin County Board of Commissioners  
Date:

\_\_\_\_\_  
Name: Diana Staresinic-Deane  
Title: Executive Director  
Date: