

FORSYTH COUNTY
BOARD OF COMMISSIONERS

BRIEFING DRAFT

MEETING DATE: OCTOBER 22, 2020

AGENDA ITEM NUMBER: 13

SUBJECT: RESOLUTION AUTHORIZING EXECUTION OF A LEASE AGREEMENT BETWEEN FORSYTH COUNTY AND WAKE FOREST UNIVERSITY BAPTIST MEDICAL CENTER, ON BEHALF OF ITS SERVICE BESTHEALTH FOR BUSINESS, OF COUNTY OWNED PROPERTY LOCATED AT 725 N. HIGHLAND AVENUE

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:

SUMMARY OF INFORMATION:

ATTACHMENTS: YES NO

SIGNATURE: _____

COUNTY MANAGER

DATE: _____

**RESOLUTION AUTHORIZING EXECUTION OF A LEASE AGREEMENT BETWEEN
FORSYTH COUNTY AND WAKE FOREST UNIVERSITY BAPTIST MEDICAL
CENTER, ON BEHALF OF ITS SERVICE BESTHEALTH FOR BUSINESS,
OF COUNTY OWNED PROPERTY LOCATED
AT 725 N. HIGHLAND AVENUE**

WHEREAS Forsyth County owns real property located at 725 N. Highland Avenue, Winston-Salem, N.C., and proposes to lease approximately 1,116 square feet of office space located on the first floor, in room numbers 118, 119, 120, 122, 123, 124WC, 125, and 128, to Wake Forest University Baptist Medical Center, on behalf of its service BestHealth for Business, for a two-year term beginning October 1, 2020, and ending September 30, 2022, at an annual rental amount of \$1.00;

WHEREAS Wake Forest University Baptist Medical Center, on behalf of its service BestHealth for Business, desires to execute a two-year lease agreement with Forsyth County to operate a wellness clinic for Forsyth County staff as a component of the County's health and wellness benefits program, and is agreeable to the terms set forth on the attached agreement which is incorporated herein by reference;

WHEREAS pursuant to the provisions of N.C.G.S. 160A-272, a thirty-day notice has been given by publication describing the property to be leased or rented, stating the annual rental or lease payments and announcing the Forsyth County Board of Commissioners' intent to authorize the lease or rental at its October 22, 2020, regular meeting; and

WHEREAS the above-described property will not be needed by Forsyth County for County purposes during the term of the proposed lease;

NOW, THEREFORE, BE IT RESOLVED, by the Forsyth County Board of Commissioners that the above-described property will not be needed by Forsyth County during the time of the proposed lease; and

BE IT FURTHER RESOLVED, by the Forsyth County Board of Commissioners that the Chairman or County Manager and the Clerk to the Board are hereby authorized to execute the above-described Lease Agreement, on behalf of Forsyth County, with Wake Forest University Baptist Medical Center, on behalf of its service Best Health for Business, subject to a pre-audit certificate thereon by the County Chief Financial Officer, if applicable, and approval as to form and legality by the County Attorney.

Adopted this 22nd day of October 2020.

LEASE AGREEMENT

THIS AGREEMENT, made and entered into on _____, 2020 by and between Forsyth County ("Landlord"), a political subdivision of the State of North Carolina, and Wake Forest University Baptist Medical Center on behalf of its BestHealth for Business ("Tenant"), a North Carolina corporation;

For the purpose and subject to the terms and conditions hereinafter set forth, the parties agree that Landlord shall lease to Tenant the properties hereinafter set forth.

1. PREMISES. Landlord, for and in consideration of rent, conditions, and consideration hereinafter mentioned, provided for and covenanted to be paid, kept and performed by Tenant, leases to Tenant one thousand one hundred sixteen(1,116) square feet in the area within the building located at 725 N. Highland Avenue, Winston-Salem, North Carolina, as shown in Exhibit 1, attached hereto and incorporated herein by reference (hereinafter called the "Premises").

2. TERM. The Tenant shall have and hold the Premises for a term beginning on October 1, 2020, and ending on September 30, 2022, unless sooner terminated as hereinafter provided. Notwithstanding anything to the contrary herein, Landlord may terminate the Agreement, for any reason or for no reason, by providing written notice at least thirty (30) days.

3. RENTAL. Tenant agrees to pay Landlord without demand, deduction or set off, the consideration of one dollar (\$1) for the term, the receipt of which is hereby acknowledged.

4. LATE CHARGES. N/A.

5. UTILITIES. Landlord shall provide electric, water, stormwater, sewer, and gas services to the premises. Tenant shall provide its own telephone and internet service.

6. USE OF PREMISES. The Premises shall be used solely for the purpose of providing Services to County staff and authorized participants enrolled in the County wellness services program. The Premises shall not be used for any illegal purposes, nor in any manner to create any nuisance or trespass, nor in any manner to vitiate the insurance or increase the rate of insurance on the Premises. This Lease shall be terminated immediately if the Premises are no longer used for the purpose set forth herein. Tenant shall comply with all Building Rules and Regulations set forth in Exhibit 2, attached hereto and incorporated herein by reference.

7. INDEMNITY. Tenant agrees to indemnify, defend, and hold harmless Landlord and its officers, employees, and agents from and against any and all third-party claims, liabilities, demands, suits, losses, damages, costs, and expenses (including reasonable attorneys' fees), arising out of or relating to acts, errors, and omissions of the Tenant related to this Lease Agreement, except to the extent that such acts, errors, and omissions are due to the Landlord. Landlord agrees to indemnify, defend, and hold harmless Tenant and its members, directors, officers, employees, agents, and students, from and against any and all third-party claims, liabilities, demands, suits, losses, damages, costs, and expenses (including reasonable attorneys' fees), arising out of or related to acts, errors, and

omissions of the Landlord related to this Lease Agreement, except to the extent such acts, errors, and omissions are due to Tenant.

8. **SERVICES BY LANDLORD.** Landlord agrees to keep in good repair the Premises, except repairs rendered necessary by the negligence or intentional wrongful acts of Tenant, its agents, employees, or its invitees except Eligible Beneficiaries or employee candidates. Landlord shall provide reasonable building maintenance services, provided that Landlord shall not maintain any property belonging to Tenant or provided or altered by Tenant. Landlord shall maintain the grounds surrounding the building, including paving, the mowing of the grass, care of shrubs, general landscaping and snow removal as scheduled by Landlord. Landlord shall provide routine housekeeping services for the Premises, provided, however, that Landlord is not responsible for any damage to the Premises by Tenant. Tenant shall dispose of medical waste and any sharps supplies generated from its operations. Tenant shall be responsible for its own employees' safety. Tenant shall promptly report in writing to Landlord any defective condition known to it which Landlord is required to repair and failure to report such conditions shall make Tenant responsible to Landlord for any liability incurred by Landlord by reasons of such conditions.

Tenant accepts the Premises in their present condition and as suited for the uses intended by Tenant unless advance notice is provided to Landlord. Tenant agrees to return the Premises to the Landlord at the expiration or prior termination of this Lease, in as good condition and repair as when first received, natural wear and tear, damage by storm, fire, lightning, earthquake or other casualty alone excepted. Tenant, Tenant's employees, agents, contractors or subcontractors shall take no action which may void any manufacturers or installers warranty with relation to the Premises. Tenant shall indemnify and hold Landlord harmless from any liability, claim, demand or cause of action arising on account of Tenant's breach of the provisions of this paragraph.

9. **ALTERATIONS.** Tenant shall not make any alterations, additions, or improvements to the Premises without Landlord's prior written consent. Tenant shall promptly remove any alterations, additions, or improvements constructed in violation of this Paragraph upon Landlord's written request. All approved alterations, additions, and improvements will be accomplished in a good and workmanlike manner, in conformity with all applicable laws and regulations, and by a contractor approved by Landlord, free of any liens or encumbrances. Landlord may require Tenant to remove any alterations, additions or improvements (whether or not made with Landlord's consent) at the termination of the Lease and to restore the Premises to its prior condition, all at Tenant's expense. All alterations, additions and improvements which Landlord has not required Tenant to remove shall become Landlord's property and shall be surrendered to Landlord upon the termination of this Lease, except that Tenant may remove any of Tenant's machinery or equipment which can be removed without material damage to the Premises. Tenant shall repair, at Tenant's expense, any damage to the Premises caused by the removal of any such machinery or equipment.

10. **REMOVAL OF FIXTURES.** Tenant may (if not in default hereunder) prior to the expiration of this Lease, or any extension or renewal thereof, remove all fixtures and equipment which it has placed in the Premises, provided Tenant repairs all damage to the Premises caused by such removal.

11. **DESTRUCTION OF OR DAMAGE TO PREMISES.** If the Premises are totally destroyed by storm, fire, lightning, earthquake or other casualty, this lease shall terminate as of the date of such destruction. If the premises are damaged but not wholly destroyed by any such casualties, rental shall abate in such proportion as effective use of the Premises has been affected and Landlord shall restore Premises to substantially the same condition as before damage as speedily as is practicable, whereupon full rental shall recommence. Tenant is responsible for insuring its personal property stored on the Premises, and Landlord shall not be responsible for any damage or loss to Tenant's property.

12. **GOVERNMENTAL ORDERS.** Tenant agrees, at its own expense, to comply promptly with all requirements of any legally constituted public authority made necessary by reason of Tenant's occupancy of the Premises. Landlord agrees to comply promptly with any such requirements if not made necessary by reason of Tenant's occupancy.

13. **CONDEMNATION.** If the whole of the Premises, or such portion thereof as will make the Premises unusable for the purposes herein leased, is condemned by any legally constituted authority for any public use or purpose, then in either of said events the term hereby granted shall cease from the date when possession thereof is taken by public authorities, and rental shall be accounted for as between Landlord and Tenant as of said date. Such termination, however, shall be without prejudice to the rights of either Landlord or Tenant to recover compensation and damage caused by condemnation from the condemner. It is further understood and agreed that Tenant shall not have any rights in any award made to Landlord by any condemnation authority.

14. **ASSIGNMENT AND SUBLETTING.** Tenant shall not, without the prior written consent of Landlord, which shall not be unreasonably withheld, assign this Lease or any interest hereunder, or sublet the Premises or any part thereof, or permit the use of the Premises by any party other than the Tenant.

15. **EVENTS OF DEFAULT.** To the extent allowed by law, the happening of any one or more of the following events (hereinafter any one of which may be referred to as an "Event of Default") during the term of this Lease or any renewal or extension thereof, shall constitute a breach of this Lease on the part of the Tenant: (a) Tenant abandons or vacates the Premises; (b) Tenant fails to comply with or abide by and perform any other obligation imposed upon Tenant under this Lease; (c) Tenant is adjudicated bankrupt; (d) A permanent receiver is appointed for Tenant's property and such receiver is not removed within sixty (60) days after written notice from Landlord to Tenant to obtain such removal; (e) Tenant, either voluntarily or involuntarily, takes advantage of any debt or relief proceedings under any present or future law, whereby the rent or any part thereof is, or is proposed to be reduced or payment thereof deferred; (f) Tenant makes an assignment for benefit of creditors; (g) Tenant's effects are levied upon or attached under process against Tenant, which is not satisfied or dissolved within thirty(30) days after written notice from Landlord to Tenant to obtain satisfaction thereof.

16. **EXTERIOR SIGNS.** Tenant shall place no signs upon the outside walls or roof of the Premises, except with the express written consent of the Landlord. Any and all signs placed on the Premises by Tenant shall be maintained in compliance with governmental pales and regulations

governing such signs and Tenant shall be responsible to Landlord for any damage caused by installation, use or maintenance of said signs, and all damage incident to removal thereof.

17. **PARKING.** Tenant shall be entitled to use parking spaces as available and as assigned by Landlord in the lots serving the Premises.

18. **LANDLORD'S ENTRY OF PREMISES.** Subject to advance notice and other mutually agreed upon arrangements between the parties for another location during the term of the underlying Agreement, Landlord may advertise the Premises for Rent or For Sale. Landlord may enter the Premises at any time necessary to access the County's onsite health clinic services for Eligible Beneficiaries located at 725 Highland Avenue, Winston-Salem, North Carolina and at reasonable hours to exhibit the Premises to prospective purchasers or tenants, to inspect the Premises and to make repairs required of Landlord or to provide services under the terms hereof or to make repairs to Landlord's adjoining property, if any.

19. **HOLDING OVER.** If Tenant remains in possession of the Premises after expiration of the term hereof, with Landlord's acquiescence and without any express agreement of the parties, Tenant shall be a tenant at will and there shall be no renewal of this Lease by operation of law. If Tenant remains in possession of the Premises after expiration of the term hereof without Landlord's acquiescence, Tenant shall be a tenant at sufferance and commencing on the fraction thereof during which Tenant so remains in possession of the premises, be twice the monthly rental otherwise payable under Paragraph 3 above.

20. **RIGHTS CUMULATIVE.** All rights, powers and privileges conferred hereunder upon parties hereto shall be cumulative and not restrictive of those given by law.

21. **WAIVER OF RIGHTS.** No failure of Landlord or Tenant to exercise any power given hereunder or to insist upon strict compliance of its obligations hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Landlord's or Tenant's right to demand exact compliance with the terms hereof.

22. **ENVIRONMENTAL LAWS.** Tenant shall be liable for all environmental damage, liability or cost, including attorney's fees, arising out of Tenant's use of the Premises and shall defend and hold Landlord harmless from any claims or actions relating to environmental damage, spills, exposure or other effects. Tenant shall comply with all federal, state, and local laws, ordinances, and regulations. Tenant shall not bring unto the Premises any Hazardous Materials without the prior written approval by Landlord except to the extent required to perform Services required by the underlying Agreement. Any approval must be preceded by submission to Landlord of appropriate Material Safety Data Sheets (MSDS Sheets). In the event of approval by Landlord, Tenant covenants that it complies with all requirements of any constituted public authority and all federal, state, and local codes, statutes, rules and regulations, and laws, whether now in force or hereafter adopted relating to Tenant's use of the Premises, or relating to the storage, use, disposal, processing, distribution, shipping or sales of any hazardous, flammable, toxic or dangerous materials, waste or substance, the presence of which is regulated by a federal, state, or local law, ruling, rule, or regulation (hereafter collectively

referred to as "Hazardous Materials"); (2) comply with any reasonable recommendations by the insurance carrier of either Landlord or Tenant relating to the use by Tenant on the Premises of such Hazardous Materials; (3) refrain from unlawfully disposing of or allowing the disposal of any Hazardous Materials upon, within, about or under the Premises; and (4) remove all Hazardous Materials from the Premises, either after their use by Tenant or upon the expiration or earlier termination of this lease, in compliance with all applicable laws.

23. ABANDONMENT. Tenant shall not abandon the Premises at any time during the Lease term, If Tenant shall abandon the Premises or be dispossessed by process of law, any personal property belonging to Tenant and left on the Premises shall, at the option of Landlord, be deemed abandoned, and available to Landlord to use or sell to offset any rent due or any expenses incurred by removing same and restoring the Premises.

24. DEFINITIONS. "Landlord" as used in this Lease shall include the undersigned, its representatives, assigns, and successors in title to the Premises. "Tenant" shall include the undersigned and its representatives, assigns and successors, and if this lease shall be validly assigned or sublet, shall include also Tenant's assignees or sublease as to the Premises covered by such assignment or sublease. "Landlord", "Tenant", and "Agent" include male and female, singular and plural, corporation, partnership or individual, as may fit the particular parties.

25. NOTICES. All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent by United States certified mail, return receipt requested, postage prepaid to individuals listed below:

Notice to Tenant:

Wake Forest Univ. Baptist Medical Center
Danielle Lamphier, Associate Vice President
Medical Center Blvd. Winston-Salem, NC 27157
dlamphie@wakehealth.edu

And copy to
ATTN: Sr. VP & General Counsel
WFUBMC Legal Department
At the WFUBMC address above

Notice to Landlord:

Dudley Watts
County Manager
Forsyth County Government Center
201 N. Chestnut St.
Winston-Salem, NC 27101
With a copy to:

And copies to:
Property Manager
At the County address above

Human Resources Director
At the County address above

All notices shall be effective upon delivery. Any party may change its notice address upon notice to the other parties, given as provided herein.

26. ENTIRE AGREEMENT. This Lease contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties, not embodied herein shall be of any force or effect. This Lease may not be modified except by a writing signed by all the parties hereto.

27. AUTHORIZED LEASE EXECUTION. Each individual executing this Lease as director, officer, partner, member or agent of a corporation, limited liability company, or partnership represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of such corporation, limited liability company, or partnership.

28. TRANSFER OF LANDLORD'S INTEREST. In the event of the sale, assignment or transfer by Landlord of its interest in the Premises or in this Lease (other than a collateral assignment to secure a debt of Landlord) to a successor in interest who expressly assumes the obligations of Landlord under this Lease, Landlord shall thereupon be released and discharged from all its covenants and obligations under this Lease, except those obligations that have accrued prior such sale, assignment or transfer. Landlord's assignment of this Lease, or of any or all of its rights in this Lease, shall not affect Tenant's obligations hereunder, and Tenant shall attorn and look to the assignee as Landlord, provided Tenant has first received written notice of the assignment of Landlord's interest.

29. MEMORANDUM OF LEASE. Upon request by either Landlord or Tenant, the parties hereto shall execute a short form lease (Memorandum of Lease) in recordable form, setting forth such provisions hereof (other than the amount of Base Monthly Rent and other sums due) as either party may wish to incorporate. The cost of recording such Memorandum of Lease shall be borne by the party requesting execution of same.

30. GOVERNING LAW. This Agreement is governed by the laws of North Carolina, except that provisions relating to conflict of laws shall not apply.

31. EXHIBITS. Exhibit 1, a drawing that shows the Premises described in Section I hereinabove, is incorporated herein by reference. **This drawing is not a formal survey and is only a general representation of boundaries. If there is any discrepancy between Exhibit 1 and any other provision of this Agreement, such other provision of this Agreement shall govern.**

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, Landlord and Tenant have set their hands and seals of the day and year first above written.

FORSYTH COUNTY, NORTH CAROLINA

By: _____
J. Dudley Watts, Jr, County Manager

Date: _____

ATTEST:

Ashleigh M. Sloop, Clerk to the Board

Date: _____

**WAKE FOREST UNIVERSITY BAPTIST
MEDICAL CENTER:**

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT 1

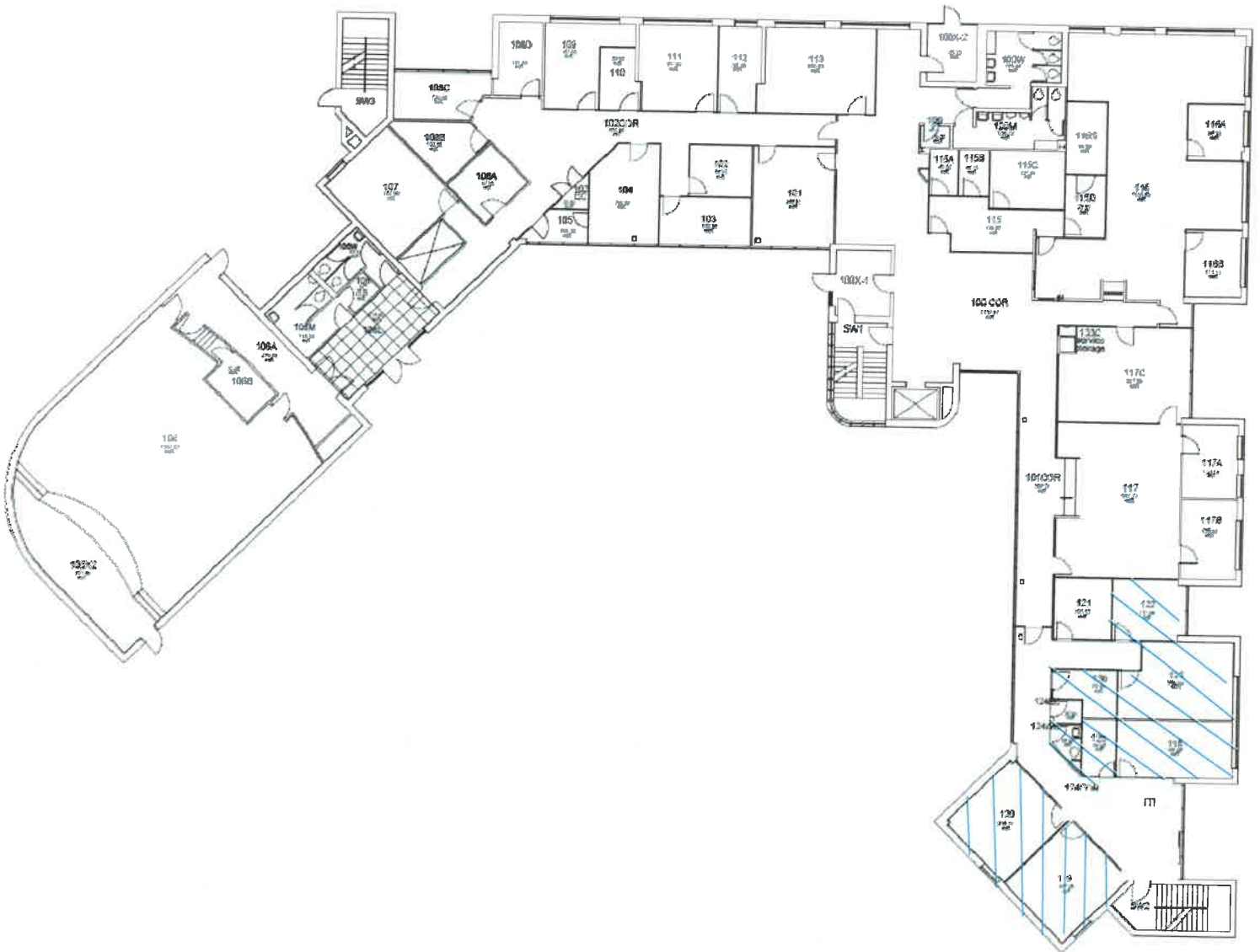


Exhibit 2

Building Rules and Regulations

1. The entry and passages shall not be obstructed by the Tenant, nor used by it for any other purpose than for ingress and egress to and from its respective office.
2. No sign, advertisement or notice shall be inscribed, painted or affixed on any part of the outside or inside of the Premises, except doors of offices, which shall be approved by Landlord prior to installation.
3. Tenant shall not solicit or permit others to solicit goods or services to the public on the Premises.
4. Advertisement of services and/or products not provided by the building tenants and/or the Landlord is prohibited on the property.
5. Requests for access cards and/or keys must be submitted to the Landlord by a designated pre-approved contact for each Tenant. Requests from individual employees will not be processed. Access cards and/or keys issued to tenants for building access shall not be given or loaned to others for any reason. In the event of lost access cards and/or keys, the Landlord will furnish a replacement card and/or key and a fine of five dollars will be required of the tenant per lost item, per occurrence which will be billed in the following month's rent invoice.
6. No additional locks shall be placed on any doors on the Premises nor shall any lock be changed without prior approval from the Landlord.
7. No Tenant shall do or permit anything to be done in said Premises, or bring or keep anything therein, which will in any way increase the fire hazard on said Building, or in any other way injure or annoy any other tenant, or conflict with the laws relating to fires, or with the regulations of the Fire Department, or with any insurance policy upon said Building or any part thereof, or conflict with any rules and ordinances of Forsyth County.
8. Each tenant will keep its Premises in a good state of preservation and cleanliness not causing unnecessary labor on the housekeeping staff due to carelessness and/or disregard for cleanliness.
9. If tenant requires a burglar alarm or similar service it must be submitted in written form to the Landlord for approval prior to installation; Landlord reserves the right to deny these requests based on the business needs of the Premises.
10. No tenant shall store, house, or secure personal belongings and/or property of clients or other individuals on the Premises. Tenant shall be liable to Landlord for the cost of removing client possessions or personal property in conflict with this rule.
11. No tenant shall allow or enable any person other than tenant's employees' entry into the building outside of building business hours, 7a.m. to 6p.m. Monday through Friday. Any after-hours meetings or events that involve persons not employed by tenant must be submitted in writing to the Landlord for approval one week prior to the meeting and/or event.

12. No tenant shall use any other method of heating or air conditioning than that provided for the Premises without special agreement. Usage of space heaters and/or fans may be allowed during business hours but are not to be left on overnight and/or when staff is not present. Any documented violation will result in a one-time written warning to the tenant from the Landlord. Subsequent violations will result in a twenty-five dollar (\$25) fine per violation to be billed in the following month's rental invoice to compensate for consumption of excess utilities.

13. No animals shall be allowed in or kept on the Premises except those identified and used as service animals.

14. Use of tobacco and other vaping products is prohibited inside of all Landlord's properties.

15. No bicycles or small motorized vehicles shall be allowed inside the Premises.

16. No loitering is permitted on the Premises.

17. The Landlord reserves the right to have any intoxicated person or those deemed to be under the influence removed from the building should safety concerns arise or a disturbance occur.

The Landlord reserves the right to alter and/or add reasonable Rules and Regulations as may become necessary and needed for the safety, security, cleanliness, and care of the Premises. The Lessee shall observe and is responsible for its clients and/or visitors to also observe the Rules and Regulations as stated. Such Rules and Regulations are in addition to the Lease and have the same force as if being a part of the Lease.