

AMENDED RESOLUTION NO. 21-2024

A RESOLUTION BY THE COUNCIL OF THE CITY OF NEW PHILADELPHIA, OHIO TO AUTHORIZE AND DIRECT THE MAYOR TO ENTER INTO A LEASE AMENDMENT WITH THE TRANZONIC COMPANIES FOR THE CITY OWNED PROPERTY LOCATED AT 444 BANK LANE SW, NEW PHILADELPHIA, OHIO, AND DECLARING AN EMERGENCY.

WHEREAS, the City is the owner of real property located at 444 Bank Lane SW, New Philadelphia, Ohio and has a current lease with The Tranzonic Companies for the use of the same, and

WHEREAS, the parties have agreed to a new lease for a period of one year, beginning on February 1, 2025, after which time the parties may continue with the same or reevaluate, and

WHEREAS, an amendment to the existing lease is necessary to extend the terms of the current lease and increase the lease payments.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW PHILADELPHIA, OHIO AS FOLLOWS:

SECTION 1. The Council of the City of New Philadelphia, Ohio hereby authorizes and directs the Mayor of the City of New Philadelphia to enter into an amended lease agreement between the City of New Philadelphia, Ohio and The Tranzonic Companies, effective February 1, 2025 for a period of one year at which time the parties may continue with the same or reevaluate.

SECTION 2. This Resolution is hereby declared to be an emergency measure and its immediate passage is necessary in order to preserve, protect and maintain the health, safety and welfare of the citizens of New Philadelphia, Ohio.

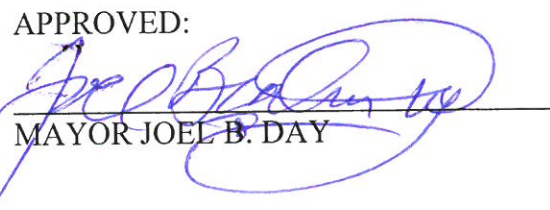
SECTION 3. This Resolution shall take effect immediately upon its passage and approval.

PASSED: Jan 13, 2024 ~~2025~~


DONALD C. KEMP
PRESIDENT OF COUNCIL

ATTEST:

JULIE COURTRIGHT
CLERK OF COUNCIL

APPROVED:

MAYOR JOEL B. DAY

SPONSORED BY: PUBLIC WORKS AND ECONOMIC DEVELOPMENT COMMITTEE

AMENDED
LEASE AGREEMENT

This Lease Agreement was made and entered into in Tuscarawas County, Ohio, by and between the City of New Philadelphia, hereinafter referred to as the Lessor, and The Tranzonic Companies, hereinafter referred to as the Lessee.

1. Premises

1.1 Lessor does hereby let and lease unto Lessee the commercial premises known for street numbering purposes as 444 Bank Lane SW, New Philadelphia, Tuscarawas County, Ohio (the "Premises"). Parcel numbers 43-04022-000; 43-04023-000; 43-04026-000; and 43-04027-000.

2. Term and Delivery

2.1 The term of this Lease shall be twelve (12) months, commencing on the 1st day of February 2025. Lessor shall grant Lessee a one (1) year option to renew its lease at an increase of no less than five percent (5%) for the Premises. Lessee must give Lessor written notice to exercise option to renew on or before September 1, 2026.

2.2 Lessor shall deliver the premises with all doors and mechanical systems, including but not limited to the roof, HVAC, plumbing, and electrical systems in good working order. All drainage and paved areas, including but not limited to parking areas, driveways, and any outside storage areas, shall be in good condition and free of any defects.

3. Rent

3.1 Lessee agrees to pay Lessor as rent for the Premises for twelve (12) months the sum of Three Thousand Two Hundred Fifty and no/100 Dollars (\$3,250.00) per month gross payable on the first day of each month ("Rent"). The first payment shall be due and payable at the commencement date. Any CAM, insurance, and property taxes are included in the rent. Lessee is responsible for mowing grass around the building's exterior during the Term.

3.2 In the event that any rent payment here under shall not be tendered to Lessor within ten (10) days of the date on which such payment is due, an additional payment of five percent (5%) of such late rent payment shall be due and payable.

3.3 In the event Lessee remains in the Premises after the Term, or any renewal thereto date, Lessee shall pay Lessor monthly rent based on 125% of the monthly rent immediately preceding the lease expiration date. Any holdover in the Premises shall not trigger an automatic renewal of the Lease Term. Additionally, no direct or consequential damages shall apply to any holdover by Lessee.

4. Use of Premises

4.1 The Premises shall be used and occupied by Lessee for business purposes and for any related or incidental use which is not unlawful, and which does not constitute a nuisance. The Premises use shall be seven days a week and twenty-four hours per day during the Term. Lessee agrees to use and occupy said Premises in a careful, safe, and proper manner, and not to permit

said Premises to be used for any purpose that will damage the reputation of the Premises or interfere with the lawful operations of the surrounding premises. Lessee shall not use the Premises in such a way that would cause any increase in Lessor's insurance coverage or that would cause Lessor's insurance to be canceled.

4.2 Lessor acknowledges that Lessee's use of the Premises will be warehousing Lessee's goods and represents that Lessee's warehousing does not constitute a nuisance, nor will Lessee's warehouse on and in the Premises interfere with lawful operations of the surrounding property.

5. Utilities

5.1 Lessee agrees to be responsible and pay for all utility services furnished to the Premises including electricity, gas, water, sewer, and telephone, and to hold Lessor harmless from any liability in connection therewith.

6. Real Estate Taxes

6.1 Lessor agrees to be responsible and pay for all real estate taxes and assessments levied or assessed against the Premises, and to hold Lessee harmless from any liability in connection therewith.

7. Maintenance and Repairs

7.1 Lessee agrees to keep the Premises in good condition and repair, reasonable wear and tear excepted. Lessee shall be responsible for all routine maintenance and repairs to the interior of the Premises. Lessee is responsible for lawn maintenance.

7.2 Lessee, at Lessee's sole cost and expense, shall be responsible for performing any routine maintenance and making all routine repairs, interior and exterior of the Premises, in order to keep the Premises in good order and condition and repair, including (subject to the expense cap provided herein) maintenance and repair to the Premise's roof, HVAC system, plumbing systems, and electrical systems. Lessee's annual liability for Lessee's maintenance obligations (other than ordinary maintenance and landscaping), shall be subject to a maximum annual aggregate not to exceed Ten Thousand and no/100 Dollars (\$10,000.00) ("Total Annual Maintenance Amount) and Lessor shall be responsible for maintenance, repairs, and replacements exceeding the Total Annual Maintenance Amount. In no event shall Lessee be required to make any repairs, replacements, or additions to the Premises which would be deemed "capital" in nature according to generally accepted accounting principles.

7.3 Lessor covenants and agrees, at its sole expense without reimbursement or contribution from the Lessee, to keep, maintain, and promptly replace, if necessary, the foundation and structural systems including, without limit to, the roof and load-bearing walls and floor slabs, masonry walls, and gravel driveways on the Premises in good condition and repair.

8. Alterations and Improvements

8.1 Lessee shall not make any structural alterations or improvements to the Premises without the prior written consent of Lessor, which written consent shall not be unreasonably or untimely withheld or conditioned. In the event that such alterations or improvements are made, then the same shall remain a part of the Premises after the termination of this Lease.

9. Assignment and Subleasing

9.1 Lessee shall not assign any rights or obligations under this Lease, nor sublet the Premises without the written consent of the Lessor, which written consent shall not be unreasonably or untimely withheld or conditioned.

10. Insurance

10.1 Lessor agrees to maintain fire and extended coverage insurance on the Premises in an amount not less than eight percent (80%) of the fair market value of the same.

10.2 Lessee agrees to maintain public liability insurance with limits of no less than Five Hundred Thousand Dollars (\$500,000.00) each person/One Million Dollars (\$1,000,000.00) each accident.

10.3 Lessee shall maintain property damage insurance insuring Lessee's property located on the Premises in an amount not less than the fair market value of such property.

10.4 All insurance carried by Lessee hereunder shall be with insurers licensed to do business in the State of Ohio, and shall include Lessor as an additional insured, where applicable. Such insurance shall be primary over any insurance carried by Lessor. All policies issued to Lessee hereunder shall contain a provision prohibiting cancelation or material change without thirty (30) days written notice to Lessor. If Lessee fails to obtain any insurance required hereunder, Lessor may obtain such insurance and charge the same cost to Lessee.

11. Limitation of Lessor's Liability and Indemnification

11.1 It is agreed that Lessor shall not be liable for any damage to the property nor injury to persons upon the Premises during the Term of this Lease unless such damage or injury is caused directly by the negligence or omission of Lessor. Lessee agrees to hold harmless and indemnify Lessor in connection with any claim, demand, or action arising out of such damage or injury, including reasonable attorney fees and expenses.

11.2 Lessor agrees to hold harmless and indemnify Lessee in connection with any claim, demand, or action proximately caused by Lessor or Lessor's employees' or agents' negligence or omission.

12. Discharge of Mechanic's Liens

12.1 Lessee shall, within twenty (20) days after receiving notice of any mechanic's lien for labor or material claimed to have been furnished to the Premises on Lessee's behalf and at Lessee's request, discharge such lien or post a bond equal to the amount of the disputed claim.

12.2 In the event that Lessee elects to post a bond, then Lessee shall contest the validity of the mechanic's lien and shall indemnify, defend, and hold Lessor harmless from any loss incurred in connection therewith.

12.3 In the event that Lessee does not discharge or commence to discharge any mechanic's lien or post a bond within twenty (20) days as aforesaid, then Lessor may pay any required amount to Lessor, including interest and legal fees, to discharge such mechanic's lien, and Lessee shall be liable to Lessor for all amounts so paid by Lessor.

12.4 Nothing contained herein shall be construed as consent to Lessee to subject the Premises to the mechanic's liens.

13. Lessor's Right of Entry

13.1 Lessor shall have the right to enter the Premises at reasonable times and at any time in the event of an emergency to inspect the Premises, make necessary repairs, alterations, or improvements to preserve the safety or integrity of the Premises, or to comply with any applicable laws or regulations, or to exhibit the Premises for sale or mortgage financing. Lessor shall give Lessee twenty-four (24) hours written notice prior to entry.

14. Condemnation of Premises

14.1 In the event that the Premises or any part thereof shall be condemned or appropriated, then either party may elect to terminate this Lease. In the event that the condemnation or appropriation is partial, and the parties do not elect to terminate this Lease, then rent shall abate for any portion of the Premises which might be taken. In any event, any award of compensation for condemnation or appropriation shall be the sole property of Lessor. Lessee shall have the right but not the obligation to pursue its own award.

15. Destruction of the Premises

15.1 In the event that the Premises or any part thereof shall be destroyed by fire or other casualty, Lessor shall have the option of restoring the Premises to the condition prior to such destruction or terminating this lease.

15.2 In the event that Lessor elects to restore the Premises, such restoration shall be completed or substantially completed within One Hundred Twenty (120) days unless Lessor is prevented from completion by Lessee or by any cause beyond the control of Lessor. Rent shall abate for any portion of the Premises which are unfit for use by Lessee or unavailable for use by Lessee during the restoration by Lessor.

16. Environmental Indemnity

16.1 Lessee agrees to indemnify, defend, and hold Lessor harmless from any and all claims, demands, actions, penalties, fines, expenses, or losses of any kind arising during or after the term of this Lease from the presence, release, or disposal of any Toxic Hazardous Substances on the premises resulting from the activities of Lessee, its employees, or agents. Lessor represents and warrants it has no prior notice of any Toxic Hazardous Substances on or within the Premises. In

no event shall Lessee be liable for any Toxic Hazardous Substances that arose prior to or preexisted the Term.

16.2 The indemnification provided hereunder shall include without limitation any and all costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal, or restoration work required by any federal, state, or local government agency or political subdivision, or other third party because of the presence or suspected presence of toxic or hazardous substances in the soil, ground water, or soil vapor on or under the Premises, including but not limited to, diminution in the value of the Premises, damages for any loss or restriction of use of space therein, sums paid in settlements of claims, attorneys' fees, consultants' fees, and experts' fees.

16.3 The indemnification provided hereunder shall survive the expiration or termination of this Lease or any transfer or all or any portion of the Premises.

16.4 "Toxic or Hazardous Substances" shall be interpreted broadly to include but not be limited to any material or substance that is defined or classified under federal, state, or local laws as: (1) a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 (14), Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. Section 1321, as now or hereafter amended; (b) a "hazardous waste" pursuant to Section 1004 or Section 3001 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6903, 6921, as now or hereafter amended; (c) a toxic pollutant under Section 307 (a)(1) of the Federal Water Pollution Control Act, 33 U.S.C. Section 1317 (a)(1); (d) a "hazardous air pollutant" under Section 112 of the Clean Air Act, 42 U.S.C. Section 7412, as now or hereafter amended; (e) a "hazardous material" under the Hazardous Materials Transportation Uniform Safety Act of 1990, 49 U.S.C. App. Section 1802 (4), as now or hereafter amended; (f) toxic or hazardous pursuant to regulations promulgated now or hereafter under the aforementioned laws; or (g) presenting a risk to human health or environment under other applicable federal, state, or local laws, ordinances, or regulations, as now existing or as may be passed or promulgated in the future. "Toxic or Hazardous Substances" shall also mean any substance that after release into the environment and upon exposure, ingestion, inhalation, or assimilation, either directly or from the environment or directly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer, or genetic abnormalities. "Toxic or Hazardous Substances" specifically include but is not limited to asbestos, polychlorinated biphenyls ("PCBs"), petroleum and petroleum-based derivatives, and urea formaldehyde.

17 Security Deposit

17.1 Lessee has paid Lessor the sum of Three Thousand and no/100 Dollars (\$3,000.00) as a security deposit on the date of the initial Lease. Said security deposit or any portion thereof shall be retained by the Lessor in the event that any of the terms of this Lease are materially breached by Lessee and not cured within thirty (30) days following written notice by Lessor reasonably describing the material breach to Lessee, or in the event that upon termination of the Lease, Lessee leaves the Premises in a condition requiring the Lessor to incur actual third-party costs to remedy the condition, ordinary wear and tear expected.

18 Peaceful Enjoyment

18.1 It is agreed that, if Lessee shall honor and perform all the terms and conditions of this Lease, then Lessee shall have the peaceful and quiet enjoyment and possession of the Premises during the term of this Lease without any hindrance from Lessor or any other person or entity lawfully claiming under Lessor.

19. Default by Lessee

19.1 In the event that Lessee shall default in the payment of rent or in any other provision of this Lease which remains uncured for ten (10) days for failure to pay rent, or thirty (30) days for any other material breach of the Lease following written notice from Lessor to Lessee, then Lessor may at its election determine this Lease to be terminated and enter into possession of the Premises and bring an action for any rent and/or damages owing or existing, or bring such action without determining this Lease to be terminated and without entering into possession of the Premises.

20. Return of Possession

20.1 Lessee shall surrender to Lessor possession of the Premises at the expiration of the term of this Lease in as good condition and repair as said Premises shall have been in at the commencement of this Lease, reasonable wear and tear excepted.

21. Acknowledgment of Condition of Premises

21.1 Lessee acknowledges that Lessee has inspected the Premises, both within and without, prior to entering into this Lease and that such Premises are in satisfactory condition at the time of commencement of this Lease, unless specifically noted to the contrary herein.

21.2 Lessor represents and warrants to Lessee as follows:

i. The Premises (i) will comply with applicable governmental requirements (including zoning laws and regulations, land use planning and environmental requirements), (ii) may be lawfully used for the Permitted Use by Lessee, and (iii) shall be free of any liens of subcontractors, materialmen, and the like. Similarly, Lessor shall have obtained all required permits and approvals associated therewith.

ii. The Premises, including all structures and other improvements thereon, are in sound condition ready for Lessee's occupancy, and (ii) the equipment located on the Premises is in good operating condition and repair, and Lessor guarantees for one year the equipment will be operating in good operating condition, reasonable wear and tear excepted.

21.3 The property shall be free of any open permits, citations, liens, and/or other instrument which would impede Lessee's ability to operate on the site for Lessee's intended use.

22. Notice

22.1 Notice to either party wherever required or appropriate herein shall be as follows and shall be sent via overnight courier through a nationally recognized courier service, or US Mail and shall be deemed received upon actual delivery, or three (3) business days, whichever shall first occur:

To Lessor: The City of New Philadelphia
 Service Director's Office
 150 E High Ave
 New Philadelphia, OH 44663

To Lessee: The Tranzonic Companies
 Attn: Pat Fitzmaurice, CFO
 26301 Curtiss Wright Parkway
 Cleveland, OH 44143

23. Miscellaneous Provisions

23.1 This Lease shall be construed in accordance with the laws of the State of Ohio.

23.2 In the event that any provision hereof shall be determined to be invalid, illegal, or unenforceable, then such invalidity, illegality, or unenforceability shall not affect the remaining provisions hereof.

23.3 The section titles herein are provided only as a matter of convenience and are in no way intended to define, limit, or affect the intent of the parties.

23.4 During the Term, Lessee shall have the right to free and uninterrupted automobile and trailer parking at parking ratio/spaces as set forth on the attached "Parking Map" included hereto by reference.

23.5 During the Term, Lessee shall have the right to affix signage on the exterior of the Premises as reasonably determined by Lessee, at Lessee's sole cost and expense.

23.6 Lessee's vacation of the Premises shall not be constructed as an abandonment, nor an event of default under the Lease.

23.7 At all times, Lessor waives all claims against Lessee's personal property upon the Premises and any property belonging to any third-party customer of the Lessee.

IN WITNESS WHEREOF, the parties have knowingly and voluntarily executed this Lease on the date(s) indicated.

LESSOR
CITY OF NEW PHILADELPHIA

By: _____

Date: _____

Title: _____

LESSEE
THE TRANZONIC COMPANIES

By: _____

Date: _____

Title: _____