

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE appropriating \$33,259.77 from the fund balance of the 2008 Anti-Drug Sales Tax Fund and authorizing the Director of Finance and Purchasing to execute Lease Amendment 4 to the lease with K.C. Partners, LLC, for office space in the Oak Tower Building, for the use and benefit of the Public Defender's Office, extending the term from July 1, 2008, through June 30, 2015, at a cost to the County not to exceed \$225,259.77 in 2008, and a total cost over the life of the lease amendment not to exceed \$1,747,692.96.

ORDINANCE #4009, June 23, 2008

INTRODUCED BY Dan Tarwater, County Legislator

WHEREAS, by Resolution 11368, dated July 22, 1996, the Legislature did authorize the execution of a long-term lease for the use and benefit of the Public Defender's Office at the Oak Tower Building, located 324 E. 11th Street in downtown Kansas City, at a total base cost of \$1,057,141.85 plus annual percentage increases in operating expenses with the first term ending in 2003; and,

WHEREAS, the 1996 lease's term has been extended on a short-term basis since 2003 by Lease Amendments 2 and 3; and,

WHEREAS, the lease terms as amended are presently continuing on a year-to-year basis with an operating expense pass-through provision obligating the County to pay the pro-rata increases in the tenant's share of the utilities, taxes, and maintenance of the Oak Tower Building; and,

WHEREAS, the previous Administration authorized the inclusion of the Public Defender's employees in County-funded parking spaces and increased the expenses charged to the budgeted amounts for this lease; and,

WHEREAS, the State Public Defender's Office was authorized in 2005 by the previous Administration to solicit proposals for office space for the district office; and,

WHEREAS, after an exhaustive review of the current state of office space leases in downtown Kansas City, the State Public Defender has recommended the continuation of a lease at the current location if certain improvements and additional square footage for case file storage could be obtained; and,

WHEREAS, K.C. Partners, LLC, has submitted proposed Lease Amendment 4 for the use of 19,685 total square feet in the Oak Tower Building; and,

WHEREAS, under the terms of the proposed Lease Amendment 4, the County would pay a scheduled amount each year as rent, without additional billings for increased utility costs and other costs as operating expenses; and,

WHEREAS, under the proposed Lease Amendment 4, the County would pay monthly rent commencing July 1, 2008, based upon the new schedule; and,

WHEREAS, under this Amendment, the County will obtain a rental price for the first year

that is comparable to the 1996 per square foot cost and the Public Defender's Office will obtain requested improvements and additional space for case file storage; and,

WHEREAS, the Amendment provides the County with a termination option should opportunities arise for the consolidation of County-funded office space; and,

WHEREAS, the net additional cost of this lease for the 2008 budget year will be \$33,259.77, for which an appropriation is required after reconciliation for actual expenses paid in 2008 through July 1, 2008; and,

WHEREAS, Lease Amendment 4 provides for a buy-out or early termination option after the third year of the extended lease term; and,

WHEREAS, the maximum total cost this lease amendment will be \$1,747,692.96 from July 1, 2008, until its expiration date of June 30, 2015; and,

WHEREAS, this lease is in the best interests of the health, safety, and welfare of the citizens of the County; and,

WHEREAS, the attached Lease Amendment adequately sets out the rights and obligations of the parties; and,

WHEREAS, in order to fund this lease, an appropriation from the fund balance of the 2008

Anti-Drug Sales Tax Fund is necessary; and,

WHEREAS, the County Executive recommends such appropriation; now therefore,

BE IT ORDAINED by the County Legislature of Jackson County, Missouri, that the Director of Finance and Purchasing be and hereby is authorized to execute the attached Lease Amendment 4 with K.C. Partners, LLC, in a final form to be approved by the County Counselor; and,

BE IT FURTHER ORDAINED that the Director of Finance and Purchasing be and hereby is authorized to make all payments on said lease to the extent that sufficient appropriations to the using spending agency are contained in the then current Jackson County budget; and,

BE IT FURTHER ORDAINED, that the following appropriation from the fund balance of the 2008 Anti-Drug Sales Tax Fund be and hereby is made:

<u>DEPARTMENT/DIVISION</u>	<u>CHARACTER/DESCRIPTION</u>	<u>FROM</u>	<u>TO</u>
2008 Anti Drug Sales Tax Fund			
008-2810	Budgetary Fund Balance	\$33,259.77	
Circuit Court Anti-Drug Fund			
008-3001	56790 - Other Contractual Services		\$33,259.77

Effective Date: This ordinance shall be effective immediately upon its signature by the County Executive.

APPROVED AS TO FORM:


Chief Deputy County Counselor


County Counselor

I hereby certify that the attached Ordinance, Ordinance #4009, introduced on June 23, 2008, was duly ~~passed~~ ^{dropped} on 8-18, 2008 by the Jackson County Legislature. The votes thereon were as follows:

Yeas _____

Nays _____

Abstaining _____

Absent _____

DROPPED

AUG 18 2008

This Ordinance is hereby transmitted to the County Executive for his signature.

Date

Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance #4009.

Date

Michael D. Sanders, County Executive

Funds sufficient for this appropriation are available from the source indicated below.

ACCOUNT NUMBER: 008 2810

ACCOUNT TITLE: Anti Drug Sales Tax Fund 2008
Budgetary Fund Balance

NOT TO EXCEED: \$33,259.77

6/19/08
Date


Director of Finance and Purchasing

AMENDMENT #4

THIS FOURTH LEASE AMENDMENT is entered into and made as of the 11th day of March, 2008, by and between K.C. PARTNERS OAKTOWER LIMITED PARTNERSHIP ("Landlord") and JACKSON COUNTY, MISSOURI ("Tenant") for the use and benefit of the district public defender assigned to the Jackson County Circuit Court .

WITNESSETH:

WHEREAS, Landlord and Tenant have theretofore entered into a certain lease, Original Lease dated August 1, 1996, Amendment #1 dated June 1, 1997, Amendment #2 dated March 8, 2004 and Amendment #3 dated June 19, 2006 (collectively the "Lease") of Landlord's building commonly known as Oak Tower, 324 East 11th Street, Kansas City, Missouri 64106 (the "Premises"), upon terms and conditions described in said Lease; and

WHEREAS, Tenant is desirous of extending and expanding the Premises and the Term of the Lease and making other modifications to the Lease; and

WHEREAS, Landlord and Tenant desire to amend said Lease as described below;

NOW, THEREFORE, in consideration of the mutual rents promised in this Fourth Lease Amendment and other good and valuable consideration, the receipt and adequacy of which is acknowledged by both parties, effective July 1, 2008 ("Effective Date"), it is mutually agreed by and between the parties as follows:

- 1. **Term:** The Term of this Lease is hereby extended and shall expire on June 30, 2015.
- 2. **Premises:** Upon the Effective Date, the Premises shall be consist of 19,685 rentable square feet and shall remain to be known as the "Premises". The Premises includes space located on the entire 20th floor (9,089 rsf), the entire 19th floor (9,096 rsf), and 1,500 rsf on the 18th floor, as marked on Exhibit A.
- 3. **Minimum Rent:** Effective July 1, 2008, the Base Rent for the remaining term of the Lease shall be payable monthly in advance in the amounts set forth below. Monthly Base Rent for the term shall be:

July 1, 2008 – June 30, 2009	=	\$10.68 / rsf	\$17,518.01 / month
July 1, 2009 – June 30, 2010	=	\$11.33 / rsf	\$18,588.18 / month
July 1, 2010 – June 30, 2011	=	\$11.98 / rsf	\$19,658.36 / month
July 1, 2011 – June 30, 2012	=	\$12.67 / rsf	\$20,777.75 / month
July 1, 2012 – June 30, 2013	=	\$13.36 / rsf	\$21,913.54 / month
July 1, 2013 – June 30, 2014	=	\$14.03 / rsf	\$23,016.52 / month
July 1, 2014 – June 30, 2015	=	\$14.73 / rsf	\$24,168.72 / month
- 4. **Termination Option:** Provided that Tenant is not in default under the Lease, Tenant shall have an option to terminate the Lease effective as of March 31st of each year (on or after March 31, 2011) of the extended Lease Term under the following terms ("Termination Date"). The Termination Option shall be exercised, if at all, by Tenant (i) notifying Landlord in writing of its intention to terminate the Lease on or before the date that is at least six (6) months prior to the Termination Date; (ii) paying all Rent (including additional rent) due or accrued through the Termination Date; (iii) vacating the Premises and surrendering the same on or before the Termination Date; and (iv) paying to Landlord an amount ("Termination Fee") equal to the following schedule:

Termination Effective March 31, 2011. Termination fee of \$250,000.00 due to Landlord.
 Termination Effective March 31, 2012. Termination fee of \$187,500.00 due to Landlord.
 Termination Effective March 31, 2013. Termination fee of \$125,000.00 due to Landlord.
 Termination Effective March 31, 2014. Termination fee of \$62,500.00 due to Landlord.

This Termination Fee is due and payable within six (6) months of the Termination Date. However, in the event that the Tenant relocates the Public Defender office space to a facility owned by Jackson County, Missouri, the Jackson County Public Building Corporation or any other governmental entity, the Termination Fee may be paid in two equal installments by Tenant. The two installments will be payable in the next two succeeding calendar years following the Termination Date. The first installment would be due eight (8) months after the Termination Date and the second installment would be due no later than twelve (12) months after the due date of the first installment.

5. **Operating Expense:** Section 5.4 Operating Costs of the original Lease is hereby deleted and replaced with the following language:

There is no operating expense pass-thru clause in the Lease. The Landlord shall be responsible for all operating expenses within the Lease.

6. **Holding Over:** Section 17 Holding Over of the original Lease is hereby deleted and replaced with the following language:

If Tenant retains possession of the Leased Premises or any part thereof after the termination of the Term or any extension thereof by lapse of time or otherwise, Tenant, at Landlord's option, shall be deemed to be occupying the Leased Premises as a Tenant from month-to-month, and shall pay Landlord rent at a rate equal to one hundred twenty-five percent (125%) of the Base Rent payable for the month immediately preceding the commencement of said holding over computed on a per month basis for each month or part thereof (without reduction for any such partial month) that Tenant remains in possession, together with any Additional Rent which would otherwise be due hereunder; and in addition thereto, Tenant shall pay Landlord all damages, consequential as well as direct, sustained by reason of Tenant's retention of possession. This one hundred twenty-five percent (125%) shall be paid for the first six (6) months of holding over. The holding over rate shall move to a rate of one hundred fifty percent (150%) for any time period over six (6) full months of holding over. Such retention of possession shall constitute a month-to-month lease subject to all other terms and conditions of this Lease. Nothing herein contained shall preclude Landlord or Tenant from terminating such month-to-month lease by service of a thirty (30) day notice as provided by law. The acceptance by Landlord of any payment of Rent subsequent to the commencement of such retention of possession by Tenant shall not be deemed to constitute a waiver by Landlord of any of the provision of this Lease.

7. **Tenant Improvements:** Tenant acknowledges and agrees it has made a complete inspection of the Leased Premises and shall accept the Premises in its "as is" condition except as follows:

Landlord will arrange for and pay for the following Tenant Improvements:

General:

- Building standard nylon carpet in office space throughout Tenant Premises on 19th and 20th floors (color selection by Tenant).
- Repair all damaged wall surfaces throughout Tenant Premises on 19th and 20th floors.
- Paint in building standard eggshell paint throughout Tenant Premises on 19th and 20th floors (color selected by Tenant).

Doors:

- Closers: Find permanent solution to ensure that main doors into demised premises close securely.

18th Floor Storage Rooms:

- Landlord will provide Tenant approximately 1,500 rentable square feet of storage rooms on the 18th floor. This space will be delivered in its current as-is condition, and Landlord will ensure rooms with doors that can be secured by standard building lock system.

20th Floor Reconfiguration:

- 20th floor - enclose receptionist area with glass front including door and sliding "window".
- 20th floor - 2 doors with Unican 5 button lock system to enclose and secure corridors leading from reception/waiting area.

8. **Renewal Option:** Section 4 Option to Renew of the original Lease Addendum is hereby deleted and replaced with the following language:

Tenant shall have the option to extend the Lease for a period of one year at one hundred five percent (105%) of the previous Term. Lease shall renew automatically unless Tenant notifies Landlord of its intent not to renew at least ninety (90) days prior to expiration.

9. **Elevator Modifications:** The Landlord will commence the passenger elevator modernization project on or before this Lease Amendment #4 commencement date.

10. **Brokerage:** Neither Landlord nor Tenant has dealt with any broker or agent in connection with the negotiation or execution of this Lease, other than Colliers Turley Martin Tucker Company and Zimmer Real Estate Services.

11. **Tenant's Acknowledgement:** Tenant acknowledges that Landlord is in full compliance with and has performed all of its obligations under the Lease. The Tenant has no claim against Landlord which could result in an offset or deduction against amounts due Landlord under the Lease.

12. **Non-Appropriations Event:** In the event that no funds or insufficient funds are appropriated and budgeted by the Jackson County, Missouri governing body or the Anti-Drug Sales Tax commonly known as the COMBAT sales tax that has been the sole source of the funding of this lease since its inception is not re-approved by the voters of Jackson County, Missouri or is not submitted for re-approval and extension by vote of the Jackson County governing body and there are insufficient funds available to Tenant to satisfy its obligations as the Tenant under this agreement for any fiscal period, then Tenant may, not less than ninety (90) days prior to the end of such applicable fiscal period, notify Landlord in writing and any assignee of Landlord of such occurrence. Upon such notification, this agreement shall thereafter terminate and be rendered null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to the Tenant of any kind, except as to (i) the portions of the amounts due under this agreement for which funds shall have been appropriated and budgeted or are otherwise available and (ii) Tenant's other obligations and liabilities under this agreement relating to, accruing or arising prior to such termination. In the event of such termination, Tenant agrees to peaceably surrender possession of the demised Premises that is the subject of this agreement to Landlord or Landlord's Assignee on the day of such termination. Landlord or its Assignee may exercise all available legal and equitable rights and remedies in retaking possession of the demised Premises. This event shall not constitute a Default as defined in this Lease.

The Lease, as heretofore modified, except as modified by this Fourth Lease Amendment, is in all respects, revived, republished, ratified and confirmed, and the terms, provisions, and conditions thereof shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Lease Amendment by proper persons thereunto duly authorized so to do as of the day and year first hereinabove written.

TENANT:

JACKSON COUNTY, MISSOURI

BY: _____

NAME: _____

TITLE: Director of Finance and Purchasing

LANDLORD:

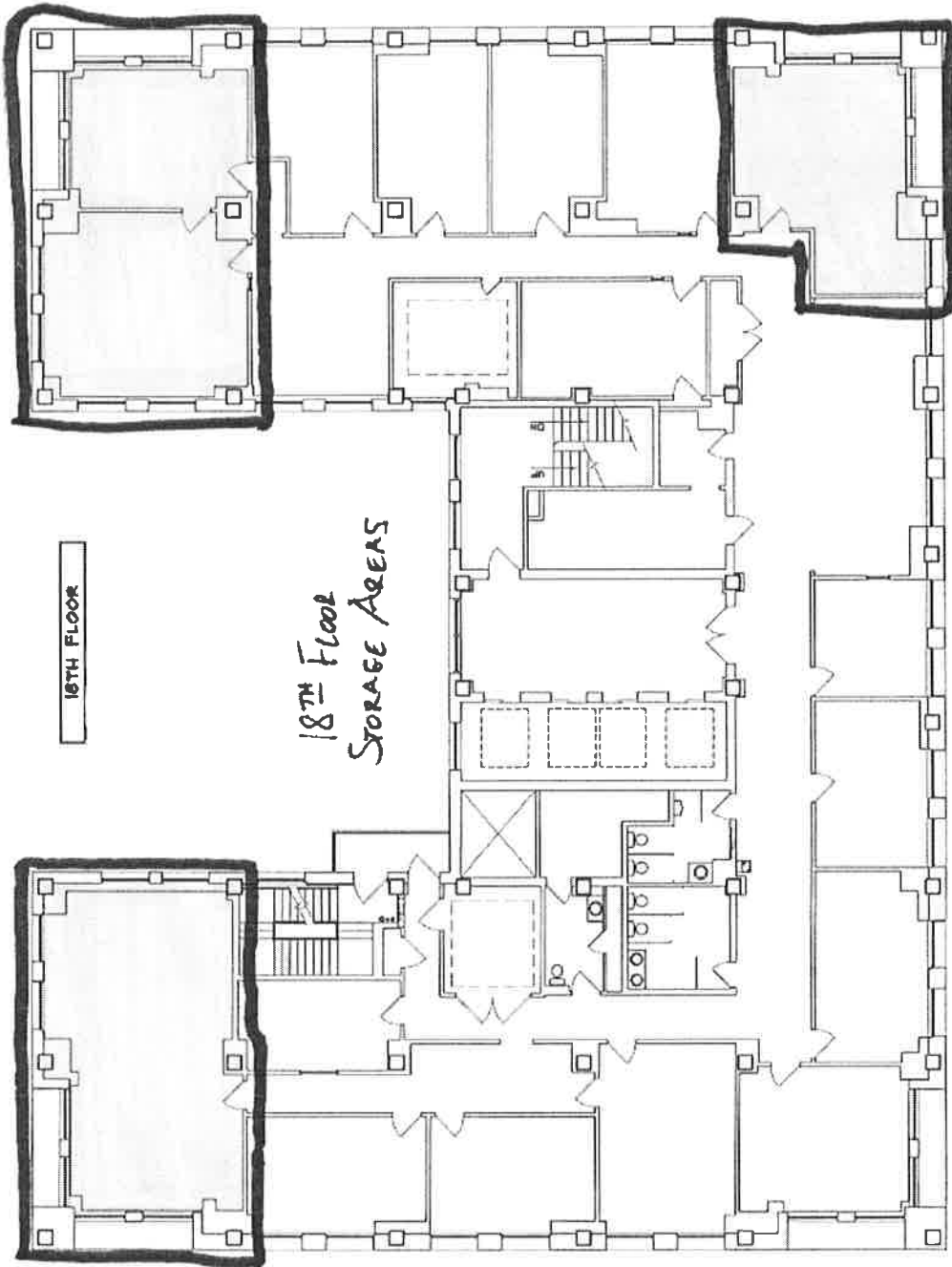
K.C. PARTNERS OAKTOWER LIMITED PARTNERSHIP

BY: _____

NAME: _____

TITLE: _____

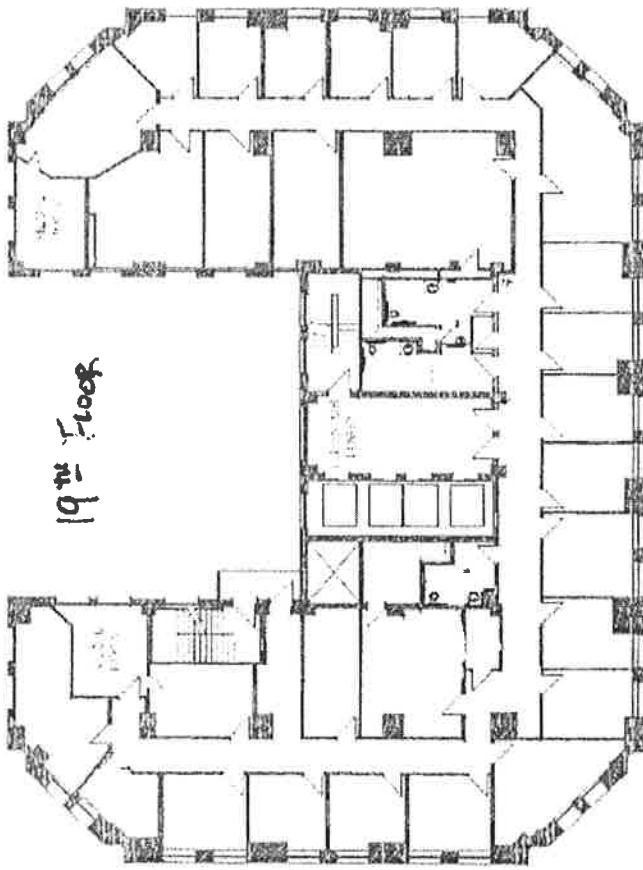
EXHIBIT A



Oak
Tower
324 East 10th Street
Kansas City, MO

18TH FLOOR
EXISTING FLOOR PLAN
VF 1-1-0
REVISION DATE: 09/24/2001





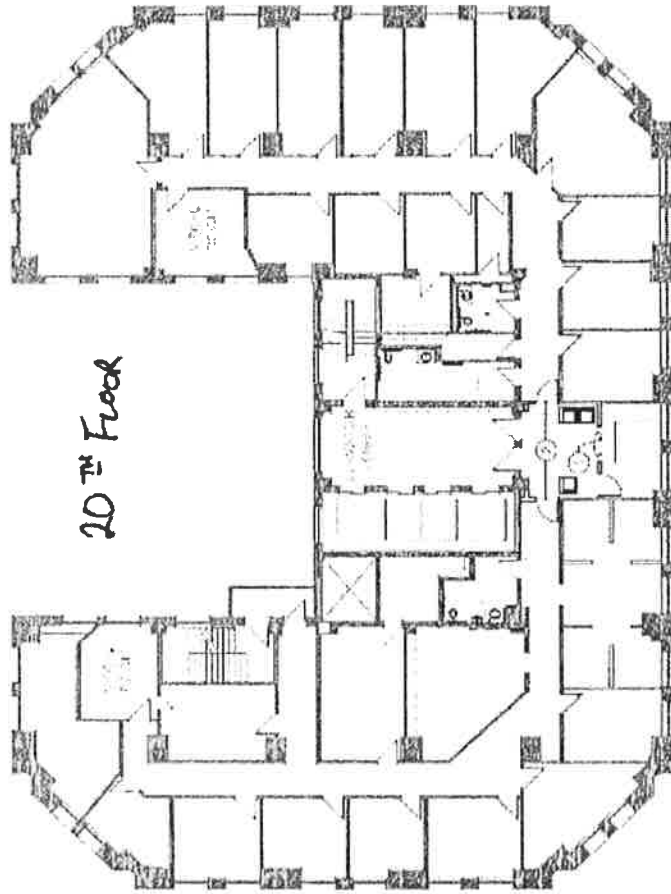
ARCHITECTURE

PROJECT NO. 1000000000

JACKSON COUNTY PUBLIC DEFENDERS OFFICE
 OAK TOWER
 KANSAS CITY, MO

ARCHITECT: [Faint text]
 PROJECT NO. 1000000000

A03



SCALE: 1/8" = 1'-0"

MAKSON COUNTY PUBLIC DEFENDERS OFFICE
 315 W. 10th St.
 LAWRENCE, KS 66044

ONE JENNISON BUILDING PORTLAND, OREGON

DATE: 11/11/11

ARCHITECTURE

A05



COMMERCIAL AGENCY AND BROKERAGE DISCLOSURE ADDENDUM

SELLER/LANDLORD: K.C. Partners Oaktower Limited Partnership

BUYER/TENANT: Jackson County, Missouri

PROPERTY ADDRESS, CITY, COUNTY, STATE, ZIP: 324 East 11 Street, Kansas City, Missouri 64106

DATE OF CONTRACT: March 11, 2008

THE FOLLOWING DISCLOSURE IS MADE IN COMPLIANCE WITH MISSOURI AND KANSAS REAL ESTATE LAWS AND RULES AND REGULATIONS. APPLICABLE SECTIONS BELOW MUST BE CHECKED, COMPLETED, SIGNED AND DATED FOR BOTH SELLER AND BUYER

Seller/Landlord and Buyer/Tenant acknowledge that the real estate Licensee involved in this transaction may be acting as agents of the Seller/Landlord, agents of the Buyer/Tenant, Transaction Brokers or *(In Missouri only)* Disclosed Dual Agents. LICENSEES ACTING AS AN AGENT OF THE SELLER/LANDLORD HAVE A DUTY TO REPRESENT THE SELLER'S/LANDLORD'S INTEREST AND WILL NOT BE THE AGENT OF THE BUYER/TENANT. INFORMATION GIVEN BY THE BUYER/TENANT TO A LICENSEE ACTING AS AN AGENT OF THE SELLER/LANDLORD WILL BE DISCLOSED TO THE SELLER/LANDLORD. LICENSEES ACTING AS AN AGENT OF THE BUYER/TENANT HAVE A DUTY TO REPRESENT THE BUYER'S/TENANT'S INTEREST AND WILL NOT BE AN AGENT OF THE SELLER/LANDLORD. INFORMATION GIVEN BY THE SELLER/LANDLORD TO A LICENSEE ACTING AS AN AGENT OF THE BUYER/TENANT WILL BE DISCLOSED TO THE BUYER/TENANT. LICENSEES ACTING IN THE CAPACITY OF A TRANSACTION BROKER ARE NOT AGENTS FOR EITHER PARTY AND DO NOT ADVOCATE THE INTERESTS OF EITHER PARTY. LICENSEES ACTING AS DISCLOSED DUAL AGENTS ARE ACTING AS AGENTS FOR BOTH THE SELLER/LANDLORD AND THE BUYER/TENANT. (Note: A separate Dual Agency Disclosure Addendum is required).

Licensee Assisting Seller/Landlord is acting as: *(Check applicable)*

- Seller's/Landlord's Agent
- Designated Seller's/Landlord's Agent (Supervising Broker acts as Transaction Broker)
- Transaction Broker
- Disclosed Dual Agent *(Missouri only-Disclosed Dual Agency Addendum is required)*
- N/A-Seller(s) is not represented
- Sub Agent

Licensee Assisting Buyer/Tenant is acting as: *(Check applicable)*



- Seller's/Landlord's Agent
- Buyer's/Tenant's Agent
- Designated Seller's/Landlord's Agent (Supervising Broker acts as Transaction Broker)
- Designated Buyer's/Tenant's Agent (Supervising Broker acts as Transaction Broker)
- Transaction Broker
- Disclosed Dual Agent *(Missouri only-Disclosed Dual Agency Addendum is required)*
- N/A, Buyer(s) is not represented
- Sub Agent

PAYMENT OF COMMISSION: All licensees(s) indicated above will be paid a commission at closing of the sale of the property as follows: (check applicable paragraph)

- Seller/Landlord to Pay all Licensees.** All Licensees(s) will be paid from the Seller's funds at closing according to the terms of the Listing or other Commission Agreement.
- Buyer/Tenant to Pay Buyer's Agent.** Seller/Landlord's Licensee, if any, will be paid from the Seller's funds at closing according to the terms of the Listing Agreement. Buyer/Tenant's Agent will be paid from the Buyer's funds according to the terms of the Buyer/Tenant Agency Agreement.

CAREFULLY READ THE TERMS HEREOF BEFORE SIGNING. WHEN SIGNED BY ALL PARTIES, THIS DOCUMENT BECOMES PART OF A LEGALLY BINDING CONTRACT. IF NOT UNDERSTOOD, CONSULT AN ATTORNEY BEFORE SIGNING. THE PARTIES EXECUTING THIS CONTRACT REPRESENT AND WARRANT THAT THEY ARE LEGALLY AUTHORIZED TO DO SO.

Licensees hereby certify that they are licensed to sell real estate in the state in which the Property is located.

_____ SELLER/LANDLORD	_____ DATE	_____ BUYER/TENANT	_____ DATE
 SELLER/LANDLORD	3/11/08 DATE	 BUYER/TENANT	3/11/08 DATE
_____ LICENSEE ASSISTING SELLER/LANDLORD	_____ DATE	_____ LICENSEE ASSISTING BUYER/TENANT	_____ DATE

Approved by Legal Counsel of the Kansas City Regional Association of REALTORS® for exclusive use by its REALTOR® members. No warranty is made or implied as to the legal validity or adequacy of this Contract, or that it complies in every respect with the law or that its use is appropriate for all situations. Local law, customs and practices, and differing circumstances in each transaction may dictate that amendments to this Contract be made. Copyright January 2007. Last revised 06/04. All previous versions of this document may no longer be valid.