

SITE LICENSE AGREEMENT (Dunedin Tower)

THIS SITE LICENSE AGREEMENT (“Agreement”) to be effective upon execution by both parties (the “Effective Date”) by and between the **CITY OF CLEARWATER, FLORIDA**, a Florida municipal corporation of the State of Florida whose mailing address is One Clearwater Tower, 6th Floor, 600 Cleveland St., Clearwater, FL 33756 (hereinafter referred to as the “City” or “Licensor”), and the **STATE OF FLORIDA, DEPARTMENT OF MANAGEMENT SERVICES**, an agency of the State of Florida whose mailing address is 4030 Esplanade Way, Tallahassee, Florida 32399 (hereinafter referred to as the “State” or “Licensee”). The City and the State shall sometimes hereinafter be referred to in this Agreement individually as a “Party” and collectively as the “Parties”.

RECITALS:

WHEREAS, M/A-COM Private Radio Systems, Inc. (“M/A-COM”) previously licensed two communication towers from the City, as licensor, pursuant to the terms of that certain Tower Agreement dated as of July 1, 2002 (the “Original Site License Agreement”). The two towers licensed to M/A-COM by the City in the Original Site License Agreement were: (a) the communication tower located on the grounds of the City’s Northeast Water Pollution Control Plant (the Dunedin Tower as hereinafter defined in more detail in Section 2 of this Agreement); and (b) the communication tower located on Missouri Road in the City (the “Missouri Road Tower”); and

WHEREAS, Harris Corporation, a Delaware corporation (“Harris”), purchased the assets of M/A-COM on May 29, 2009, including all of the rights and obligations of M/A-COM under the Original Site License Agreement; and

WHEREAS, L3 Technologies was merged into Harris on June 30, 2019, and Harris was renamed “L3Harris Technologies, Inc.” (hereinafter referred to as “L3Harris”). L3Harris succeeded to all of the rights and obligations of Harris under the Original Site License Agreement; and

WHEREAS, space has been used on the Dunedin Tower by L3Harris and its predecessors to operate and maintain telecommunications equipment for the State of Florida Statewide Law Enforcement Radio System (“SLERS”) pursuant to the terms of that certain Service and Access Agreement by and between L3Harris and its predecessors and the State dated September 28, 2000, as amended to date (the “SLERS Agreement”); and

WHEREAS, on June 30, 2021, the SLERS Agreement expired and, in accordance with Line Item 2860 of the 2021-2022 General Appropriations Act (Chapter 2021-036, Laws of Florida), starting on July 1, 2021, L3Harris and the State entered into a new contract pursuant to which L3Harris remains responsible for the management and operations of the SLERS network (the “SLERS-2 Agreement”); and

WHEREAS, pursuant to the terms of the SLERS-2 Agreement, L3Harris assigned its rights as a licensee in the use of the Dunedin Tower to the State with the City’s consent as licensor under

the terms of that certain Partial Assignment and Amendment of Site License Agreement effective as of July 1, 2021 (the "Partial Assignment"); and

WHEREAS, pursuant to the terms of that certain Second Amendment of Site License Agreement dated as of October 3, 2022 by and between the City, the State and L3Harris (the "Second Amendment"), the Primary Term of the Original Site License Agreement was extended from September 30, 2022 to December 31, 2022; and

WHEREAS, pursuant to the terms of that certain Third Amendment of Site License Agreement dated as of December 21, 2022 by and between the City, the State and L3Harris (the "Third Amendment"), the Primary Term of the Original Site License Agreement was extended from December 31, 2022 to March 31, 2023 (the Original Site License Agreement as amended by the terms of the Partial Assignment, Second Amendment, and Third Amendment shall hereinafter be referred to as the "Amended Original Site License Agreement"); and

WHEREAS, the State, as Licensee, wishes to continue to license the Licensor's property, solely the Dunedin Tower from the City, subject to the terms and conditions set forth herein; and

WHEREAS, the City, as Licensor, wishes to permit the State, as Licensee to continue to license the Licensor's property as set forth in this Agreement to allow the State to license solely the Dunedin Tower from the City. The Missouri Road Tower is not included in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable considerations, the receipt and sufficiency of which hereby are acknowledged, both Parties agree as follows:

Section 1. Recitals: The above recitals above are incorporated herein by reference along with the terms and provisions set forth in **Attachment "A"**, Special Conditions for the State of Florida ("**Attachment A**"). In the event of a conflict between the terms and provisions set forth in this Agreement and the terms and provisions set forth in **Attachment "A"**, the terms and provisions set forth in **Attachment "A"** shall take precedence and control.

Section 2. Premises: The City hereby grants to the State and the State hereby accepts from the City a non-exclusive license to use not more than 7219 square feet of land area situated within the chain link fenced boundary enclosing the City's existing radio communications tower which is operational upon the grounds of the City's Northeast Water Pollution Control Plant, 3290 S.R. 580 and McMullen Booth Road and located at Latitude 28°01'54" North and Longitude 82°42'16" West (the "Dunedin Tower"). The communications tower, together with the land upon which it is located, is referred to herein as the " Premises."

Section 3. Communications Equipment: The City hereby grants permission to the State and its contractor, L3Harris, to install, operate and maintain the existing communications equipment with L3Harris EDACS technology as well as any upgrades of such equipment with P25 technology, as well as the building, electrical generator using fuel and associated equipment on and within the Premises as the State deems appropriate for SLERS system use. In this Agreement, all of the equipment, buildings, panels, generators, cables, wires, antennas, and accessories are

referred to collectively as "SLERS Communications Equipment". The Parties acknowledge that the SLERS is a digital radio network that provides the radio voice communications needs of state law enforcement officers and participating agencies throughout the State of Florida.

Section 4. Term: The term ("Term") of this Agreement shall be for fifty-four (54) months running from April 1, 2023, through September 30, 2027. Thereafter the Term of this Agreement may be extended as mutually agreed upon in writing by the Parties which further extension shall include discussion and renegotiation of the terms and provisions of this Agreement as either Party requests and the Parties mutually agree.

Section 5. Maintenance of City Equipment: The City and State agree that in addition to the installation, operation and maintenance of the SLERS Communications Equipment by the State and its contractor, L3Harris, L3Harris shall also have the right to access and use the Premises for the maintenance of the Dunedin Tower and the existing P25 communication equipment owned by the City (the "City Communications Equipment") and to service other tower tenants as provided in that certain Service and Access Agreement between the City and L3Harris dated July 1, 2002, as amended. L3Harris' fulfillment of its obligations under the SLERS Agreement and this Site License Agreement provides the total consideration of the State to the City under this Agreement. There shall be no additional consideration due from the State or L3Harris to the City. The State shall not be responsible for the cost of maintenance of, and any modifications to, the City Communications Equipment.

Section 6. Use: The State will have the non-exclusive use of the Premises for the purpose of installing, operating and maintaining the SLERS Communications Equipment on the Dunedin Tower. The State shall be allowed to modify, supplement, remove, replace or relocate its SLERS Communications Equipment during the term of this Agreement. The State will abide by all applicable local, state and federal laws and obtain all permits and licenses necessary to operate the SLERS Communications Equipment. The State shall use the Premises for no other purposes without the prior written consent of the City. Subject to the terms of this Agreement, the City reserves the right to license portions of the Premises for use by other licensees provided, however, that the use of the Premises by the other licensees shall not interfere with Licensee's use of the Premises or the performance of the SLERS Communications Equipment on the Dunedin Tower.

Section 7. Access: The State and its contractor, L3Harris, shall have ingress and egress to the Premises on a twenty-four (24) hour basis for the purposes of maintenance, installation, repair and removal of the SLERS Communications Equipment provided, however, that only authorized engineers, technicians and employees of the State and L3Harris, or their subcontractors and consultants under the State's and/or L3Harris' direct supervision, will be permitted to enter the said Premises, and their entry shall be for the purpose of installing, removing, repairing or maintaining the SLERS Communications Equipment and for L3Harris' maintenance of the City Communications Equipment, servicing of other tower tenants, and for no other purpose. The State itself or acting through its contractor, L3Harris, shall notify City in advance of its need to install, remove, repair or maintain the SLERS Communications Equipment located on the Premises, except in the case of an emergency in which event notification shall be given by the State or L3Harris as soon as reasonably possible. Access requiring entrance into or onto the Dunedin Tower shall be coordinated with

the General Services Department of the City.

Section 8. Utilities: The State or its subcontractor shall be solely responsible for and promptly pay all charges for electricity, telephone and other utilities used or consumed by the State on the Premises. The State shall advise the City and the City shall fully cooperate with any utility company requesting an easement over and across the Premises or other lands owned by the City in order that such utility company may provide service to the State for the SLERS Communications Equipment. The State shall have an electrical current meter installed at the Premises and have the right to run underground or overhead utility lines, in compliance with the City's Community Development Code and any other applicable city codes, policies, or procedures, directly from the utility source to the SLERS Communications Equipment. The cost of such meter and of installation, maintenance and repair thereof shall be paid by the State. The State and the utility company providing services to the State shall have access to all areas of the Premises, or other lands of the City, necessary for installation, maintenance and repair of such services provided, however, that access requiring entrance into or onto the Dunedin Tower shall be coordinated with the General Services Department of the City.

Section 9. Holding Over: If the State requires use of the Premises after expiration of the Term of this Agreement and no extension of the Term of this Agreement is agreed upon by the Parties, then the State shall be deemed to be occupying the Premises as a tenant-at-sufferance on a month-to-month basis, subject to all the covenants and obligations of this Agreement, with a monthly rent of Three Thousand One Hundred Twenty-Five Dollars (\$3,125.00). The payment of such monthly rental amount shall be due and payable by the first day of the month succeeding the expiration of the final month of the Term of this Agreement, as set forth herein and as may be extended by mutual written agreement of the Parties. Applicable Florida law shall apply following either party's termination of the month-to-month tenancy as provided in this section.

Section 10. Notices: Any notice shall be in writing and shall be delivered by hand or sent by United States registered or certified mail, postage prepaid, or by nationally recognized overnight courier service, addressed as follows:

If to the City:
City of Clearwater
P.O. Box 4748
Clearwater, Florida 33758
Attn: City Manager
Tel: (727) 562-5055

With a copy of all City Notices to go to:
City of Clearwater
One Clearwater Tower, 6th Floor
600 Cleveland St.
Clearwater, FL 33756
Attn: City Manager
Tel: (727) 562-5055
and

City of Clearwater
P.O. Box 4748
Clearwater, FL 33758-4748
Attn: City Attorney
Tel: (727) 562-4010

If to the State:
State of Florida, Department of Management Services,
an agency of the State of Florida
Attn. SLERS Contract and Project Manager:
Sunshine Donaldson
Division of Telecommunications
4030 Esplanade Way, Suite 180
Tallahassee, Florida 32399-0950
Telephone: (850) 329-9217
Email: sunshine.donaldson@dms.fl.gov

With a copy of all notices to the State to:
State of Florida, Department of Management Services,
an agency of the State of Florida
Attn: Public Safety Leasing Manager
Nicole Todd
Division of Telecommunications
4030 Esplanade Way, Suite 180
Tallahassee, Florida 32399-0950
Telephone: (850) 414-6999
Email: Nicole.Todd@dms.fl.gov

With an email copy of all notices to go to:
Public Safety Leasing Manager
Email: SLERSleasing@dms.fl.gov

Either Party may change its contact information to which notice shall be given by delivering notice of such change as provided above.

Section 11. Termination:

- a. Subject to the occurrence of a material breach and compliance with the requirements set forth in Section 12(a) below, the non-defaulting Party shall thereafter have the right to terminate this Agreement by written notice to the other Party in the event of a material breach of any of the provisions of this Agreement which is not cured as provided in Section 12(a) below.
- b. The non-defaulting Party terminating this Agreement because of an uncured material breach (as discussed in Section 12(a) below) shall give written notice of termination to the other Party not less than ninety (90) days in advance of the effective date of

termination. In the event this Agreement is terminated by the City, the State shall be responsible for restoring as near as practicable the Premises occupied by the State to its condition as of the date of this Agreement, save and except normal wear and tear and acts beyond the State's control.

- c. Upon termination of this Agreement as provided in this Section 11, the Term hereby granted for use of the Premises and all rights and interest of the State in the Premises shall end. Should the State be the defaulting Party under this Agreement, such termination shall be without prejudice to the City's right to collect from the State any rental or additional rental set forth herein which has accrued prior to such termination together with all damages which are suffered by the City because of the State's material breach of any covenant under this Agreement.

Section 12. Defaults and Remedies:

- a. Notwithstanding anything in this Agreement to the contrary, neither Party shall be in default under this Agreement until ninety (90) days after receipt of written notice of material breach from the other Party and the failure to cure such material breach during the 90 day notice period; provided, however, where any such material breach cannot reasonably be cured within the ninety (90) day notice period, the Party receiving the notice of material breach shall not be deemed to be in default under the Agreement provided such Party commences to cure such default within said ninety (90) day notice period and thereafter diligently pursues such cure of the material breach to completion.
- b. In the event of a Party's material breach of this Agreement which is not cured as provided in Section 12(a) above, the non-defaulting Party may, at its option, terminate this Agreement as provided in Section 11 without affecting its right to sue for damages or pursue appropriate remedies under applicable law to which the non-defaulting Party may be entitled. In addition, if Licensor remains in default beyond any applicable cure period, Licensee will have: (i) the right to cure Licensor's default and to charge Licensor for the costs of such cure provided Licensee has provided Licensor with an estimate of such costs. Licensor will review and approve or deny such estimate within fifteen (15) days or the estimate is deemed approved, and (ii) any and all other rights available to it under law and equity.

Section 13. Tests: The State and its contractor, L3Harris, are hereby given the right to survey, soil test, radio coverage test, and conduct any other investigations needed to determine if the surface and location of the Premises remain suitable for construction and installation of any upgrades of the SLERS Communications Equipment.

Section 14. Fixtures: The City covenants and agrees that no part of the improvements constructed, erected or placed by the State or its contractor, L3Harris, on the Premises or other real property owned by the City shall be or become, or be considered as being, affixed to or a part of the City's real property, any and all provisions and principles of law to the contrary notwithstanding.

Section 15. Assignment and Sublicensing: The State may assign or sublicense the Premises or any part thereof with the prior written consent of the City, which consent shall not be unreasonably withheld. Any such assignment or sublicense shall: (i) be consistent with the Ordinances of the City; (ii) be permissible only if the State remains fully liable for fulfillment of all its obligations under this Agreement when sublicensing a portion of the Premises; (iii) be permissible provided the nature of the use under this Agreement is not changed; and (iv) be made to an affiliate of the State. The State shall not use the Premises as security for any loans. The City shall not assign or transfer this Agreement or the Premises without prior written consent of the State.

Section 16. Other Conditions:

- a. The City acknowledges that following the execution of this Agreement, the State and/or its contractor, L3Harris, will contact appropriate local governmental agencies for the purpose of obtaining all building permits and approvals, zoning changes and approvals, variances, use permits and other governmental permits and approvals ("Local Permits"), if necessary, for the continued installation, operation and maintenance of the SLERS Communications Equipment on the Premises including any upgrades of the SLERS Communications Equipment. The City agrees to fully cooperate with the State and/or L3Harris in obtaining the Local Permits and, without limiting the generality of the foregoing, to execute any applications, maps, certificate or other documents that may be required in connection with the Local Permits.
- b. Whenever under this Agreement the consent or approval of either Party is required or a determination must be made by either Party, no such consent or approval shall be unreasonably withheld or delayed, and all such determinations shall be made on a reasonable basis and in a reasonable manner.
- c. The City covenants that the State shall, upon observing the covenants and conditions herein upon its part to be observed, peaceably and quietly hold and enjoy the Premises during the term of this Agreement or as it may be extended without hindrance or ejection by the City, any person or persons claiming under the City, or any other licensee or tenant of the City.
- d. The State covenants and agrees that the SLERS Communications Equipment and installation, operation and maintenance thereof on the Premises will:
 - I. Not negligently damage the Dunedin Tower or any portion of the Premises.
 - II. Not interfere with the operation of the City's radio or other communications equipment, or that of other licensees or tenants currently utilizing the Premises. In the event there is interference by the State, the State will promptly take all steps necessary to correct and eliminate same with a reasonable period of time. If the State is unable to eliminate such interference caused by it within a reasonable period of time and notice of a material breach is then given by the City which is not cured as provided in Section 12 above, the State agrees

to thereafter remove its antennas from the City's property and this Agreement shall terminate in accordance with the provisions of Section 11 above.

- III. Comply with all applicable rules and regulations of the Federal Communications Commission (FCC) and the ordinances of the City including, but not limited to, the building and electrical codes of the City. Notwithstanding this Article 16, the State reserves its rights under applicable Florida law and FCC regulations, including but not limited to, the FCC Radio Frequency Service Interference Complaint Portal.
- e. If the Premises are damaged through no fault or negligence of the State so as to render the Premises substantially unusable for the State's use, the City, at its expense, shall restore the Premises to its condition prior to such damage within ninety (90) days after the occurrence of such damage provided, however, in the event the City fails to repair the Premises within the ninety (90) day period, the State shall have the right to terminate this Agreement by written notice to the City with no further obligations hereunder. If the Premises are damaged due to the fault or negligence of the State, it shall be the State's responsibility, at its expense and option, to restore such Premises.
 - f. The Lessor understands its, and its subcontractors' (if any), duty, pursuant to Section 20.055(5), Florida Statutes, to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing.
 - g. The liability of Lessor and Lessee shall be governed by §768.28(19), Florida Statutes.
 - h. All persons providing work for Lessee on the Premises are put upon notice that the interest of Lessor in the Premises shall not be subject to liens for improvements made by or through the Lessee and/or its employees, contractors, consultants and agents. In addition, liens for improvements made by the Lessee and/or its employees, contractors, consultants and agents are specifically prohibited from attaching to or becoming a lien on the interest of the Lessor in the Premises or any part of either. This notice is given pursuant to the provisions of and in compliance with the requirements set forth in Section 713.10, Florida Statutes.

Section 17. Radon Gas Notification: As may be required by Section 404.056(5), Florida Statutes, the State shall take notice of the following:

RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

Section 18. Entire Agreement and Binding Effect: This Agreement constitutes the entire agreement between the City and the State concerning the subject matter hereof and this Agreement supersedes and replaces any prior or contemporaneous license, agreement, promise, license, negotiations or writing concerning such subject matter including, without limitation, the Amended Original Site License Agreement. This Agreement shall not be amended or changed except by written instrument signed by both Parties. Section captions herein are for convenience only, and neither limit nor amplify the provisions of this Agreement. The provisions of this Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the Parties.

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IN WITNESS WHEREOF, the Parties have duly executed this Site License Agreement as an instrument under seal this ____ day of March, 2023.

STATE:

**STATE OF FLORIDA, DEPARTMENT
OF MANAGEMENT SERVICES,**
an agency of the State of Florida

By: _____

Name: _____

Title: _____

Date: _____

CITY:

CITY OF CLEARWATER, FLORIDA,
a municipal corporation of the State of Florida

By: _____

Name: Frank V. Hibbard
Mayor

By: _____

Name: Jennifer Poirrier
Interim City Manager

Reviewed and Approved:

Attest:

Name: Matthew J. Mytych, Esq.
Assistant City Attorney

Name: Rosemarie Call
City Clerk

(SEAL)

ATTACHMENT A
SPECIAL CONDITIONS FOR THE STATE OF FLORIDA

Capitalized terms within this document are as defined in the Site License Agreement (Agreement), unless otherwise indicated. In the event of conflict between the Agreement and this Attachment A, this Attachment A shall take precedence.

Whereas, the services necessary for the operation of the “statewide radio communications system to serve law enforcement units of state agencies, and to serve local law enforcement agencies through mutual aid channels” is authorized under 282.709 Florida Statutes (F.S.) and pursuant to Chapters 2021-036 and 2021-037, Laws of Florida.

Whereas, the Department is authorized to enter into the Agreement pursuant to section 282.702, F.S.

I. State of Florida Mandatory Provisions

- 1. Appropriation.** Pursuant to section 255.2502, F.S., the State of Florida’s performance and obligation to pay under the Agreement is contingent upon an annual appropriation by the Legislature.
- 2. Public Records.** To the extent required by the Florida Public Records Act, Chapter 119, F.S. (“Chapter 119”), the Parties shall maintain and allow access to public records made or received in conjunction with the Agreement. A violation of Chapter 119 may constitute a material violation of this Agreement.

The Parties acknowledge that pursuant to section 119.071(3)(e), F.S., building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the structural elements of 911, E911, or public safety radio communication system infrastructure, including towers, antennae, equipment or facilities used to provide 911, E911, or public safety radio communication services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

- 3. Governing Law.** The Agreement will be governed by and construed in accordance with the laws of the State of Florida. Exclusive jurisdiction and venue for suit arising under the terms of the Agreement will be in the appropriate State court located in Leon County, Florida.
- 4. Insurance.** For purposes of all required insurance, Licensee, as an agency of the State of Florida, may satisfy such obligations by self-insuring, pursuant to sections 440.38 and 768.28, F.S. Proof of self-insurance shall be made available upon request.

5. **Cooperation with the Inspector General.** Licensor understands its, and its subcontractors' (if any), duty, pursuant to section 20.055(5), F.S., to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing.
6. **No Waiver of Sovereign Immunity.** Nothing contained in this Agreement shall be deemed a waiver, expressed or implied, of Licensee's or Licensor's sovereign immunity or an increase in the limits of liability pursuant to Section 768.28, Florida Statutes, regardless of whether any such obligations are based in tort, contract, statute, strict liability, negligence, product liability or otherwise.

II. Agency Requirements

1. **Contractors and Subcontractors.** The Parties agree that Licensee may meet its obligations under the Agreement through its contractors, including but not limited to utilities, construction, installation and work, pursuant to Contract No. DMS-20/21-162.

Prior to Licensor performing any work at the Demised Premises on Licensee's behalf, Licensor shall provide Licensee with written notice and an opportunity to cure sufficient for Licensee to coordinate completion of the work with its contractors.

2. **Access to Demised Premises.** See Section 7 of the Agreement.
3. **Emergency Notice.** In the event of an emergency regarding Licensee's facilities and its operations, when providing Notice under Section 10, Notices, of the Agreement, would not elicit a fast enough response, Licensor shall call both of the following phone numbers and state that and how the Premises needs assistance immediately.

24-7 Network Operations Center
Telephone: (866) 537-7763

Doug Whitfield, SLERS System Manager
Telephone: (850) 445-4830

4. **Taxes.** Licensor shall pay, when due, all real property taxes and all other taxes, fees and assessments attributable to the Premises. Licensee shall pay, when authorized by Florida law, taxes, levies, charges, fees, licenses or other assessments that are directly attributable to the operation of Licensee's Facilities. This notwithstanding, upon written demand from Licensor, Licensee shall reimburse Licensor within thirty (30) days thereof, for any increase in real property taxes, fees and assessments attributable to Improvements performed by Licensee or Licensee's use of the Premises when authorized by Florida law. To the extent allowed under applicable law, in the event that Licensor fails to pay when due any taxes or fees affecting the Premises, Licensee shall have the right, but not the obligation, to pay such taxes and fees and deduct the full amount of

the taxes or fees paid by Licensee on Licensor's behalf from future installments of Rent or may charge Licensor such amounts.

5. **Fees.** The City shall provide the State with a minimum of twelve (12) months' written notice prior to imposing any fees under the Agreement to allow sufficient time for appropriation of funds.
6. **Attorneys' Fees.** Except as otherwise provided by law, the Parties agree to be responsible for their own attorney's fees incurred in connection with disputes arising under the terms of the Agreement.
7. **Indemnification.** Except as provided in Section 8, Environmental, below, each party to this Agreement will be responsible for its own acts or omissions and for any and all claims, liabilities, injuries, suits, demands, and expenses of all kinds that may result or arise out of any alleged malfeasance or neglect act caused or alleged to have been caused by that party or its employees or representatives in the performance or omission of any act or responsibility of that party under this Agreement.
8. **Environmental.** Licensor represents and warrants that to the best of Licensor's knowledge, the Premises, as of the date of this Agreement, is free of hazardous substances, including asbestos-containing materials and lead paint. Licensor and Licensee agree that each will be responsible for compliance with any and all applicable governmental laws, rules, statutes, regulations, codes, ordinances, or principles of common law regulating or imposing standards of liability or standards of conduct with regard to protection of the environment or worker health and safety, as may now or at any time hereafter be in effect, to the extent such apply to that party's activity conducted in or on the Premises.

Licensor and Licensee shall each be responsible for its own claims, fines, judgments, penalties, actions, abatement, cleanup remediation, testing, losses, damages (including testing and investigations), expenses or liability directly or indirectly arising out of or attributable to acts by Licensee, resulting in the use, generation, manufacture, production, storage, release, discharge, disposal, or presence of a Hazardous Material on, under or about the Premises ; except to the extent caused by the active negligence or willful misconduct of Licensor, its employees, agents or contractors, and not otherwise assumed by Licensee. This indemnity shall survive the expiration or termination of this Agreement. Licensor shall comply with all federal, state and local laws in connection with any substances or materials brought onto Premises by the Licensor, its employees, contractors or agents, that are identified by any law, ordinance or regulation as hazardous, toxic or dangerous and shall indemnify Licensee for all such losses or damages, investigations or remediation, including those relating to hazardous materials not brought onto the Premises by Licensee.