

**LEASE AGREEMENT**  
**RESEARCH and TECHNOLOGY CENTER**

THIS LEASE AGREEMENT is made and entered into by and between the City of Brookings, South Dakota, a municipal corporation (hereinafter referred to as “Lessor”), and RTI, LLC, a South Dakota limited liability company (hereinafter referred to as “Lessee”). Lessor and Lessee may each also be referred to as a “Party” or collectively, “Parties” to this Agreement.

**WITNESSETH**

Whereas the South Dakota Codified Laws § 9-12-5.1 and 5.2 authorize municipal governments to lease municipally-owned property; and

Whereas the City of Brookings desires to lease office and lab space in the Research and Technology Center; and

Whereas the City of Brookings published a Notice of public hearing on February 3, 2023 in the Brookings Register;

NOW THEREFORE, in consideration of the mutual covenants, terms, and conditions herein contained, the Parties do hereby agree as follows:

**SECTION 1 – DESCRIPTION OF PREMISES**

**1. Description of Premises:** Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the following described property, which is illustrated in Attachment A:

- 801 32<sup>nd</sup> Avenue, Suite 100, Brookings, South Dakota which contains the following units:
- Unit 1 containing approximately 8,866 square feet
- Unit 2 containing approximately 2,091 square feet
- Unit 3 containing approximately 2,134 square feet

**SECTION 2 – TERM**

2. **Term:** This agreement shall commence on the 1<sup>st</sup> day of March, 2023 and shall be for a month-to-month tenancy which may be terminated by either party upon giving notice to the other party at least thirty (30) days prior to the termination date. The term of this lease shall end on December 31, 2023, unless terminated earlier as provided in this Section. The Lessee shall have the option to renew this Lease for two (2) additional one (1) year terms (2024 and 2025), if agreeable to both the Lessor and Lessee. The additional one year terms shall also be month-to-month tenancies, terminable upon thirty (30) days' notice.

**SECTION 3 – ANNUAL CASH RENT**

3. **Monthly Cash Rent:** Lessee agrees to pay Lessor at a rate of Ten (\$10.00) Dollars per square foot for Unit 1 and Unit 2 based upon the occupancy of 10,957 square feet, and at a rate of Four (\$4.00) Dollars per square foot for Unit 3, based upon the occupancy of 2,134 square feet, for the total annual sum of One Hundred Eighteen Thousand One Hundred and Six Dollars (\$118,106) to be payable in equal monthly installments of Nine Thousand Eight Hundred Forty-Two Dollars and Seventeen Cents (\$9,842.17). Lessee shall pay each monthly rental on or before the 1<sup>st</sup> day of each month through the full term of this Lease, and is late if paid after the 10<sup>th</sup> day of the month. Failure to timely pay the rent, in addition to all other remedies, will result in a ten (10%) percent late charge. The payment may be mailed or delivered to the following address:

City of Brookings  
 Accounts Receivable  
 520 3<sup>rd</sup> Street, Suite 230  
 Brookings, SD 57006

**SECTION 4 – LESSEE RESPONSIBILITIES**

4. **Lessee Responsibilities:** The premises described in Section 1 shall be used by Lessee for the following purposes and no others without the prior written consent of the Lessor, and the Lessee agrees to the following:

- 1 A. Use of Premises – Lessee will use the premises to conduct its contract research and  
2 laboratory business, corporate and business office and comply in all respects to the  
3 schedule of Lessee’s Rules of Occupation, hereinafter called “Rules”, attached to this Lease  
4 as Exhibit “B”, or such amended rules that may be issued by the Lessor or the Lessor’s  
5 agents.
- 6 B. Utilities – Lessee shall be responsible for paying its’ own utilities.
- 7 C. Maintenance – Lessee will maintain the interior of Suite 100 (Units 1, 2, and 3) and all  
8 fixtures therein in good condition and repair. No structural alterations or additions to Suite  
9 100 ( Units 1, 2, and 3) may be made without the prior written consent of Lessor.
- 10 D. To remove, at the termination of this Lease, all goods and effects, and to leave Suite 100  
11 (Units 1, 2, and 3) at the conclusion of this Lease in good repair and order, reasonable wear  
12 and tear excepted.
- 13 E. To comply with all Federal, State, or local laws which may affect the Lessee’s use of Suite  
14 100 (Units 1, 2, and 3).
- 15 F. To purchase and maintain such insurance as Lessee deems appropriate to protect Lessee  
16 from loss of Lessee’s property due to fire and/or casualty; and to purchase and maintain a  
17 commercial general liability premises policy in the minimum amount of One Million Dollars  
18 (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate, and Lessee  
19 shall provide the Lessor with a Certificate of Insurance showing Lessor as an additional  
20 insured. The Certificate shall provide for a ten (10) day written notice to Lessor in the event  
21 of cancellation or material change of coverage.
- 22 H. Lessee agrees not to affix signs or advertising displays of any kind, either to the exterior or  
23 interior walls of Suite 100 (Units 1, 2, and 3), or to any of its doors or windows, without the  
24 prior written consent of Lessor.
- 25 I. Lessee shall not vacate or abandon the premises at any time during the term hereof, and if  
26 Tenant does abandon or vacate the premises, or be dispossessed by process of law, or  
27 otherwise, any personal property belonging to Lessee left upon the premises shall be  
28 deemed to be abandoned at the option of the Lessor.

1 J. Lessor shall not be liable for any damage or injury to Lessee, or any other person, or to any  
2 property, occurring on the demised premises or any part thereof, and Lessee agrees to hold  
3 Lessor harmless from any claims for damages unless such damage or injury results from the  
4 negligence of the Lessor.

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6 **SECTION 5 – LESSOR’S RESPONSIBILITIES**

7 **5. Lessor’s Responsibilities:** Lessor shall be responsible for the following:

8 A. The Lessor covenants that it has the right to grant this Lease as Owner of the building.

9 B. To keep the exterior of the premises in good repair and condition, and to clean and maintain  
10 the areas of the Brookings Area Research and Technology Center which are used in  
11 common by all Lessee’s. The Lessor shall be responsible for the exterior and interior  
12 structural maintenance of the building and maintaining the common areas. The Lessor shall  
13 be responsible for pest control around the exterior of the Center and in the common areas.  
14 The Lessor shall also be responsible for maintenance of the heating and cooling system.

15 C. To insure and keep insured at all times the buildings, structures and fixtures owned by the  
16 Lessor against fire, windstorm and similar occurrences.

17 D. To permit the Lessee to occupy Suite 100 (Units 1, 2, and 3) during the term of this Lease  
18 quietly and peaceably, provided the Lessee performs the covenants of this Lease.

19 E. To provide and update a directory of Lessees in the reception area and to provide  
20 identification signs within the building to enable visitors to locate Lessee.

21 F. To provide suitable means of disposing of a reasonable amount of non-hazardous waste  
22 materials resulting from use of the leased premises by Lessee.

23  
24 **SECTION 6 – SUBLETTING AND ASSIGNMENT**

25 **6. Subletting and Assignment:** Lessee shall not assign or sublet this Lease without the prior  
26 written consent of the Lessor.

**SECTION 7 – RIGHT OF ENTRY**

7. **Right of Entry:** The Lessor reserves the right for itself, its agents, employees, and assigns to enter the property any reasonable time without notice to Lessee.

**SECTION 8. - TERMINATION**

**8. Termination:** In the event Lessee defaults in its performance of any obligations under this Agreement, Lessor shall notify Lessee in writing of such default. Within fifteen (15) calendar days following receipt of such notice, Lessee shall cure any default. If the Lessee fails to cure any default in a manner satisfactory with the Lessor, Lessor shall have all remedies available under the law, including the following specific rights and remedies:

1. Right to declare this Agreement terminated;
2. Right to enter into subsequent agreement(s) with other lessee(s).

Both parties agree that if Suite 100 (Units 1, 2, and 3) shall be substantially destroyed by windstorm, fire or other happening, then either party may elect to terminate this Lease by giving written notice of termination to the other party. The parties further understand that this Lease Agreement can be terminated by either party upon thirty (30) days' notice, and Lessee agrees to vacate the premises and remove its property by the end of the 30 day notice period.

**SECTION 9. - INDEMNIFICATION AND HOLD HARMLESS**

**9. Indemnification and Hold Harmless:** Lessee agrees to indemnify and hold harmless Lessor, its officers, employees, agents and assigns from and against any and all liability, claims, demands, actions or suits, of whatsoever character or kind, whether to person or property, and arising or resulting from, or in any way connected with Lessee's performance of this Agreement, operations of Lessee, its agents, employees or subcontractors, whether or not it shall be alleged or determined such act was caused through negligence or omission of Lessee or Lessee's employees, agents or assigns. Lessee shall, at Lessee's own expense, appear, defend and pay all attorney's fees and all costs and other expenses arising from or incurred in connection with such activity, and, if any judgment shall be rendered against the Lessor in any such action, the Lessee shall, at Lessee's own expense, satisfy and discharge that

1 judgment. Lessee expressly agrees that any insurance required hereunder shall not limit the  
2 responsibility of Lessee to indemnify, hold harmless and defend the Lessor.

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4 **SECTION 10. - NOTICES**

5 **10. Notices:** All notices required hereunder shall be personally served or mailed, postage prepaid and  
6 return receipt requested, addressed to the Parties as follows:

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9  
10 **Lessor**

11 City of Brookings  
12 Community Development Department  
13 520 3<sup>rd</sup> Street, Suite 140  
14 Brookings, SD 57006

10 **Lessee**

11 RTI,LLC  
12 801 32<sup>nd</sup> Avenue, Suite 100  
13 Brookings, SD 57006

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16 **SECTION 11. - WAIVER**

17 **11. Waiver:** A waiver or breach of any provision of this Agreement shall not constitute or operate as a  
18 waiver of any other provisions, nor shall any failure to enforce any provision hereunder operate as a  
19 waiver of any provisions hereunder.

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21 **SECTION 12. - GOVERNING LAW**

22 **12. Governing Law:** This Agreement is to be construed under the laws of South Dakota.

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24 **SECTION 13. - AMENDMENT**

25 **13. Amendment:** This Agreement may be amended upon written approval of both parties.  
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**SECTION 14. – ENTIRE AGREEMENT**

**14. Entire Agreement:** This Agreement constitutes the entire Agreement between Lessee and Lessor with respect to the subject matter hereof and supersedes all previous negotiations, proposals, commitments, writings, advertisements, and understandings of any nature whatsoever unless expressly included in this Agreement.

IN WITNESS WHEREOF, the Lessee and Lessor hereby execute this Agreement as of the \_\_\_\_\_ day of February, 2023.

**LESSEE**

RTI, LLC

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Authorized Signature

**LESSOR**

City of Brookings

\_\_\_\_\_  
Paul Briseno, City Manager

**ATTEST:**

\_\_\_\_\_  
Bonnie Foster, City Clerk