

BOARD OF REGENTS
EASTERN MICHIGAN UNIVERSITY

SECTION: C

DATE:
JUNE 20, 2024

RECOMMENDATION
AGREEMENT TO APPROVE FIRST AMENDMENT TO LANDLORD LEASE
AGREEMENT WITH TRINITY HEALTH ANN ARBOR

ACTION REQUESTED

It is recommended that the Board of Regents of Eastern Michigan University approve the attached First Amendment to Landlord Lease Agreement with Trinity Health-Ann Arbor.

STAFF SUMMARY

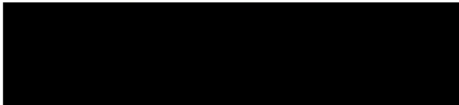
On May 1, 2014, the University entered into a Landlord Lease Agreement with Trinity Health-Ann Arbor (formerly known as St. Joseph Mercy Ann Arbor) (the "Lease"), allowing the University to use 6,879 rentable square feet on the Trinity Health premises, known as the EC-200 Education Center. The university uses this space to provide a Simulation Laboratory for its students on the premises of Trinity Health Ann Arbor Hospital. The parties would now like to extend the term of the Lease through April 30, 2030, under substantially the same terms as currently exist, making only minor adjustments to the agreement based on the university's actual and anticipated use. The parties have agreed in principle to the terms of the attached First Amendment to the Landlord Lease Agreement.

FISCAL IMPLICATIONS

In conjunction with the lease extension, the parties have agreed upon the new rental rates listed in Exhibit B to the amendment.

ADMINISTRATIVE RECOMMENDATION

The proposed Board action has been reviewed and is recommended for Board approval.



6/20/2024

University Executive Officer
Lauren M. London
General Counsel

Date

FIRST AMENDMENT TO LANDLORD LEASE AGREEMENT

This First Amendment to Landlord Lease Agreement (the “**Amendment**”) is made and entered into as of this First day of May 2024 (such date, the “**Effective Date**”), by and between Trinity Health Michigan, a Michigan nonprofit corporation, d/b/a Trinity Health Ann Arbor Hospital, whose address is 5301 McAuley Drive, Ypsilanti MI 48197 (“**Landlord**”), and The Regents of Eastern Michigan University, a Michigan constitutional body corporation whose address is 900 Oakwood Street, Ypsilanti MI 48197 (“**Tenant**”).

RECITALS:

A. Landlord and Tenant entered in that certain Landlord Timeshare Lease Agreement, dated May 1, 2014 (“**Lease**”), regarding the lease by Landlord to Tenant of certain 6,879 rentable square foot Premises known as EC-200 Education Center located in the building having a common address of 5303 Elliott Drive, Ypsilanti, Michigan 48197, as such Premises is more particularly described in the Lease.

B. Landlord and Tenant desire to modify the Lease, as hereinafter set forth.

AGREEMENTS:

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant agree as follows:

1. **Extension of Term.** The term of this Lease is hereby extended an additional Six (6) years commencing on May 1, 2024 and expiring on April 30, 2030.

2. **Exhibit A- Floor plan and Square Feet Calculation:** Total Timeshare Square Feet is 7,250 with 585 square feet for Landlord exclusive use. Tenant square feet shall be reduced from 6,879 Square Feet to 6,665 square feet.

3. **Use Periods:** The Landlord does not provide exclusive use to any program or individual. Tenant programs are given priority for space normally assigned to them during their scheduled utilization of the space. If tenant does not utilize the space during their scheduled Use Period, the Landlord will offer the space to other programs requesting space. Tenant Use Period shall not exceed 120 hours per month.

4. **Option to Renew:** Tenant has five (5) automatic options to extend the terms of the timeshare lease agreement. Each extension option, if exercised by Tenant, shall extend the timeshare lease agreement for one (1) additional period of twelve (12) months.. If Tenant elects not to exercise the option to renew, then Tenant shall give notice to Landlord not less than ninety (90) days prior to the end of the Term or applicable extension term.

5. **Section 1. 4 Leased Services:** Eliminated in its entirety.

6. **Section II Rent Payments.** Shall be amended to include:

Rental Rate: Tenant acknowledges the Premises Rental rate includes a markup of 25% for Tenant's use of Premise Furniture, Fixtures, Equipment, Utilities, and Landlord services including Janitorial, Security, Building Services, and Technical Assistance as required for conducting educational sessions.

Total Rent: Tenant shall pay Landlord the "Total Rent" set forth in Exhibit B- Rent Calculation. Monthly payments of Total Rent shall be due and payable in advance without prior demand, and without deduction or any setoff whatsoever on or before the first day of each calendar month for the remainder of the lease term.

Late Charges: (a) Any Rent payment not paid within fifteen (15) days of its due date shall (i) be subject to a late charge of five percent (5%), and (ii) shall thereafter bear interest until paid at an annual rate of the lesser of (i) the maximum rate permitted by law, or (ii) three percent (3%) in excess of the prime rate of interest established from time to time as published in the Wall Street Journal (the "Default Rate").

Annual Rent Increase: Tenant Total Rent shall increase on each anniversary date by 2.5%

7. **Article V: Leased Services:** Eliminated in its entirety.

8. **Technical Assistance.** Landlord will provide, as reasonably possible, Technical assistance as required for conducting educational sessions. Tenant acknowledges Landlord's personnel are hired, managed, scheduled, and supervised by the Landlord.

9. **Article VIII paragraph 8.2 (g):** Eliminate in its entirety.

10. **Exhibits A, B, C, D** hereto attached replace exhibits A, B, C, and D contained in the original May 1, 2014 lease. Exhibit E-Parking remains in full force and effect.

11. **HIPAA.** Tenant's Employees shall be considered to be members of Tenant's "work force" for purposes of the Health Insurance Portability and Accountability Act ("HIPAA"), as amended, and shall comply with Tenant's HIPAA policies and procedures.

12. **Force Majeure.** Neither party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Lease, for any failure or delay in fulfilling or performing any obligation under this Lease, when and to the extent such failure or delay is caused by any of the following events: (i) acts of God; (ii) floods, fires, earthquakes, explosions, or other natural disasters; (iii) wars, invasions, hostilities, terrorist threats or acts, riots, or other civil unrest; (iv) governmental authority proclamations, orders, laws, actions, or requests; (v) embargoes or blockades; (vi) strikes, labor shortages, lockouts, or other industrial disturbances; (vii) shortages of supplies, adequate power, or transportation facilities; or (viii) other similar events beyond the reasonable control of the parties (each, a "**Force Majeure Event**"). The failure of either party to perform its obligations in this Lease due to a Force Majeure Event shall be excused for the duration

of the Force Majeure Event and extended for a period equivalent to the period of such delay. Notwithstanding the foregoing: (i) nothing contained in this subsection of the Lease shall excuse either party from paying in a timely fashion any payments due under the terms of this Lease; and (ii) no delay in the performance of any obligations shall be excused if caused by applicable laws in effect on the Effective Date or the implementation of same.

13. **Waiver of Pandemic Defenses.** Landlord and Tenant are aware that, in connection with COVID-19 and its variants (“**COVID-19**”) and any existing orders, directives or responses and/or future orders, directives or responses relating to COVID-19 (as the same may be amended or extended), some tenants under leases have or may argue that the situation constitutes a constructive eviction, in whole or in part, and/or entitles the subject tenant to an abatement or diminution of rent or relieves the tenant from any or all of its monetary obligations under its lease, or impose liability upon the applicable landlord or its agents by reason of inconvenience or annoyance to such tenant or injury to or interruption of tenant’s business or otherwise (any such argument or arguments of similar import are hereinafter collectively referred to as “**Pandemic Defenses**”). Tenant hereby agrees that as an inducement for Landlord to enter into this Agreement, Tenant hereby (a) releases Landlord from, and waives any current or future Pandemic Defenses, and (b) agrees not to bring or raise any claims, defenses or counterclaims based on any Pandemic Defenses against Landlord; provided, however, that the foregoing waiver shall not relieve Landlord for any liability with respect to the gross negligence or willful misconduct of Landlord.

14. **Miscellaneous.**

a. All capitalized terms not defined in this Amendment shall have the same meaning ascribed to those terms in this Lease.

b. Except as specifically modified hereby, the Lease shall continue in full force and effect and is hereby ratified and confirmed as amended by this Amendment. In the event of any conflict between the terms of this Amendment and the terms of the Lease, the terms of this Amendment shall govern and control.

c. This Amendment may be executed in one or more counterparts by the different parties to this Amendment, each of which shall be deemed an original, and all of which together shall constitute one and the same document. Signatures to this Amendment that are transmitted via facsimile, electronically, or by PDF shall be deemed to constitute original signatures.

15. **Authority.** Landlord and Tenant each hereby represents to the other that the individuals executing this Amendment on its behalf have the authority to do so.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first above written.

[END OF TEXT]

**SIGNATURE PAGE TO AMENDMENT TO LANDLORD LEASE AGREEMENT
BY AND BETWEEN**

**Trinity Health Michigan,
AS LANDLORD**

and

**The Regents of Eastern Michigan University,
AS TENANT**

LANDLORD:

Trinity Health Michigan, a Michigan nonprofit
corporation, d/b/a Trinity Health Ann Arbor
Hospital

By: _____

Printed Name: Michael P. Gusho

Its: Chief Financial Officer

TENANT:

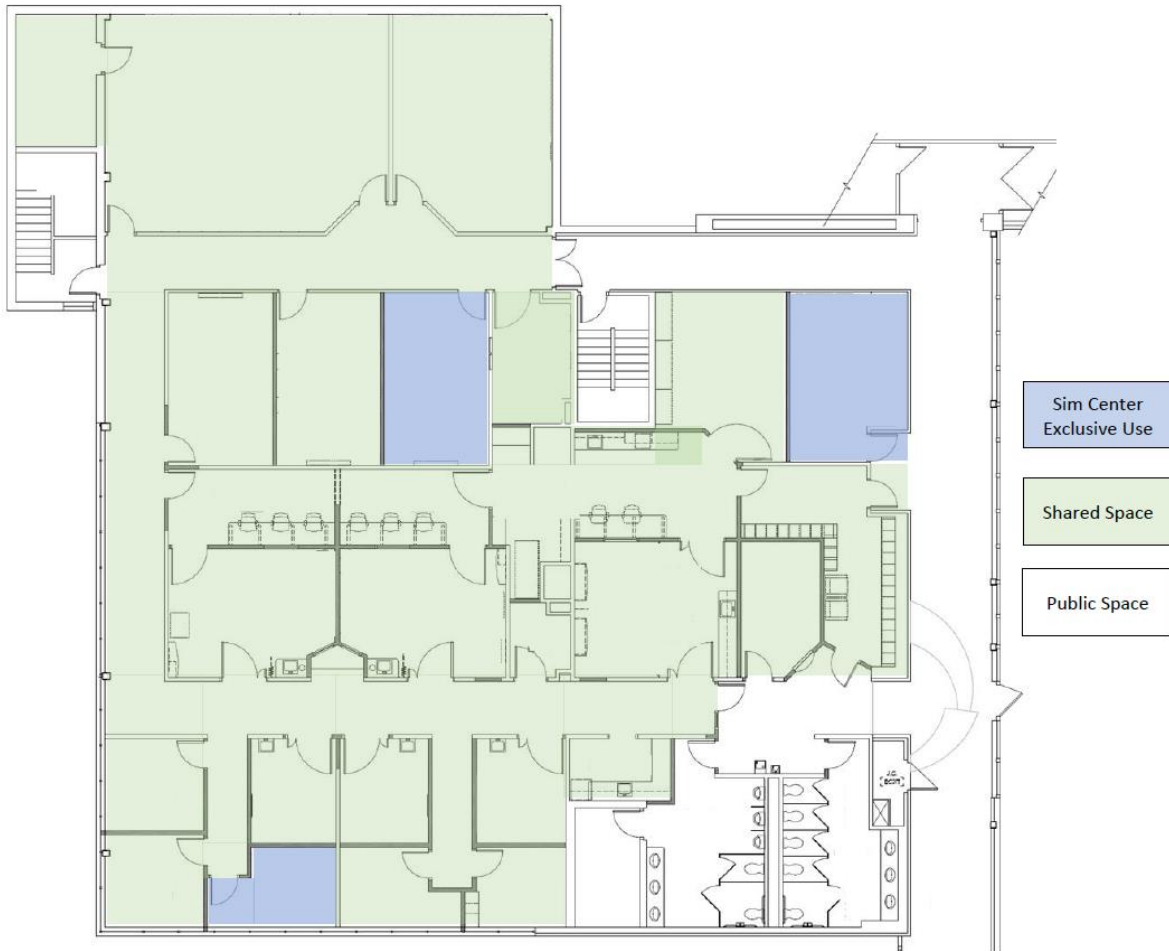
The Regents of Eastern Michigan University, a
Michigan constitutional body corporation

By: _____

Printed Name: Rhonda Longworth

Its: Provost and Executive Vice President,
Academic and Student Affairs

Exhibit A: Floor Plan



SF per Planning and Design :
Blue area: 585 SF
Green area: 6,665 SF

Exhibit B: Rent Calculation:

PerPD&C LS Drawings/ D. Malott email dated 4/12/24							
Sim Center Exclusive:			585				
Sim Center TS:			6665				
Total SF:			7250				
Coterminous with SJAA-HP11- Cadaver lab							
Expires on:	4/30/2030						
SJAA-HP 12 TS Sim Lab							
Expires on:	4/30/2030						
Starting Rate:	\$ 32.91	\$ 24.68	\$ 8.23				
SF:	6,665						
Services, FFE	25%						
Annual Escalation:	102.50%						
Current Rent:	\$ 17,831.31						
RENT	Total Annual Rent	Services, FFE	Rent	Rate/SF	Service FFE/SF	Total Monthly Rent	Rate:
YR 1 5/1/2024	\$ 219,345.15	\$ 54,836.29	\$ 164,508.86	\$ 24.68	\$ 8.23	\$18,278.76	\$ 32.91
YR 2 5/1/2025	\$ 224,828.78	\$ 56,207.19	\$ 168,621.58	\$ 25.30	\$ 8.43	\$18,735.73	\$ 33.73
YR 3 5/1/2026	\$ 230,449.50	\$ 57,612.37	\$ 172,837.12	\$ 25.93	\$ 8.64	\$19,204.12	\$ 34.58
YR 4 5/1/2027	\$ 236,210.74	\$ 59,052.68	\$ 177,158.05	\$ 26.58	\$ 8.86	\$19,684.23	\$ 35.44
YR 5 5/1/2028	\$ 242,116.00	\$ 60,529.00	\$ 181,587.00	\$ 27.24	\$ 9.08	\$20,176.33	\$ 36.33
YR 6 5/1/2029	\$ 248,168.90	\$ 62,042.23	\$ 186,126.68	\$ 27.93	\$ 9.31	\$20,680.74	\$ 37.23
Options to extend							
YR 1 05/01/30	\$ 254,373.13	\$ 63,593.28	\$ 190,779.85	\$ 28.62	\$ 9.54	\$21,197.76	\$ 38.17
YR 2 05/01/31	\$ 260,732.45	\$ 65,183.11	\$ 195,549.34	\$ 29.34	\$ 9.78	\$21,727.70	\$ 39.12
YR 3 05/01/32	\$ 267,250.77	\$ 66,812.69	\$ 200,438.07	\$ 30.07	\$ 10.02	\$22,270.90	\$ 40.10
YR 4 05/01/33	\$ 273,932.04	\$ 68,483.01	\$ 205,449.03	\$ 30.83	\$ 10.28	\$22,827.67	\$ 41.10
YR 5 05/01/34	\$ 280,780.34	\$ 70,195.08	\$ 212,297.33	\$ 31.85	\$ 10.53	\$23,398.36	\$ 42.13

Exhibit C: Rate Calculation

Revised SF per D. Malott PDC Life Safety Plans- Education Center Bldg				
Rate Includes Service Fee				
Starting Rental Rate:	Rent:	Service Chrg		Total Rate:
YR 1	2024-2025	\$ 26.33	\$ 6.58	\$ 32.91
YR 2	2025-2026	\$ 26.98	\$ 6.75	\$ 33.73
YR 3	2026-2027	\$ 27.66	\$ 6.91	\$ 34.57
YR 4	2027-2028	\$ 28.35	\$ 7.09	\$ 35.44
YR 5	2028-2029	\$ 29.06	\$ 7.26	\$ 36.32
YR 6	2029-2030	\$ 29.78	\$ 7.45	\$ 37.23
Option Period				
	2030 -2031	\$ 30.53	\$ 7.63	\$ 38.16
	2031-2032	\$ 31.29	\$ 7.82	\$ 39.12
	2032-2033	\$ 32.08	\$ 8.02	\$ 40.09
	2033-2034	\$ 32.88	\$ 8.22	\$ 41.10
	2034-2035	\$ 33.70	\$ 8.42	\$ 42.12

Exhibit D: TENANT RULES AND REGULATIONS

Any reference to a tenant in these Rules and Regulations will also include (unless the context makes such reference inappropriate) that tenant's agents, servants' employees, licensees, invitees and visitors.

1. The sidewalks, entrances, vestibules, passages, corridors, halls, elevators and stairways of the Building may not be obstructed or cluttered by any tenant or be used for any purpose other than for access to its leased premises. The Landlord reserves the right to restrict and regulate the use of the public areas of the Building by any tenant, allocate certain elevator or elevators and the hours of use thereof for delivery service, and to designate which Building entrance or entrances must be used by persons making deliveries in the Building.
2. Tenants may not display any signs or lettering on any window in their leased premises or in the common areas without the Landlord's prior written consent. The Landlord may remove any sign or lettering violating this rule without any liability and may charge (as additional rent) the expense incurred by such removal to the tenant or tenants violating this rule. Interior signs on doors or adjacent sidelights will be affixed for each tenant by the Landlord, at the expense of such tenant, and must be of a size, color and style acceptable to the Landlord.
3. The windows, doors, and skylights that reflect or admit light and air into the common areas in the Building may not be covered or obstructed by any tenant.
4. The water fountains, toilets, lavatories and other plumbing fixtures may not be used for any purpose other than those for which they are constructed, and no sweepings, rubbish or other substances may be thrown therein. All damages resulting from any misuse of the fixtures will be the responsibility of the tenant who caused the damages.
5. Tenants may not move, mark, paint, puncture, drill into or in any way deface any part of their Leased Premises or the Building including, but not limited to, partitions, woodwork and walls. No boring, cutting or stringing of wires will be permitted without the Landlord's prior written consent (which consent shall not be unreasonably withheld) and as the Landlord may direct. Minor and insubstantial installation of art work will be permitted without the Landlord's prior consent, except that upon surrender, tenants shall bear the cost of any repairs necessitated by such installation. Only contractors approved in writing by the Landlord may be employed by any tenant for making repairs, changes or any improvements to its leased premises. Tenants may not lay floor covering, other than rugs, so that the same will come in direct contact with the floor of their leased premises; and if linoleum or other similar floor covering is desired (and such use is approved by the Landlord), an interlining of builder's deadening felt must be first affixed to the floor by a paste or other material soluble in water. The use of cement or other similar adhesive material is expressly prohibited. Metal cabinets on tile floors must be set on non-corrosive pads.
6. No bicycles, vehicles or animals (except seeing-eye dogs) of any kind may be brought into or kept in or about any tenants' leased premises or the Building.

7. No space in the Building may be used for the storage of merchandise or for the sale of merchandise, goods or property of any kind at auction without the prior written consent of the Landlord, or for lodging, sleeping or any immoral purposes.
8. No tenant may make or permit to be made any disturbing noises or disturb or interfere with occupants of this or neighboring buildings or leased premises or those having business with them. No tenant may throw anything out of the doors or down the passageways, stairs or elevator shafts or sweep anything into the corridors, hallways or stairs of the Building.
9. No additional locks or bolts of any kind may be used on any of the doors by any tenant, nor may any changes be made in existing locks or the mechanism thereof without the prior written consent of the Landlord. Each tenant must, upon the termination of its tenancy, return to the Landlord all keys and Building security passes and cards either furnished to or otherwise obtained by such tenant. If any keys so furnished are lost, such tenant will pay the Landlord the cost of replacement or, in the alternative, at the Landlord's option, the cost of re-keying the locks.
10. The Landlord shall have the right to prohibit any advertising by any tenant which, in the Landlord's reasonable opinion, tends to impair the reputation of the Building or its desirability as a building for offices and, upon written notice from the Landlord, tenants will refrain from or discontinue such advertising. Tenants may not use the name of the Building or its owner in any advertising without the express written consent of the Landlord, which consent shall not be unreasonably withheld.
11. Tenants may not install or permit the installation or use of any vending machines or permit the delivery of any food or beverages to their leased premises except by persons approved by the Landlord (which approval shall not be unreasonably withheld) and only under regulations reasonably fixed by the Landlord. No food or beverages may be carried in the common areas of the Building except in closed containers.
12. Each tenant, before closing and leaving its leased premises at any time, must see that its entrance doors are closed and locked and that Building security regulations are followed.
13. Each tenant, at its own expense, will provide artificial light for the Landlord's employees while doing janitorial service or other cleaning and in making repairs or alterations in such tenant's leased premises. The Landlord shall not be responsible to any tenant for loss of property from the tenant's leased premises, no matter how the loss occurs, or for damage done to the furniture or other effects of any tenant by the Landlord's agents, other janitors, cleaners or employees, or contractors doing work in the tenant's leased premises.
14. Canvassing, soliciting and peddling are prohibited in the Building and each tenant will cooperate to prevent the same.
15. Hand trucks, other than those equipped with rubber tires and side guards, may not be used in any tenant's leased premises or in the common areas of the Building.

16. Without limiting any other provisions of this Lease, including these Rules and Regulations, no tenant may install, attach or bring into its leased premises any instrument, duct, refrigerator, air conditioner, water cooler or any other appliance requiring the use of gas, electric current or water, without first obtaining the Landlord's written permission, which permission shall not be unreasonably withheld. Any breach of this Regulation will authorize the Landlord to enter into such leased premises and remove whatever the tenant may have so installed, attached or brought in, and charge the cost of such removal and any damage that may be sustained thereby as additional rent payable at the Landlord's option immediately or with the next rental payment.

17. During non-business hours, the Landlord reserves the right to deny access to the Building and any tenant's Leased Premises to all persons who do not have written authorization from the tenant. Each tenant shall be responsible for the safeguarding and utilization of access cards/keys, if any, provided by the Landlord to the tenant for purposes of obtaining access to the Building outside of normal hours; lost cards/keys, will be replaced by the Landlord at a minimum charge. Each tenant is responsible for all persons authorized to have access to the Building and will be liable to the Landlord for all of their acts or negligent acts or omissions while in the Building. The Landlord may require all persons given access to the Building during non-business hours to sign a register on entering and leaving.

18. Safes and/or other heavy items may be brought into the Building or located in any tenant's leased premises only with the Landlord's prior written consent, which consent shall not be unreasonably withheld.

19. No tenant at any time may bring or keep in its leased premises any toxic, flammable, combustible or explosive fluid, chemical or substance, except any such substance necessary to enable the provision of medical services performed by the tenant and not prohibited by any federal or state law or regulation. Any such substance shall be specifically disclosed to the Landlord and the Landlord's written permission obtained to keep such substances on the tenant's leased premises.

20. Tenants may not do any cooking, conduct any restaurant, luncheonette or cafeteria for the sale or service of food or beverages to their employees or to others, or cause or permit any odors of cooking or other processes of any unusual or objectionable odors to emanate from their leased premises.

21. Tenant may request heating and/or air-conditioning for non-business hours by submitting a written request therefor to the Building Manager's Office no later than 2:00 p.m. the preceding workday (Monday through Friday). The request must clearly state the start and stop of the non-business hour service. Each tenant representative designated in the Lease will submit to the Building Manager a list of personnel who are authorized to make such request. Charges to be determined when the Building is in operation, will be fair and reasonable and reflect the additional operating costs and the necessity of having maintenance personnel on duty for a full shift regardless of the actual time the equipment is in use. If two or more tenants originate similar requests, charges shall be prorated by hours of operation and square footage of the respective tenants' leased premises.

22. In acknowledgment of the fact that the Building is a medical office building in which ease and proximity of parking to the Building is of utmost importance to the patients of tenants in the Building, tenants may park only in strict compliance with all signs posted and regulations issued by the Landlord, within spaces designated for parking and not in such a manner as to block other parking spaces, drives, loading areas or fire lanes. All tenants hereby authorize the Landlord to remove from the parking lot any improperly parked vehicle at the tenant's sole risk and expense. The parking lot may not be used for any purpose other than the parking of vehicles at tenant's sole risk and expense. The parking lot may not be used for any purpose other than the parking of vehicles of tenants, their employees, agents, licensees and visitors on a daily basis while such persons are engaged in business within the Building. The parking lot may not be used for commercial sales, soliciting, storage, lodging, or any similar activity. Tenants understand that they are fully responsible for assuring that their employees, agents, licensees and visitors comply with these parking rules, will reimburse the Landlord for all costs and expenses incurred in enforcing these rules and will indemnify and hold harmless the Landlord from any liability to such employees and other third parties for measures taken by the Landlord to enforce these rules. To facilitate security arrangements and parking controls, tenants shall furnish to the Landlord a list of the names of each tenant's employees working in the Building and of their vehicle license numbers.

23. Mercury and mercury compounds are known to be hazardous to human health and the environment and is a potential source of exposure to patients, visitors and staff. Tenants are not to use mercury containing equipment where other non-hazardous alternatives are available.

24. Tenants are required to participate in Building safety and disaster activities and drills such as, but not limited to, fire drills, tornado drills and evacuation planning.

25. In as much as the Landlord and its affiliates desires to provide the highest quality in customer/ patient service, tenant is required to cooperate and participate in customer/patient surveys.

26. Smoking is not allowed in the Premises, the Building or grounds of the Building and its affiliated campus. Tenants and staff of Tenant, vendors and contractors may smoke only inside of their personal vehicles.

27. The Building is a professional environment. It is expected that all staff in the building will dress in a professional manner and that dress encourages cleanliness and safety. Attached is the Dress Code policy for Trinity Health Michigan which can be used as a guide for all tenants and their staff for proper attire.