

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into by and between the City of Brookings, South Dakota, a municipal corporation, Lessor, hereinafter referred to as "City", and Precision Health Technologies, LLC, hereinafter referred to as "Tenant".

WHEREAS, City owns the Brookings Area Research and Technology Center, located at 811 – 32nd Avenue, in Brookings, South Dakota (the "Property"), and desires to lease a portion of said facilities to Tenant, and

WHEREAS, the above-named Tenant desires to lease a portion of said facilities hereinafter described in accordance with the terms and conditions set forth herein, now therefore,

FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS, CONDITIONS AND PROMISES, THE PARTIES DO HEREBY AGREE AS FOLLOWS:

1. Lease Agreement

The City does hereby lease unto Tenant and Tenant does hereby agree to lease and take from City, that space located in the Brookings Area Research and Technology Center, 811 – 32nd Avenue, Brookings, South Dakota, as shown on the attached Exhibit "A", and which contains approximately 860 square feet (the "Premises").

2. Term/Option to Renew/Expiration

The Lease Agreement shall commence on October 1, 2018 and shall be for a month-to-month tenancy which may be cancelled by either party upon giving notice to the other party at least sixty (60) days prior to the end of the month. The term of this lease shall end no later than December 31, 2020. In the event the City terminates the lease prior to December 31, 2020, it shall give as much notice as possible and will work with the Tenant to allow, if possible, additional time to vacate the premises.

3. Use of Premises

The Premises shall be used by Tenant for the following purposes and no others without the prior written consent of City:

Conduct contract research and laboratory business (the "Purpose").

No use by Tenant shall be made or permitted to be made upon the Premises nor acts done which will increase the existing rate of insurance upon the Property or cause cancellation of insurance policies covering said Property. Tenant shall not conduct or permit any sale by auction on the Premises.

4. Rent

Rent for First Year of Lease

The Tenant shall pay as rent to City for the first year of this Lease (through September 30, 2019), the sum of \$7.50 per square foot, based upon the occupancy of 860 square

feet, the total annual sum of \$6,450 to be payable in equal monthly installments of \$537.50.

Rent for Second Year Option of Lease

Commencing October 1, 2019, the Tenant shall pay as rent to the City for the second year of said Lease, the sum of \$8.00 per square foot, based upon the occupancy of 860 square feet, the total annual sum of \$6,880 to be payable in equal monthly installments of \$573.33.

Rent for Third Year Option of Lease

Commencing October 1, 2020, the Tenant shall pay as rent to the City for the third year of said Lease, the sum of \$8.50 per square foot, based upon the occupancy of 860 square feet, the total annual sum of \$7,310 to be payable in equal monthly installments of \$609.16.

Tenant shall pay each monthly rental on or before the 1st day of each succeeding month through the full term of this Lease, and is late if paid after the 10th 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 (10% of the unpaid rent payment).

In the event Tenant shall terminate this Lease prior to the expiration of this Lease Agreement, all remaining lease payments shall be due and payable to City, provided, however, that the City agrees to forgive any remaining lease payments if the Tenant constructs or purchases a new facility within the City of Brookings and moves its business to said facility.

5. Utilities and Other Services

- A. The water, sewer, electricity, and natural gas utilities are listed in the name of City of Brookings and not separately metered for the Premises. City will bill Tenant monthly for Tenant's pro rata portion of the utilities used by Tenant in the Premises. A copy of the utility statement will be provided for the Tenant's records. The water and sewer are billed on a pro-rated basis with the City assuming the costs for the first 1,000 cubic feet of water and sewer used at the R & T Center. Tenant shall secure its' own telecommunications provider and bear the costs associated therewith.
- B. Tenant shall be responsible for and bear the costs associated with security and janitorial services in the Premises.

6. Tenant Covenants

The Tenant makes the following covenants:

- A. To keep the Premises and all fixtures therein clean, in good condition and repair.
- B. Not to make any structural alterations or additions to the Premises without the written consent of the City.
- C. Tenant may, at its expense, access the roof and/or the wall for installation/maintenance of equipment. Any equipment installation shall be approved by City prior to installation.

- D. Not to assign this Lease, nor sublet the Premises, nor to permit any other person to occupy the Premises, except for employees and invitees of the Tenant or an affiliate of Tenant.
- E. To remove, at the termination of this Lease, all goods and effects, and to leave the Premises at the conclusion of this Lease in good repair and order, reasonable wear and tear excepted.
- F. To use the Premises for the purpose of the Tenant's business only, and to comply in all respects to the schedule of Tenant's Rules of Occupation, hereinafter called "Rules", attached to this Lease as Exhibit "B", or such amended rules that may be issued by the City or the City's agents.
- G. To purchase and maintain such insurance as Tenant deems appropriate to protect Tenant from loss of Tenant's property due to fire and/or casualty; and to purchase and maintain a commercial general liability premises policy in the minimum amount of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate, and Tenant shall provide the City with a Certificate of Insurance showing City as an additional insured. The Certificate shall provide for a ten (10) day written notice to City in the event of cancellation or material change of coverage. Tenant shall furthermore hold the City harmless and indemnify it from any injury, loss or damage that may occur to the persons or property of employees of Tenant or to other persons visiting the Tenant's place of business, unless caused by negligence of the City.
- H. To comply with all Federal, state, or local laws which may affect the Tenant's use of the Premises.
- I. Not to affix signs or advertising displays of any kind, either to the exterior or interior walls of the Premises, or to any of its doors or windows, without the prior written consent of City.
- J. Tenant shall not vacate or abandon the premises at any time during the term hereof, and if Tenant shall abandon or vacate the premises, or be dispossessed by process of law, or otherwise, any personal property belonging to Tenant left upon the premises shall be deemed to be abandoned at the option of the City.
- K. Notwithstanding anything to the contrary herein, City shall indemnify, defend, protect, and hold harmless Tenant from and against all losses, liabilities, claims, damages, costs and/or expenses (including court costs and reasonable attorney's fees) incurred by reason of: (i) any damage to any property or death or injury to any person occurring on any of the Common Areas to the extent that such injury or damage shall be caused by or arise from any act, neglect, fault or omission by or of City or any of the agents, employees or contractors of City; or (ii) any damage to any property or death or injury to any person occurring within the Premises to the extent that such injury or damage shall be caused by or arise

from any act, neglect, fault or omission constituting negligence on the part of City or any of the agents, employees or contractors of City.

- L. Notwithstanding anything to the contrary herein, Tenant shall indemnify, defend, protect, and hold harmless City from and against all losses, liabilities, claims, damages, costs and/or expenses (including court costs and reasonable attorney's fees) incurred by reason of: (i) any damage to any property or death or injury to any person occurring on the demised premises to the extent that such injury or damage shall be caused by or arise from any act, neglect, fault or omission by or of Tenant or any of the agents, employees or contractors of Tenant; or (ii) any damage to any property or death or injury to any person occurring within the Common Areas to the extent that such injury or damage shall be caused by or arise from any act, neglect, fault or omission constituting negligence on the part of Tenant or any of the agents, employees or contractors of Tenant.

7. Lessor's Covenants

The City makes the following covenants:

- A. The City covenants that it has the right to grant this Lease as Owner of the building.
- B. To keep the exterior of the premises in good repair and condition, and to clean and maintain the areas of the Brookings Area Research and Technology Center which are used in common by all Tenants. The City shall be responsible for the exterior and interior structural maintenance of the building and maintaining the common areas. The City shall be responsible for pest control around the exterior of the Center and in the common areas. The City shall also be responsible for maintenance of the heating and cooling system, including any repairs to or replacement thereof.
- C. To insure and keep insured at all times the buildings, structures and fixtures owned by the City against fire, windstorm and similar occurrences.
- D. To permit the Tenant to occupy the Premises during the term of this Lease quietly and peaceably, provided the Tenant performs the covenants of this Lease.
- E. To provide and update a directory of Tenants in the reception area and to provide identification signs within the building to enable visitors to locate Tenant.
- F. To provide suitable means of disposing of a reasonable amount of non-hazardous waste materials resulting from use of the leased premises by Tenant.

8. Mutual Covenants

- A. It is mutually agreed that the principal objective of the Brookings Area Research and Technology Center is to encourage the formation of successful new businesses and to create new job opportunities, and this Lease and any other

agreement between the City and the Tenant must be construed in the context of this objective.

- B. Both parties agree that if the Premises 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.
- C. If Tenant receives the City's written permission to alter or add to the structure, the alterations or additions will be undertaken at the expense of the Tenant. When written permission has been given by the City, at the time of termination of this Lease by mutual consent and provided the Tenant has complied with the covenants of this Lease, the City will undertake to reimburse the Tenant with a proportionate part of the agreed costs of any alterations or additions which materially improve the building, provided the Tenant agrees to continue to operate its business in the City of Brookings. The details of any agreement of this kind will be contained in the letter of consent granted by the City.

9. Default and Remedies

Events of Default.

- A. **Default by Tenant.** The occurrence of any of the following shall constitute a default and material breach of this Lease by Tenant:
 - 1. Any failure by Tenant to pay any rent or any other charge required to be paid under this Lease, or any part thereof, within ten (10) days of the due date; or
 - 2. Any failure by Tenant to observe or perform any other provision, covenant or condition of this lease to be observed or performed by Tenant where such failure continues for ten (10) days after written notice thereof from City to Tenant; provided that if the nature of such default is such that the same cannot reasonably be cured within a ten (10) day period, Tenant shall not be deemed to be in default if it shall commence such cure within such period and thereafter diligently pursue such cure to completion; or
 - 3. Abandonment of the Premises by Tenant; or
 - 4. To the extent permitted by law, the filing by or against Tenant of any proceeding under bankruptcy law.
- B. **Default by City.** The occurrence of any of the following shall constitute a default and material breach of this Lease by City:
 - 1. Any failure by City to observe or perform any provision, covenant or condition of this lease to be observed or performed by City where such failure continues for ten (10) days after written notice thereof from Tenant to City; provided that if the nature of such default is such that the same cannot reasonably be cured within a ten (10) day period, City shall not be deemed to be in default if it shall commence such cure within such period and thereafter diligently pursue such cure to completion; or

2. To the extent permitted by law, the filing by or against City of any proceeding under bankruptcy law.

Remedies. In the event of a default by Tenant, the City, in addition to any other remedies set forth herein or available to it at law or in equity, including injunction, at its option, and without further notice or demand of any kind to Tenant or any other person may:

- a. Terminate this Lease and declare the Lease Term hereof ended and re-enter the Premises and take possession thereof and remove all persons and property therefrom, and Tenant shall have no further claim thereon or hereunder; or
- b. Even though the City may have re-entered the Premises, thereafter elect to terminate this Lease and all of the rights of Tenant in or to the Premises.
- c. Should the City have re-entered the Premises under the provisions of paragraph 2 above, City shall not be deemed to have terminated this Lease or the liability of Tenant to pay any rental or other charges thereafter accruing, or to have terminated Tenant's liability for damages under any of the provisions hereof by any action in unlawful detainer or otherwise to obtain possession of the Premises, unless the City shall have notified Tenant in writing that it has so elected to terminate this Lease and the liability of Tenant to pay any rental or other charges.

Should the City elect to terminate this Lease pursuant to the provisions of this section, the City may recover from Tenant as damages the following:

- (i) The value at the time of the award of any unpaid rent, late charges and other charges which had been earned or were payable by Tenant at the time of termination.

Cure of Tenant's Default. Should Tenant fail to pay and discharge, when due and payable any lien or claim for labor or materials, or any claim for damages arising out of the repair, alteration, maintenance and use of the Premises to be paid by Tenant under this Lease, or should Tenant fail to provide evidence of the issuance and coverage of any insurance policy as required by this Lease, or should Tenant fail to fully pay any sum to be paid or perform any covenant or agreement to be performed by Tenant, as provided for in this Lease, after ten (10) days' written notice from the City, then the City may, at its option and without waiving or releasing Tenant from any of Tenant's obligations hereunder, pay any such lien, claim, or charge, or settle or discharge any action therefor or satisfy any judgment thereon, or obtain any such insurance, or pay any such sum or perform any such covenant or agreement. All costs, expenses and other sums incurred or paid by the City in connection therewith, together with interest at the rate of one (1%) percent per month on such costs, expenses, and sums from the date incurred or paid by City, shall be deemed to be additional rent hereunder

and shall be paid by Tenant to City upon demand, and any default therein shall constitute a breach of the covenants and conditions of this Lease.

- C. **No Waiver**. The waiver by the City of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent by the City shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease other than the failure of Tenant to pay the particular rent so accepted, regardless of the City's knowledge of such preceding breach at the time of acceptance of such rent. No covenant, term or condition of this Lease shall be deemed to have been waived by Landlord unless such waiver is in writing and executed by the City.

In the event of a default by City, the Tenant, in addition to any other remedies set forth herein or available to it by law or in equity, at its option may:

1. Cure City's default and be reimbursed for any expenses incurred therefrom by City. If City does not reimburse Tenant within 10 days of notice of said amount due, Tenant may credit the next rent payment as against said amount due.
2. Terminate this Lease and declare the Lease Term hereof ended.

10. Miscellaneous

- A. If at any time additional space becomes vacant in the Building, City will so notify Tenant and Tenant will have the right to lease said additional space under the same terms and conditions of this Lease, with the only changes to be an increase of the square footage and therefore an increase in the total dollar amount of this Lease at the same rental rate as in this Lease.
- B. Tenant is allowed signage on the free standing side of the property for placement of Tenant's business name. The dimensions of such signage shall be similar to existing business signage at the Property. Interior signage of Tenant is allowed on the suite door or window, subject to the approval of the City.
- C. Unassigned parking at the Property is available for the nonexclusive use of the Tenant and its employees, guests and invitees.
- D. Any notice from the City to Tenant or from Tenant to City shall be deemed duly served if mailed by certified mail to the last known address of the Tenant, or to the address of the City or to the address of the Agents acting for City, and the customary certified mail receipt shall be conclusive evidence of such service.
- E. This Lease shall be subject to and construed under the laws of the State of South Dakota.

IN WITNESS WHEREOF, the parties have hereto placed their signatures on the day and date set forth below.

Dated this 11th day of September, 2018.

CITY OF BROOKINGS, SD, LESSOR

By: _____
Paul Briseno, City Manager
City of Brookings
P.O. Box 270
Brookings, South Dakota 57006
Telephone No. (605) 692-6281

ATTEST:

Shari Thornes, City Clerk

Dated this ____ day of _____, 2018.

PRECISION HEALTH TECHNOLOGIES LLC, Tenant

By: _____

Its: President

Exhibit "A"

MAP DEPICTING Unit 811

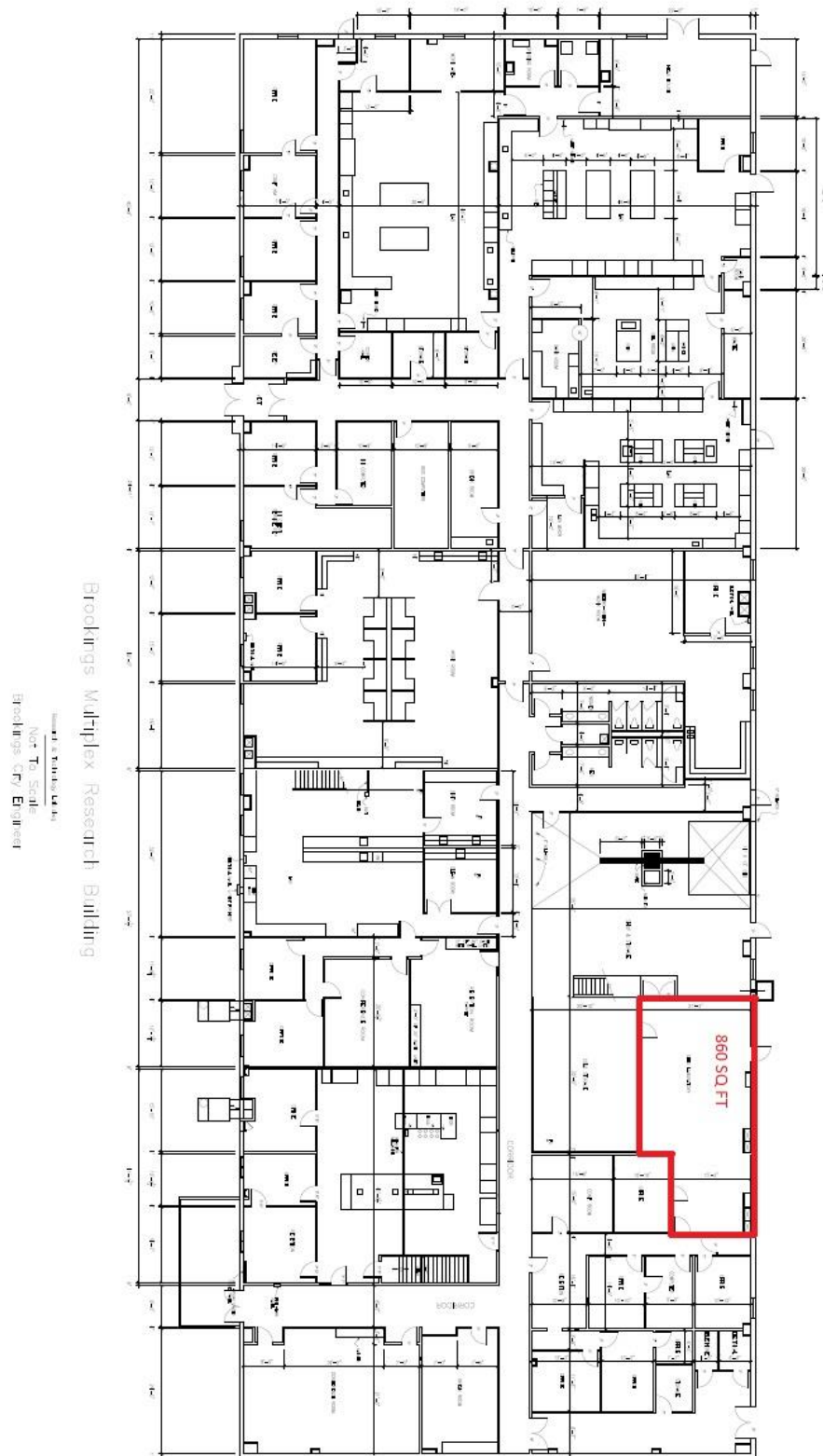


Exhibit "B"

TENANT RULES OF OCCUPATION

1. These are the Rules of Occupation referred to in Section 6 of the Tenant Covenants contained in the Lease between the City and Tenant.
2. Tenants will be required to:
 - a. Ensure that all access doors into the building are properly closed after exit or entry. Fire exit doors are for emergency use only and must not be used for entry or exit or for loading or unloading freight. This requirement is imposed to protect the security and integrity of the whole building and its occupants.
 - b. Dispose of all waste materials in the receptacles provided by the City, and not to leave any garbage or waste materials in any part of the premises or on the parking lot. No oil, grease, paint, or other deleterious matter can be deposited in any drain inside or outside the building.
 - c. Ensure that no gasoline or any other particularly inflammable explosive or combustible material is stored within unit occupied by Tenant or on any part of the Brookings Area Research and Technology Center in violation of the City of Brookings Fire Code, with the exception only of fuel contained in the fuel tanks of Tenant's vehicles.
 - d. Take care to connect all plant and machinery to electrical services in an approved manner and not to overload any electrical circuits.
 - e. Avoid obstructing the corridors or passageways within the Brookings Area Research and Technology Center and to use only approved means of transporting freight, goods or supplies through such corridors or passageways.
 - f. Permit the City scheduled access at all reasonable times to enter and inspect Unit 811 leased to the Tenant, and to allow contractors employed by the City to enter and carry out repairs or alterations to any part of Unit 811 or its fixtures, subject to reasonable notice and an opportunity to be present during said repairs or alterations.
 - g. Do nothing which would cause the insurance procured by the City to become void or invalidated.
 - h. To ensure that all employees of the Tenant that access Unit 811 are aware of these Rules and to make it a condition of employment that employees obey these Rules or any variation of them which are made from time to time.