

COMMERCIAL LEASE AGREEMENT

THIS COMMERCIAL LEASE AGREEMENT (this "Lease") is made as of the _____ day of _____, 2022, by and between the **BOROUGH OF ROBESONIA, BERKS COUNTY, PENNSYLVANIA**, with municipal offices located at 75 South Brooke Street, Robesonia, Pennsylvania 19551 (the "Borough"),

AND

ROBESONIA COMMUNITY LIBRARY, with a mailing address of 75A South Brooke Street, Robesonia, Pennsylvania 19551 (the "Tenant").

BACKGROUND

The Borough is the owner of certain real property known as 75 South Brooke Street, Robesonia, Berks County, Pennsylvania 19551, Property ID No. 74434712953048 and parking lot located at West Ruth Avenue, Robesonia, Berks County, Pennsylvania 19551, Property ID No. 74434712952104, (collectively, the "Robesonia Borough Municipal Building").

The Tenant has leased from the Borough and the Borough has agreed to continue to lease to the Tenant certain premises in the Robesonia Borough Municipal Building, consisting of approximately two thousand square feet (2,000 sq. ft.) (collectively, the "Leased Premises"), along with the use of additional shared facilities in common with the Borough employees and customers which include parking spaces, restroom facilities, and the hallway (the "Common Area"). Specifically excluded from the Leased Premises is the Borough Hall space and associated Borough Hall facilities.

The Borough and the Tenant desire to enter into this Lease whereby the Borough, in consideration of the rents and covenants hereinafter mentioned, does demise and lease unto the Tenant, and the Tenant does lease from the Borough, the Leased Premises, upon the terms and conditions set forth in this Lease.

NOW THEREFORE, INTENDING TO BE LEGALLY BOUND, the Borough and the Tenant hereby agree as follows:

1. **Background.** The Background sections set forth above are true and correct and incorporated herein by reference thereto.

2. **Term of Lease.** This term of this Lease shall be for one (1) year, commencing on January 1, 2023 and ending on December 31, 2023 (the "Initial Term"). The Tenant shall have the option to extend the term of this Lease pursuant to the provisions of Section 5 in the event the Tenant is not in default of any terms of this Lease. The Initial Term and any renewal terms shall be referred to collectively as the "Term".

3. **Rent.** During the Initial Term, the Tenant shall pay to the Borough annual rent and additional charges in the amount of Thirty-Three Thousand Dollars (\$33,000.00). The amount of rent to be paid by the Tenant to the Borough during a renewal term shall be agreed upon by the parties in writing and shall be paid in equal monthly installments.

4. **Annual Contribution.** At the discretion of the Borough, the Borough shall make an annual contribution to the Tenant in the amount of Forty-Six Thousand Five Hundred

Dollars (\$46,500.00), which amount may change at the discretion of the Borough. The annual contribution is comprised of the following:

| | |
|---|--------------------|
| Annual cash donation paid by Borough to the Tenant (\$1,125.00 per month) | \$13,500.00 |
| Leased Premises (2,000 sq. ft. x \$12.00) Including water, sewer and trash | \$24,000.00 |
| CAM - Including snow removal, grass cutting and maintenance | \$4,800.00 |
| Electric - including heat and air conditioning | \$3,840.00 |
| Cleaning Service (rest rooms) | <u>\$360.00</u> |
| Total Contribution | \$46,500.00 |

5. **Option to Extend Lease.** The Borough grants the Tenant the option to extend this Lease for an additional one (1) year. To exercise this option, the Tenant shall give the Borough written notice of its option to extend this Lease on or before ninety (90) days prior to termination of this Lease. The Tenant may exercise this option only if the Tenant is not in default of the terms of this Lease. The Tenant shall lease the Leased Premises based upon renegotiated rental amounts and terms at that time.

6. **Security Deposit.** The Tenant has deposited \$0.00 with the Borough as security for the Tenant's performance of this Lease and no security deposit is due hereunder.

7. **Improvements by Borough.** The Tenant accepts the Leased Premises in its "AS IS" condition. The Borough does not need to provide any repairs or improvements to the Leased Premises before the term of this Lease begins.

8. **Improvements.** The Tenant may make alterations and improvements to the Leased Premises after obtaining the Borough's prior written consent. As a condition to such consent, the Borough shall be entitled to request that the Tenant provide proof of the following:

- (a) the Tenant has adequate financing to complete all proposed alternations or improvements;
- (b) all work shall be performed by licensed contractors;
- (c) all alterations and improvements in accordance with plans and specification to be supplied by the Tenant; and
- (d) any other documentation reasonably requested by the Borough.

At any time before this Lease ends, the Tenant may remove any of the Tenant's alterations and improvements, as long as the Tenant repairs any damage caused by attaching the items to or removing them from the Leased Premises. All alterations and improvements made to the Leased Premises that remain following the expiration of the Term shall become the property of the Borough.

9. **Tenant's Use of Leased Premises.** The Tenant shall use the Leased Premises for the purposes of operating a community library open to the public and providing instructional library research services principally for residents of the Borough, Heidelberg Township and North Heidelberg Township. The Tenant may also use the Leased Premises for other purposes

reasonably related to the main business purposes. Tenant's use of the Leased Premises shall comply with all applicable laws and regulations, including but not limited to the Public Library Code, 24 C.S. §§ 9301 *et. seq.*, and the Pennsylvania Child Protective Services Law, 23 Pa. C.S. §6301 *et. seq.* (2018).

10. **Borough's Representations.** The Borough represents that:

(a) At the beginning of the Initial Term, the Leased Premises will be properly zoned for the Tenant's stated use and will be in compliance with all applicable laws and regulations.

(b) The Leased Premises have not been used for the storage or disposal of any toxic or hazardous substance, and the Borough has received no notice from any governmental authority concerning removal of any toxic or hazardous substance from the Leased Premises.

11. **Utilities and Services.**

(a) The following utilities and services shall be included in the rent: water, sewer, trash, electric (heat and air conditioning), snow removal, grass cutting and maintenance.

(b) In the event that the Tenant shall leave the lights on in the Leased Premises at any time over night or during the weekends when the library is not open for business, the Borough may, in the Borough's sole discretion, charge the Tenant an additional fee of Ten Dollars (\$10.00) per occurrence.

(c) At the Borough's option, the Borough may install an electric thermostat for energy conservation purposes to regulate the temperature in the Leased Premises. The Borough shall have control of the thermostat with input from the Tenant's employees regarding the temperature setting of the Lease Premises during the Tenant's normal business hours.

12. **Maintenance and Repair of Common Area.** The Borough shall maintain all necessary repairs to the Common Area of the Robesonia Borough Municipal Building and adjacent premises and keep these areas safe and free of trash. This includes the on-site parking areas, restroom facilities, hallways, stairways, and elevators, sidewalks and driveways. The Tenant shall not be responsible to contribute to the cost of such maintenance and repairs.

13. **Maintenance and Repair of Leased Premises.**

(a) The Borough shall maintain and make all necessary repairs to the following parts of the Robesonia Borough Municipal Building in which the Leased Premises are located: roof, foundation and structural components, exterior walls, interior common walls, exterior doors and windows, plumbing system, sewage disposal system, electrical system, heating, ventilating, and air conditioning systems.

(b) The Tenant shall maintain and repair the Leased Premises and keep the Leased Premises in good repair, except for those items specified above as being the Borough's responsibility.

14. **Insurance.**

(a) The Tenant shall carry and maintain in full force and effect the following insurance in such amounts reasonably required by the Borough, subject to the following conditions limits with the Borough listed as an additional insured:

(i) Commercial Comprehensive General Liability covering:

- (A) bodily injury,
- (B) property damage,
- (C) damage to Leased Premises (fire legal liability), and
- (D) abuse or molestation.

(ii) Workers Compensation and Employer's Liability coverage meeting full statutory requirements.

The Tenant shall provide the Borough with an Accord 25 Certificate of Liability Insurance evidencing all of the above identified coverages and limits.

(b) The Borough and the Tenant release each other from any liability to the other for any property loss, property damage, or personal injury to the extent covered by insurance carried by the party suffering the loss, damage, or injury.

(c) The Tenant shall give the Borough a copy of all insurance policies that this Lease requires the Tenant to obtain.

(d) If the Tenant, at any time during the Term of this Lease, shall fail to secure or maintain the insurances required by this section, the Borough shall be permitted, but shall not be obligated, to obtain such insurance in the Tenant's name or as agent of the Tenant, and the Borough shall be compensated by the Tenant for the cost of the insurance premiums therefor upon demand made by the Borough, without setoff or deduction, and all such amounts so paid by the Borough shall become additional rent until paid to the Tenant to the Borough.

15. **Indemnity.**

(a) The Tenant covenants to the Borough that the Tenant shall protect, indemnify and hold harmless the Borough and the Borough's employees, servants, agents and representatives, and their respective heirs, representatives, successors and assigns, of and from any and all loss, damage, cost, expense, penalty or charge suffered or incurred by the Borough by reason of:

(1) Any negligent act or omission by, or willful misconduct of the Tenant or any of the Tenant's employees, servants, agents, representatives, contractors, invitees, detainees or any individual with any business at the Leased Premises.

(2) Any and all claims, losses, costs, damages and expenses arising out of or from any accident or other occurrence on or about the Leased Premises or any property in the custody or control of the Tenant or those holding under the Tenant, including the Tenant's employees, servants, agents, representatives, contractors, invitees, detainees or any

individual with any business at the Leased Premises, causing injury to any person or property whomsoever or whatsoever.

(3) Any and all claims, losses, costs, damages or expenses arising out of any failure of the Tenant in any respect to comply with and perform all of the requirements and provisions of this Lease or to comply with any applicable law. In the case of any action or proceeding brought against the Tenant by reason of any such claim, the Tenant, upon notice from the Borough, shall defend such action or proceeding. This shall not be construed as in any way limiting the Tenant's obligations under this Lease.

(b) The Borough covenants to Tenant that the Borough shall indemnify and hold harmless the Tenant, and the Tenant's employees, servants, invitees, agents and representatives, and their respective heirs, representatives, successors and assigns, of and from any and all loss, damage, cost, expense, penalty or charge suffered or incurred by the Tenant by reason of:

(1) Any negligent act or omission by, or willful misconduct of, the Borough or any of the Borough's employees, servants, beneficiaries, agents or representatives,

(2) Any violation by the Borough or any of the Borough's employees, servants, beneficiaries, agents or representatives of any applicable law, including any applicable environmental laws.

16. **Taxes.**

(a) The Tenant shall not be responsible for payment of any taxes or assessments that may be levied or assessed against the Borough regarding the Robesonia Borough Municipal Building for the term of this Lease.

(b) The Tenant will pay all personal property taxes levied and assessed against the Tenant's personal property.

17. **Subletting and Assignment.** The Tenant will not assign this Lease or sublet any part of the Leased Premises without the written consent of the Borough, which shall not be unreasonably withheld.

18. **Damage to Leased Premises.**

(a) If the Leased Premises are damaged through fire or other cause not the fault of the Tenant, the Tenant will owe no rent for any period during which the Tenant is substantially deprived of the use of the Leased Premises.

(b) If the Tenant is substantially deprived of the use of the Leased Premises for more than ninety (90) days because of such damage, the Tenant may terminate this Lease by delivering written notice of termination to the Borough.

19. **Default.** Each of the following shall constitute an event of default hereunder:

(a) The failure of the Tenant to perform any covenant or condition of this lease within ten (10) days after written notice and demand, or, if the performance requires more

than ten (10) days to complete, the failure to begin performance within ten (10) days an diligent completion thereafter; or

(b) The suspension of business as a community library or dissolution of the Tenant.

In the event of such default, the Borough may exercise any and all rights and/or remedies at law or equity cumulatively and concurrently including the right to terminate this lease upon thirty (30) days notice. The failure to exercise such right of remedy shall not constitute a waiver.

20. **Notice of Default.** Before commencing a legal action to recover possession of the Leased Premises upon the Tenant's default, the Borough will notify the Tenant in writing of the default. The Borough will take legal action only if the Tenant does not correct the default within ten (10) days after written notice is given or mailed to the Tenant.

21. **Quiet Enjoyment.** As long as the Tenant is not in default under the terms of this Lease, the Tenant will have the right to occupy the Leased Premises peacefully and without interference.

22. **Eminent Domain.** This Lease will become void if any part of the Leased Premises or the Robesonia Borough Municipal Building is taken by eminent domain. The Tenant has the right to receive and keep any amount of money that the agency taking the Leased Premises or the Robesonia Borough Municipal Building by eminent domain pays for the value of the Tenant's Lease, its loss of business, and for moving and relocating expenses.

23. **Holding Over.** If the Tenant remains in possession after this Lease ends, the continuing tenancy will be from month to month.

24. **Disputes.** If a dispute arises, a mediator shall be mutually selected. The parties will share the costs of the mediator equally. Each party will cooperate fully and fairly with the mediator and will attempt to reach a mutually satisfactory compromise to the dispute. If the dispute is not resolved within thirty (30) days after it is referred to the mediator, either party may proceed with any legal action.

25. **Entire Agreement.** This is the entire agreement between the parties and it replaces and supersedes any and all oral agreements between the parties.

26. **Successors and Assigns.** This Lease binds and benefits the successors and assigns of the parties.

27. **Notices.** All notices must be in writing. A notice may be delivered to a party at the address below or to a new address that a party designates in writing. A notice may be delivered in person, by certified mail, or by overnight courier to the following:

If to the Borough:

Borough Council President
Borough of Robesonia
75 South Brooke Street
Robesonia, PA 19551

With a copy to:

Andrew S. George, Esquire
Kozloff Stoudt Attorneys
2640 Westview Drive
Wyomissing, PA 19610

If to the Tenant:

Robesonia Borough Community Library
75 South Brooke Street
Robesonia, PA 19551
Attn: Board President

28. **Governing Law.** This Lease shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

29. **Counterparts.** The parties may sign several identical counterparts of this Lease. Any fully signed counterpart shall be treated as an original.

30. **Modifications.** This Lease may be modified only by a writing signed by the party against whom such modification is sought to be enforced.

31. **Waiver.** If one party waives any term or provision of this Lease at any time, that waiver will be effective only for the specified instance and specific purpose for which the waiver was given. If either party fails to exercise or delays exercising any of its rights or remedies under this Lease, that party pays the right to enforce that term or provision at a later time.

32. **Severability.** If any court determines that any provision of this Lease is invalid or unenforceable, any invalidity or unenforceability will affect only that provision and will not make any other provision of this Lease invalid or unenforceable, and shall be modified, amended, or limited only to the extent necessary to render it valid and enforceable.

33. **Recording Forbidden.** Under no circumstances shall this Agreement be recorded by either party.

Signatures on Following Page

IN WITNESS WHEREOF, AND INTENDING TO BE LEGALLY BOUND HEREBY, the parties hereto have caused this Lease to be executed as of the day and year first above written.

BOROUGH:

TENANT:

BOROUGH OF ROBESONIA
BERKS COUNTY, PENNSYLVANIA

ROBESONIA COMMUNITY LIBRARY

By: _____
Harvey Marshall,
President of Borough Council

By: _____

Attest: _____
Elizabeth Miller, Secretary

Attest: _____