



AGENDA

Hardee County Economic Development Council Hardee County Industrial Development Authority

Commission Chambers 412 W. Orange Street, Room 102, Wauchula, FL 33873 Special

1/04/2021 11:00 AM

BOARD MEMBERS

Tommy Watkins, Chairman | Denise Grimsley, Vice-Chairman | Courtney Green | Calli Ward | Gene Davis | Justin Smith | Lee Mikell

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| Item I. | Call to Order |
| Item II. | Approval of Agenda |
| Item III. | Agenda Items |
| Item 3.1. | Lease Agreement for Techriver with Hardee County BOCC |
| Item IV. | Adjournment |

**HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY
COMMERCIAL LEASE WITH
HARDEE COUNTY BOARD OF COUNTY COMMISSIONERS**

THIS LEASE AGREEMENT is made and entered into this ____ day of _____, 202__, by and between the **HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY** (herein called "LANDLORD") and **HARDEE COUNTY BOARD OF COUNTY COMMISSIONERS** (herein called "TENANT").

W I T N E S S E T H :

WHEREAS, LANDLORD is the owner of certain commercial real property known as the TechRiver Building in the County of Hardee, State of Florida;

WHEREAS, TENANT wishes to lease said real property from LANDLORD; and

WHEREAS, LANDLORD has agreed to lease the real property to TENANT, subject to certain terms and conditions.

NOW THEREFORE, in consideration of the premises and the covenants, terms and conditions to be performed as set forth hereinafter, the parties agree as follows:

1. **TERM.** The term of this Lease Agreement shall be for a period of six months commencing on _____, 202__, and ending on _____, 202__ (the "Term"), unless extended or sooner terminated as herein provided.

2. **PROPERTY.** The property subject to this Agreement is as described and shown on Exhibit "L-1" attached hereto (herein called the "Premises").

3. **USE.** The Premises are to be used by TENANT for the purpose of communicable disease control services due to the COVID-19 pandemic. TENANT will make no unlawful, improper, or offensive use of the Premises.

4. **RENT.** TENANT shall pay rent to LANDLORD of \$1.00 (One Dollar & No/100) for the entire Term, together with any sales or use taxes thereon, if any.

5. **UTILITIES AND SERVICES.** LANDLORD will not be obligated to pay any charges for any telephone service, gas, electricity, water, or other utility service or commodity procured or consumed by TENANT. Utilities consumed shall be measured as the excess utility charge above the twelve (12) month average of the facility, for the twelve (12) months preceding the commencement of the term. TENANT shall be solely responsible for such charges and, if LANDLORD shall pay those on behalf of TENANT, the amount of such shall be considered additional rent hereunder.

6. **SUITABILITY OF PREMISES.** TENANT acknowledges having examined the Premises thoroughly before entering into this Lease and acknowledges the suitability of the Premises for TENANT's proposed use. TENANT does not rely upon any representations by the LANDLORD as to

the suitability of the Premises for the TENANT's purposes.

7. REMOVAL OF PERSONAL PROPERTY. Upon expiration or termination of this Agreement, TENANT shall have the right and responsibility to remove all of its personal property, including machinery and equipment, which it has installed or placed on the Premises, which removal shall be accomplished no later than the termination date. Electrical and plumbing facilities, air conditioners and other permanently installed fixtures shall not be considered personal property. TENANT agrees to repair any damage occasioned by reason of such removal or damage caused by TENANT's occupancy. In the event TENANT fails to remove its personal property or to repair any damage done to the Premises by the expiration or termination date, LANDLORD reserves the right to remove and store all such personal property left, at the risk and expense of TENANT, and to make repairs necessary to restore the Premises, with the cost of such repairs to be paid by TENANT.

8. MAINTENANCE AND REPAIRS. TENANT will be responsible for the maintenance, repair, and upkeep of the Premises and shall keep the Premises in good order and repair. Reasonable repairs shall be made in a timely manner and if TENANT refuses or neglects to make any repairs, to the reasonable satisfaction of LANDLORD within a reasonable period of time after receipt of written notice of need for such repair from LANDLORD, LANDLORD may make such repairs without liability to TENANT for any loss or damage that may occur to TENANT'S property or business and TENANT shall pay LANDLORD'S costs for making such repairs, including LANDLORD'S reasonable administrative costs. Such costs for repairs shall bear interest at the rate of 18% per annum from the tenth day after billing therefor until paid and shall constitute additional rent. LANDLORD reserves the right to enter on the Premises at all reasonable times to make such repairs.

9. ALTERATIONS. The TENANT shall make no material additions or alterations in or to the Premises without the written consent of LANDLORD. TENANT shall be responsible for the cost of any additions or alterations made by TENANT and shall protect and reimburse LANDLORD against possible mechanics', laborers' and materialmen's liens upon the Premises. TENANT has no power to incur any indebtedness giving a right to a lien of any kind or character upon the Premises. Should any such lien be filed, TENANT shall have the same discharged within sixty (60) days thereafter by paying the same or by filing a bond, or otherwise as permitted by law.

10. CLEANLINESS AND SAFETY. TENANT agrees to keep the Premises in a clean, safe, and sanitary condition. TENANT shall abide by all reasonable safety and fire regulations prescribed by LANDLORD and shall at all times keep and maintain an adequate number of operating, charged fire extinguishers in or on the Premises. TENANT will contract with a franchised solid waste hauler to dispose of solid waste, if notified to do so by LANDLORD. TENANT is responsible for and shall properly dispose of all sharps and biomedical or medical waste in an appropriate manner.

11. DANGEROUS ACTIVITIES PROHIBITED. TENANT agrees not to do or allow anything to be done on the Premises which may injure or endanger persons on or about or adjacent to the Premises. TENANT hereby indemnifies and holds LANDLORD harmless from any claims because of injury to life, person or property by reason or anything done or permitted by TENANT, its agents, employees, guests, or invitees on or about or adjacent to the Premises.

12. HOLD HARMLESS. TENANT agrees to hold LANDLORD harmless against all claims for bodily injury, sickness, disease, death or personal injury, or damage to property or loss of use resulting therefrom, arising out of this contract unless such claims are a result of the LANDLORD's sole negligence. TENANT agrees to pay on behalf of LANDLORD, and to pay the cost of LANDLORD's legal defense, as may be selected by LANDLORD, for all claims described in this paragraph. Such payment on behalf of LANDLORD shall be in addition to any and all other legal remedies available to LANDLORD and shall not be considered to be LANDLORD's exclusive remedy.

13. INSURANCE AND INDEMNITY. TENANT will at its own expense and at all times during the term (including renewals or extensions) of this Lease Agreement, provide and maintain in effect for the Premises those insurance policies and minimum limits of coverage as designed below, with companies licensed to do business in the State of Florida. Insurance will be written with carrier/carriers with a minimum rating of "A-, X" by A.M. Best Rating agency or equivalent agency. These minimum insurance requirements shall not be interpreted to in any way limit TENANT's defense and indemnity obligations. In addition, the policies shall: **(i)** Specifically recognize and insure the contractual liability assumed by TENANT under this Commercial Lease Agreement; **(ii)** Provide that TENANT's insurance shall be primary to and non-contributory with any and all insurance maintained by or afforded to LANDLORD and its affiliated and subsidiary companies, and their respective officers, directors, shareholders, employees and agents; **(iii)** Provide that no cancellation or non-renewal will become effective except upon thirty (30) days prior written notice to LANDLORD except for non-payment of premium; **(iv)** Specifically waive insurers' rights of subrogation against LANDLORD; and **(v)** Specifically recognize that should TENANT's policies provide a limit of liability in excess of the amounts required below, LANDLORD shall have the right of the benefit to the full extent of the coverage available.

A. PROPERTY/CONTENT COVERAGE. TENANT shall procure and maintain for the term of this lease, at its expense, All Risk / Special Form insurance coverage for its personal property, including all contents, trade fixtures, machinery, equipment, furniture, furnishings, and TENANT's leasehold improvements.

B. LIABILITY INSURANCE. TENANT shall, at its own expense, maintain a policy or policies of comprehensive general liability insurance with respect to the operations conducted

on the Premises with the premiums thereon fully paid on or before due date, issued by and binding upon some insurance company approved by LANDLORD, such insurance to afford minimum protection of not less than \$1,000,000 combined single limit coverage of bodily injury, property damage or combination thereof. LANDLORD shall be listed as an additional insured on TENANT's policy or policies of comprehensive general liability insurance and TENANT shall provide LANDLORD with current Certificates of Insurance evidencing TENANT's compliance with this paragraph.

C. WORKERS' COMPENSATION. TENANT shall have and maintain workers' compensation insurance as required by law.

D. BUSINESS AUTO LIABILITY COVERAGE. Business Auto Liability coverage is to include bodily injury and property damage arising out of ownership, maintenance or use of any auto, including owned, non-owned and hired automobiles. Limit: \$1,000,000 combined single limit for Bodily Injury and Property Damage.

E. CERTIFICATE OF INSURANCE. Upon execution of this Agreement, TENANT must furnish a Certificate of Insurance to LANDLORD evidencing the insurance required herein, written or translated in English. From thereon, TENANT will furnish a valid Certificate of Insurance to LANDLORD annually at the address in the "Notices" clause of this Agreement.

F. TENANT'S LIABILITY NOT LIMITED. NOTWITHSTANDING THE PROVISIONS HEREIN, FOR PURPOSES OF THIS LEASE, TENANT ACKNOWLEDGES THAT ITS POTENTIAL LIABILITY IS NOT LIMITED TO THE AMOUNT OF LIABILITY INSURANCE COVERAGE IT MAINTAINS NOR TO THE LIMITS REQUIRED HEREIN. NOTHING CONTAINED HEREIN SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY.

G. INVALIDATION OR CONFLICT WITH EXISTING INSURANCE POLICIES. TENANT shall not do, permit or suffer to be done any act, matter, thing or failure to act in respect to the Premises that will **a)** invalidate or be in conflict with any insurance policies covering the Premises or any part thereof; or **b)** increase the rate of insurance on the Premises or any property located therein. If by reason of the failure of TENANT to comply with the provisions of this Lease, the insurance rate shall at any time be higher than it otherwise would be, then TENANT shall reimburse LANDLORD and any other tenants, on demand, for that part of all premiums for any insurance coverage that shall have been charged because of such actions by TENANT.

H. LOSS. If the Premises or any other part of the building is damaged by fire or other casualty resulting from any act or negligence of TENANT or any of TENANT's agents, employees or invitees, rent shall not be diminished or abated while such damages are under repair, and TENANT shall be responsible for the costs of repair not covered by insurance.

I. INDEMNIFICATION. TENANT shall indemnify LANDLORD and hold

LANDLORD harmless for any and all liability, claims, damages, expenses (including attorneys' fees and costs for trial or appeal), proceedings and causes of action of every kind and nature arising out of or connected with the use, maintenance, operation or control of the Premises by TENANT, except as may arise out of conditions occurring or present prior to the commencement of this lease or caused by the misconduct or gross negligence of LANDLORD. Nothing contained herein shall be construed as a waiver of sovereign immunity.

14. COMPLIANCE WITH ALL LAWS AND RESTRICTIONS. TENANT shall comply with all laws, ordinances, rules, orders, and regulations relating to the Premises, TENANT's use of the Premises, and the protection of persons and property.

15. NON-DISCRIMINATION. TENANT for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that: **(i)** No person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; **(ii)** In the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination; and **(iii)** In the event of a breach of any of the above nondiscrimination covenants, LANDLORD shall have the right to terminate the lease.

16. ENVIRONMENTAL MATTERS. TENANT covenants and agrees to discharge only domestic waste into the sewer system. TENANT will not allow any hazardous substances including without limitation, any and all pollutants, wastes, flammables, explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances and all other materials defined by or regulated under any Environmental Law, including those defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9604 (14), pollutants or contaminants as defined in CERCLA, 42 U.S.C. § 9604 (A) (2), or hazardous waste as defined in the Resources Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6903 (5), or other similar applicable Federal or State Laws or regulations, to be generated, released, stored, or deposited over, beneath, or on the Premises or on any structures located on the Premises from any source whatsoever. TENANT further covenants to hold the LANDLORD harmless from all claims, demands, damages, fines, costs, cleanup, attorney's fees, and court costs arising from TENANT'S discharge (either intentional or accidental) of such matters to the soil, air, water, or wastewater treatment facility. LANDLORD hereby agrees to hold TENANT harmless from all claims, demands, damages, fines, costs, cleanup, attorneys' fees, and court costs arising from any discharge of such matters occurring prior to the term of this Lease.

17. 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. This notification is pursuant to §404.056(5), Florida Statutes.

18. STORM WATER POLLUTION PREVENTION PLAN. TENANT hereby agrees to abide by all rules and regulations established by LANDLORD or any state, county, or federal agency in regard to storm water pollution prevention. The stormwater pollution prevention plan is a major mechanism to comply with the National Pollution Discharge Elimination System (NPDES) Multi-Sector Generic Permit (MSGP) for stormwater discharge associated with industrial activities. The NPDES MSGP is administered by Florida Department of Environmental Protection (FDEP) and is defined in rule 62-621.100 *et seq.*, F.A.C.

19. OFAC LIST. TENANT hereby represents, warrants and covenants to LANDLORD that neither TENANT nor any person or entity that directly or indirectly (i) controls TENANT or (ii) has an ownership interest in Tenant of twenty-five percent (25%) or more, appears on the list of Specially Designated Nationals and Blocked Persons published by the Office of Foreign Assets Control of the U.S. Department of the Treasury.

20. DEFAULT. The occurrence of one or more of the following shall be an event of default by TENANT: **A.** Failure of TENANT to make any payment required by this Lease when due, and the failure continues for three (3) days after written Notice of Default from LANDLORD to TENANT; **B.** An initial failure of TENANT to comply with any obligation imposed upon TENANT by this Lease, other than the obligation to pay money, within thirty (30) days after written Notice of Default from LANDLORD to TENANT. Should the obligation be such that it cannot reasonably be corrected within thirty (30) days, TENANT shall not be in default so long as TENANT is diligently proceeding to comply and the noncompliance does not continue for over ninety (90) days after Notice of Default. A subsequent failure of TENANT to comply with the same obligation shall be a default without any grace period.; **C.** A receiver, conservator, or similar officer is appointed by a court of competent jurisdiction to take charge of all or a substantial part of TENANT's or any guarantor's property, and the officer is not discharged and possession of the property is not restored within thirty (30) days; **D.** TENANT's interest in the Premises or under this Lease is the subject of a taking or levy under execution, attachment, or other process of law and the action is not cancelled or discharged within thirty (30) days after its occurrence; or **E.** TENANT defaults under any other lease or agreement with LANDLORD.

21. LANDLORD'S REMEDIES. If any event of default occurs and has not been cured within the time period provided in this Lease, LANDLORD may immediately or at any time thereafter do one or more of the following: **A.** Remove any of TENANT's personal property from the Premises and

store the same elsewhere at TENANT's expense without relieving TENANT from any liability or obligation; **B.** Make the Premises available to another party without liability to TENANT and without relieving TENANT from any liability or obligation to LANDLORD; **C.** Terminate this Lease by giving TENANT written notice thereof, without relieving TENANT from any obligation or liability for payments theretofore or thereafter becoming due or any other present or prospective damages or sums due or provided by law or this Lease and resulting from TENANT's default; **D.** Terminate this Lease, relieving TENANT of any liability or obligation for any payments then or thereafter becoming due; or **E.** Exercise any combination of the above or any other remedy provided by law.

22. NOTICES. Whenever any notice is required or permitted by this Agreement to be given, such notice shall be by certified mail, overnight delivery or facsimile addressed to:

If to TENANT:

If to LANDLORD:

Executive Director
Hardee County IDA
107 East Main Street
Wauchula, Florida 33873

Notice shall be considered given when deposited with the U.S. Postal Service or commercial carrier, postage prepaid, or when received by the other party if by facsimile. Each party will be responsible for notifying the other of any change in their address.

23. ATTORNEYS' FEES AND COSTS. Subject to limitations set forth by s. 768.28, Florida Statutes, in any action brought by a party for the interpretation or enforcement of the obligations of the other party, including LANDLORD's right to indemnification, the prevailing party shall be entitled to recover from the losing party all reasonable attorneys' fees, paralegal fees, court and other costs, whether incurred before or during litigation, on appeal, in bankruptcy, or in post judgment collections.

24. NON-EXCLUSIVE USE. This Agreement shall in no way convey the exclusive use of any part of the LANDLORD's property, except the Premises, and shall not be construed as providing any special privilege for any public portion of the LANDLORD's property. LANDLORD reserves the right to lease to other parties any other portion of the LANDLORD's property for any purpose.

25. ASSIGNMENT. TENANT shall not assign this lease or sublet the Premises, directly or indirectly, without the written consent of LANDLORD, which consent will not be unreasonably withheld.

26. WAIVER OF BREACH. Waiver by LANDLORD or TENANT of any breach of the terms, covenants, or conditions herein contained shall not be deemed a waiver of any subsequent breach.

27. SEVERABILITY. It is the intention of both of the parties hereto that the provisions of this Lease Agreement shall be severable in respect to a declaration of invalidity of any provisions hereof.

28. ASSIGNS AND SUCCESSORS. Except as otherwise provided, the covenants and conditions herein shall be binding upon and inure to the benefit of the assigns and successors of the

parties hereto.

29. **AMENDMENT**. No amendment, modification, or alteration of the terms hereof shall be binding unless the same is in writing and duly executed by each party.

30. **PROVISIONS OF LAW DEEMED INSERTED**. Each and every provision of law and clause required by law to be inserted in this document shall be deemed to be inserted herein and the lease shall be read and enforced as though it were included, and if, through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, then upon application of either party, the lease shall forthwith be physically amended to make such insertion or correction.

31. **GOVERNING LAW**. This agreement will be governed by and construed in accordance with the laws of the State of Florida and the parties agree to submit to the jurisdiction of the Tenth Judicial Circuit, in and for Hardee County, Florida.

32. **MULTIPLE ORIGINALS**. This agreement is executed in multiple copies, each copy of which shall be deemed an original.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals.

HARDEE COUNTY BOARD OF COUNTY COMMISSIONERS

HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY

By: _____

By: _____

Name: _____

Name: Thomas Watkins

Its: _____

Its: Chair

Date: _____

Date: _____

ATTEST:

ATTEST:

By: _____

By: _____

EXHIBIT L-1

**TO THE HARDEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY
COMMERCIAL LEASE WITH HARDEE COUNTY BOARD OF COUNTY COMMISSIONERS**

Premises:

A portion of the building locally referenced as the TechRiver Building, which portion is outlined in the floorplan below, located at 1499 US HWY 17 N, WAUCHULA 33873, more fully described as: Lots 1 & 2, Block B, McEwen Subdivision, in the Northeast ¼ of Section 33, Township 33 South, Range 25 East, as recorded in Plat Book 3, Pages 3-34, Public Records of Hardee County, Florida, less and except right-of-way on the east side thereof.

[INSERT FLOOR PLAN]