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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 11(A)(6)

TO: Honorable Chairwoman Rebeca Sosa and Members, Board of County Commissioners

DATE: April 8, 2014

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Resolution approving terms of and authorizing the execution by County Mayor of a Lease Agreement with the Art of Cultural Evolution, Inc. for the development, operation and maintenance of an art and environmental research and educational facility

Resolution No. R-351-14

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Audrey M. Edmonson.

R. A. Cuevas, Jr.
County Attorney

RAC/smm

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MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: April 8, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 11(A)(6)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Mayor's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(6)
4-8-14

RESOLUTION NO. R-351-14

RESOLUTION APPROVING TERMS OF AND AUTHORIZING THE EXECUTION BY COUNTY MAYOR OR MAYOR'S DESIGNEE OF A LEASE AGREEMENT WITH THE ART OF CULTURAL EVOLUTION, INC. FOR THE DEVELOPMENT, OPERATION AND MAINTENANCE OF AN ART AND ENVIRONMENTAL RESEARCH AND EDUCATIONAL FACILITY FOR AN INITIAL THIRTY YEAR TERM AND TWO ADDITIONAL TEN YEAR RENEWAL OPTION PERIODS ON COUNTY-OWNED LAND LOCATED AT 550 NW 22ND STREET, MIAMI, FLORIDA, AT NO COST AND IN ACCORDANCE WITH FLORIDA STATUTE 125.38; WAIVING ADMINISTRATIVE ORDER 8-4 AS IT RELATES TO REVIEW BY THE PLANNING ADVISORY BOARD; DIRECTING THE MAYOR OR THE MAYOR'S DESIGNEE TO TAKE ALL NECESSARY STEPS TO EFFECTUATE THE FOREGOING

WHEREAS, The Art of Cultural Evolution, Inc. is an art and environmental Florida not-for-profit corporation, organized for community interests and welfare purposes of fostering a sustainable future through the merging of contemporary art, urban farming, and environmental education; and

WHEREAS, the County owns vacant property, located at 550 NW 22nd Street in the City of Miami, Florida ("Property"); and

WHEREAS, The Art of Cultural Evolution, Inc. wishes to construct an art and environmental research and educational facility in order to provide a centralized hub for collaboration and education of the public regarding conservation, ecology, and the environment, including residency programs, on-going workshops, community outreach programs, and urban farming in order to promote sustainability in the local community and to South Florida; and

WHEREAS, The Art of Cultural Evolution, Inc. has applied to the County for the use of the Property, and has represented that it will use the Property consistently with its mission, and in accordance with the lease agreement with the County, and all in support of the community interests and welfare purposes for which it is organized; and

WHEREAS, the Board finds that, pursuant to Section 125.38 of the Florida Statutes, that The Art of Cultural Evolution, Inc. does require the Property for such use and that a lease agreement for that use would promote community interest and welfare; and

WHEREAS, the Board finds that a substantial hardship would exist in requiring The Art of Cultural Evolution, Inc. to make a payment in lieu of rent for the Property to the extent that the expected revenues that will be generated will be put back into the Property, its planned facilities, and its operations, and additionally, because the proposed project is for unique educational and environmental purposes, including bringing sustainability practices and urban farming to the local community and to South Florida; and

WHEREAS, the Property would be leased at no cost to The Art of Cultural Evolution, Inc. in substantially the form attached hereto ("Lease") and incorporated herein, which will require the completion of the construction of the planned facility within three years, and which Lease will further restrict the use, assignment, and subleasing of the Property to ensure compliance with the intent of this Board,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board ratifies and adopts the matters set forth in the foregoing recitals.

Section 2. This Board finds that the Property is not needed for County purposes, approves the terms of the Lease of the Property in substantially the form attached hereto, pursuant to Section 125.38 of the Florida Statutes, authorizes the waiver of Administrative Order 8-4 as it relates to review by the Planning Advisory Board, authorizes the County Mayor or Mayor's designee to enter the Lease in substantially the form attached hereto as Exhibit "A" and which is incorporated herein by reference, and to take all actions necessary to effectuate the Lease, and to exercise any and all rights set forth in the Lease.

Section 3. This Board directs the County Mayor or Mayor's designee to appoint staff to monitor compliance with the terms of the Lease.

The Prime Sponsor of the foregoing resolution is Commissioner Audrey M. Edmonson. It was offered by Commissioner **Audrey Edmonson**, who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman	**absent**		
Lynda Bell, Vice Chair	**aye**		
Bruno A. Barreiro	**aye**	Esteban L. Bovo, Jr.	**absent**
Jose "Pepe" Diaz	**absent**	Audrey M. Edmonson	**aye**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Jean Monestime	**absent**	Dennis C. Moss	**aye**
Sen. Javier D. Souto	**absent**	Xavier L. Suarez	**aye**
Juan C. Zapata	**absent**		

The Chairperson thereupon declared the resolution duly passed and adopted this 8th day of April, 2014. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA

BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Debra Herman

GROUND LEASE

THIS GROUND LEASE (hereinafter "Lease") is entered into and made effective on this _____ day of _____, 201_ by and between Miami-Dade County, a political subdivision of the State of Florida (hereinafter "Landlord" and/or "County"), and The Art of Cultural Evolution, Inc., a not-for-profit Florida corporation (hereinafter "Tenant").

RECITALS

WHEREAS, the Landlord is the owner of certain real property, consisting of a vacant parcel of land, located at 550 N.W. 22 Street, Miami-Dade County, Florida, (Folio No.: 01-3125-035-2901); and

WHEREAS, the Tenant is desirous of entering into a ground lease with the Landlord for the use and future development of the vacant parcel of land; and

WHEREAS, the Landlord is willing, and has agreed, pursuant to Section 125.38, *Florida Statutes,* to enter into a ground lease with the Tenant for a term of 30 years, with options to renew the lease for two ten year periods, so long as the Tenant, at all times, remains a Florida not-for-profit entity, occupies the property, utilizes the property as a community garden and art and science facility, and complies with all of the terms and conditions of this Lease in a timely manner.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Lease, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do agree as follows:

WITNESSETH:

The Landlord, for and in consideration of the restrictions and covenants herein contained, hereby leases to Tenant, and Tenant hereby agrees to lease from Landlord, the vacant parcel of land described below, and does so in accordance with the terms and conditions of this Lease, as described herein.

ARTICLE 1
INCORPORATION OF RECITALS

1.01 The parties hereto agree that the foregoing recitals are true and correct, and are incorporated herein by reference.

ARTICLE 2
DEFINITIONS

1. The word "Premises" shall mean the vacant property being leased by the Landlord to the Tenant for the Project (as described below). The Landlord-owned property is located at 550 N.W. 22 Street, in the City of Miami, Florida (respectively, having Folio No.: 01-3125-035-2901). The Premises is further described in Article 3 of this Lease.

2. The word "Project" shall mean the overall improvement of the Premises, which will consist of a community garden, a public art and science facility including public nutritional and education programming, workshops, and lectures, a structural model demonstrating sustainable practices, demonstrations of sustainable practices, and additionally can include, to the extent permitted by law,.the selling of dry goods.

3. The word "Improvements" shall mean all infrastructure, hardscaping, landscaping, parking areas, facilities, or amenities, and any related installations, fixtures, equipment, utilities, site work, and other improvements exiting or to be developed on or about the Premises.

ARTICLE 3
DESCRIPTION OF PREMISES

3.01 Landlord hereby leases the Premises to Tenant, and Tenant hereby rents the Premises from Landlord, subject to the terms, covenants, conditions and provisions of this Lease.

3.02 Premises. The vacant parcel of land involved in this matter, which is located in the City of Miami, is described as follows:

Folio Number:	01-3125-035-2901
Property Address:	550 N.W. 22nd Street, Miami, Florida
Legal Description:	

3.03 Landlord and Tenant agree that the square footage of the Premises is approximately 13,800 square feet and further that the square footage of the Premises is only an approximation of size, as the Premises has not been duly measured by the Landlord. Moreover, the Tenant, has visited the Premises first-hand, and therefore is fully aware of the size of the Premises, and has determined that the Premises is of sufficient size for its intended purposes.

3.04 Notwithstanding anything to the contrary contained herein, the Premises has been inspected by the Tenant who accepts the Premises in its "as-is" and "where-is" condition, with any and all faults, and who understands and agrees that the Landlord does not offer any implied or expressed warranty as to the condition of the Premises and/or whether it is fit for any particular purpose.

ARTICLE 4
TERM

4.01 The term of this Lease shall commence on the date that it is signed by the Landlord, after its approval by the Board of County Commissioners, and the expiration of the County Mayor's ten (10) day veto period (hereinafter the "Commencement Date"). The Landlord shall provide the Tenant with a Letter of Commencement stating the commencement date and the expiration date of this Lease. Tenant hereby agrees that this Lease is for a 30 year period, and shall automatically expire on the thirtieth anniversary of the Commencement Date, with or without notice to the Tenant (hereinafter the "Expiration Date"), so long as Tenant complies with all of the terms and conditions herein, provided however that Tenant may exercise two ten year options to renew in accordance with the provisions herein.

4.02 The Tenant agrees that not only shall this Lease expire on the Expiration Date without the necessity of any notice from either the Landlord or the Tenant to terminate the same, but also Tenant hereby waives notice to vacate or quit the Premises and agrees that Landlord shall be entitled the benefit of all provisions of law respecting the summary recovery of possession of the Premises from a Tenant holding

over to the same extent as if statutory notice had been given. Tenant hereby agrees that if it fails to surrender the Premises at the end of the term, or any renewal thereof, Tenant will be liable to Landlord for any and all damages which Landlord shall suffer by reason thereof, and Tenant will indemnify Landlord against all claims and demands made by any succeeding tenants and/or developers against Landlord founded upon delay by Landlord in delivering possession of the Premises to such succeeding tenant and/or developer.

4.03 If Tenant shall be in possession of the Premises after the Expiration Date, in the absence of any agreement extending the term hereof, the tenancy under this Lease shall become one of month-to-month, terminable by either party on thirty (30) days prior written notice. Such month-to-month tenancy shall be subject to all of the covenants, conditions, provisions, restrictions and obligations of this Lease and shall be subject to rent based upon the terms and conditions found in Section 5.02.

4.04 Option to Renew. Landlord and Tenant hereby agree that the Tenant shall have the right to renew this Lease for two ten year periods under the same terms and conditions contained herein so long as the Tenant is not in default of any of the terms and conditions of this Lease, and the Tenant first provides the Landlord written notice of its desire to exercise its right to renew the Lease at least one hundred eighty (180) days prior to the Expiration Date. However, the Tenant shall not be permitted to exercise the option period until two years prior to the Expiration Date.

4.05 Limitation of the Term. Notwithstanding and prevailing over anything to the contrary in this Lease, should the Tenant fail to substantially complete the construction of the Project within three years from the Commencement Date of this Lease, as evidenced by a temporary certificate of occupancy or an equivalent document to be determined in Landlord's discretion, such failure shall be an event of default and this Lease shall automatically terminate, and the Tenant shall immediately vacate the Premises. Additionally, should the Tenant fail to obtain all permits necessary to commence construction within eighteen (18) months of the Commencement Date of this Lease, then this Lease shall automatically terminate, and the Tenant shall immediately vacate the Premises. In the event of a termination of this Lease for any reason, the

Premises, including all Improvements thereon, shall immediately revert to the Landlord at no cost or expense.

ARTICLE 5
RENT

5.01 Tenant shall not be required to pay rent during the term of the Lease, provided that all other terms and conditions herein are complied with.

5.02 Tenant agrees that should it be in possession of the Premises after the Expiration Date, and without any written renewal or extension thereof, that it shall, in addition to being liable to the Landlord for any and all damages as a result of such holdover, be obligated to pay the then market rent, meaning that rental rate that the Landlord could normally obtain if the Landlord elected to rent the Premises to a third party, which assessment contemplates an arms' length transaction (hereinafter "Market Rent"). Market Rent shall be determined by an independent appraiser selected by the Landlord, who appraises the Premises in its then current condition (no reduction shall be given for any Improvements made by the Tenant to the Premises). This Article survives the termination or expiration of this Lease.

ARTICLE 6
PERMITTED USE OF PREMISES

6.01 Tenant shall only perform work or make improvements on or to the Premises that are consistent with the future operation of the Project. The permitted use of the Property shall be a community garden, public art and science facility, sustainable demonstrations for educational programming and a dry goods store (to the extent permitted by law and applicable zoning including any variances obtained) ("Permitted Use"). No other use of the premises shall be permitted.

6.02 During the term of this Lease, the Tenant will continuously use the Premises for the Permitted Use and for no other purpose whatsoever. Tenant agrees that no changes in the Permitted Use of the Premises is authorized without the express prior written permission of the Landlord.

ARTICLE 7
CONDITION OF PREMISES

7.01 Tenant acknowledges and hereby agrees to accept the Premises in its "as-is" and "where-is" condition, with any and all faults, and further understands and agrees that the Landlord does not offer any implied or expressed warranty as to the condition of the Premises and/or whether it is fit for any particular purpose.

7.02 Landlord and Tenant agree that the Tenant shall be solely responsible for obtaining, securing and/or maintaining any and all approvals, permits and licenses, including, but not limited to, building permit(s) and/or license(s). Tenant agrees to be solely responsible for the cost to obtain any type of permit(s) and/or license(s).

7.03 Tenant agrees that it is solely responsible for securing any necessary land use approvals, zoning regulations, restrictions, rules, laws and ordinances that may be necessary in order for the Tenant to construct, maintain and operate the Premises for the Permitted Use.

7.04 Tenant is aware, or shall become aware, of any and all easements or other encumbrances on or about the Premises, and shall determine if any such easements or other encumbrances will or will not interfere with the Tenant's planned use of the Premises for the Project. Tenant agrees that if any easements and/or other encumbrances exist on the Premises that it shall be the Tenant's responsibility to cause the removal of such easements and other encumbrances, with the prior written approval of the Landlord, or to design and construct the Improvements in such a manner as to not disturb or interfere with the easements and/or other encumbrances.

7.05 The parties agree that Tenant shall not occupy or otherwise utilize any portion of the Premises prior to obtaining all necessary permits and/or licenses for the occupancy or operation of the Project. And, if for any reason Tenant loses any necessary permit or license for any reason whatsoever, Tenant shall refrain from such use, construction, occupancy and/or operation until the Tenant has re-secured, and has in hand, the appropriate permit(s) and/or license(s) which authorize and warrant the use, occupancy and/or operation of the Premises as contemplated under this Lease. Further,

Tenant is fully responsible for complying with, at its sole cost and expense, any and all building and fire codes.

7.06 Tenant agrees that the Premises currently consists of a vacant parcel of land, and hereby accepts full responsibility to undertake any and all environmental assessments on or about the Premises, and if necessary, clean-up (as determined by any and all federal, state and local laws and regulations), the Premises, at Tenant's sole cost and expense, to a level or amount that will allow for the use of the Premises, including the construction or installation of any and all structure(s), subterranean or otherwise, and/or any other improvements that will comprise the Project. Further, throughout the term of this Lease, the Tenant shall also be solely responsible for any and all repair and maintenance to the Premises, including, but not limited to, complying with the Americans with Disabilities Act (and/or any related law, rule, or regulation), addressing any groundwater or soil conditions, structural and/or foundation problems, and air and/or noise quality. This Article survives the termination or expiration of this Lease.

ARTICLE 8
TAXES AND UTILITIES

8.01 The payment of any taxes, fees, impositions, or charges shall be the sole responsibility of the Tenant during the term of this Lease. Tenant hereby covenants and agrees to pay, without notice or demand and without set-off, abatement, suspension or deduction, any and all taxes, payments in lieu of taxes, betterment assessments, water, electric, sewer, telephone and other utility charges for the Premises and/or any structures and/or improvements thereon. Tenant further covenants and agrees to pay without notice or demand and without set-off, abatement, suspension or deduction, all other costs, general and special, ordinary and extraordinary, foreseen and unforeseen, which are due and payable during the term of this Lease, at any time imposed or levied against the Premises and/or any structures and/or Improvements thereon. All such payments shall be made no less than five (5) calendar days prior to the last date on which the same may become delinquent and be paid without penalty.

8.02 Tenant will furnish to Landlord, once per year, concurrently with evidence of its not-for-profit status, proof of payment of all items referred to in paragraph

8.01, which are payable by Tenant, including, but not limited to the payment of any taxes or payments in lieu thereof. At all times, Tenant must maintain its not-for-profit status.

8.03 If Tenant shall elect to contest the payment of any taxes, Tenant may make such payment under protest, or if postponement of such payment will not jeopardize the Landlord's title or interest in or to the Premises, or subject Landlord to the risk of any civil liability or penalty as determined in the sole and absolute discretion of the Landlord, Tenant may postpone the same to contest the amount of such taxes, but only if such postponement is done in accordance with the then-applicable laws, rules and regulations. If Landlord then so requires, Tenant shall secure the full amount of the taxes levied and the interest and penalties thereon and the costs of the proceedings or suit on the determination of whether the amount of the taxes is appropriate, by causing to be delivered to the Landlord in the form of a bond or other security, in the form satisfactory to Landlord, which amount Landlord shall hold in its general account during the pendency of the proceedings. Landlord shall return the amount held, without interest, within thirty (30) days of the conclusion of the proceedings, so long as Landlord did not use such sum, or any portion thereof, to pay the taxes, interest or penalty. Tenant agrees to indemnify, defend and save Landlord harmless from and against any and all costs and expenses incurred on account of Tenant's protest and participation in such proceedings and/or as a result of Tenant's failure to timely pay taxes and other related charges with respect to the Premises and/or any structures and/or improvements thereon. Tenant shall promptly furnish the Landlord with a copy of any notice of all events and actions as they relate to the proceedings and/or suits.

8.04. This Article survives the expiration or termination of this Lease.

ARTICLE 9
INSTALLATION OF IMPROVEMENTS

9.01 Tenant shall complete the construction of the Project, as evidenced by a temporary certificate of occupancy or its equivalent in the Landlord's discretion, within three years of the Commencement Date of this Lease. Tenant shall obtain all permits and zoning approvals necessary to commence construction within one year of the Commencement Date of this Lease.

9.02 The Tenant acknowledges and agrees that, to the greatest extent possible, it is required to comply with the Landlord's rules, regulations, and ordinances pertaining to practicing sustainable (or "green") efforts on the Premises that conserves the community's natural resources, saves taxpayer dollars, reduces operating expenses, and creates a healthier built environment for employees, guests, and/or visitors on and about the Premises. As a direct result of the Tenant's commitment to construct a sustainable building(s), the Tenant further agrees to the following:

A.) The Tenant is required, at its sole cost and expense, to construct any and all buildings and/or structures to at least the Silver designation rating from the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED), and ensure that the construction of any building and/or structure is also in compliance with any and all of the "green building standards" required by the Landlord for new construction projects, in addition to any and all Florida building code restrictions and/or requirements. The Tenant acknowledges and agrees that the LEED Silver certification or designation means that the Project shall be constructed to meet certain specifications as outlined by the U.S. Green Building Council, which will include various "green" or environmentally responsible features including, but not limited to, the preparation of the Premises, as well as the design and construction of the building, and/or structure, and/or other improvements; and all shall be reviewed, examined, approved, and certified by a neutral and independent third-party who is certified or approved by the U.S. Green Building Council, and who also regularly certifies such structures as meeting certain LEED standards and/or requirements. The Tenant agrees to regularly provide the Landlord with copies of any and all records and/or reports (including but not limited to any approvals, rejections and/or comments) from the neutral and independent third-party reviewing the construction of any building or structure, to establish that the Tenant is in fact proceeding with the construction in a manner to ensure that the LEED Silver designation can be secured from the U.S. Green Building Council. The Tenant also hereby acknowledges and agrees that it must incorporate high performance building concepts and technologies in order to enhance the overall design and construction of any building or structure, while

simultaneously making any and all other Improvements, and as well as any remaining open or public spaces, if any, environmentally responsible.

B.) The Tenant hereby acknowledges and agrees that the LEED Silver certification or designation is a description or label designed to establish the level of energy efficiency and sustainability for a building or structure along with any and all other improvements that will be constructed on the Premises, and such energy efficiency should substantially improve the "normal" or "regular" energy efficiency and indoor air quality for the entire building and/or structure, including. Beyond these environmentally responsible steps, the Tenant specifically agrees to consider additional areas or means to improve and/or protect the environment with regard to the construction component of the Project, and inform the Landlord of any and all such additional methods or ways that the Tenant will utilize "green building standards" in the design and construction of any building and/or structure, in an effort to achieve the important goals of creating a healthy place to live and work as well as an environmentally responsible development in the community.

C.) Substitution of Standard: The Landlord acknowledges and agrees that the requirement for the Tenant to secure the LEED Silver designation may be exempted or modified due to special circumstances of the Project. For example, the Florida Green Building Coalition has a standard and rating system that might be equally acceptable to the Landlord. Such exemption or change in rating system shall be for the express purpose of ensuring the use of the most appropriate or relevant rating standard or system, and shall not, in any way, exempt the requirement to apply green building practices at the Silver designation, or similar designation as administered by a different organization. This substitution process shall be administered by and through the Sustainability Manager of the Landlord.

9.03 Tenant understands and agrees that it is solely responsible to procure any and all construction, installation, and related services in strict compliance with any and all local laws, rules and/or requirements.

9.04 Tenant shall cause the construction or installation of any building or

structure, along with any and all other improvements made on or to the Premises, to be performed competently and in a good and workmanlike manner by duly qualified and licensed persons and/or entities, using first grade materials, and with as little interference as practicable to the affairs of nearby residences and/or businesses.

9.05 Tenant shall promptly pay all persons or entities furnishing labor and material with respect to any work performed by Tenant or its contractor on or about the Premises, and shall obtain and deliver to Landlord "releases" or waivers of liens from all parties doing work on or about the Premises, along with an affidavit from Tenant stating that all bills have been paid with regard to such work and that there are no outstanding obligations owed with respect to any such work performed on the Premises. The Tenant, as described below in Section 9.11, is further required to secure a payment and a separate performance bond, in accordance with Section 255.05, *Florida Statutes*, to guarantee the timely payment of any and all laborers and materialmen, as well as the timely and proper completion of the Project. Such payment and performance bond will be delivered to Landlord prior to commencement of any installation work. The amount of such bonds shall be equal to the costs of constructing or installing any building or structure on the Premises, as well as making the other improvements on the Premises.

9.06 Tenant acknowledges and agrees that the Landlord, in its capacity as Landlord under this Lease, currently has no obligation and in the future shall have no obligation, financial, regulatory or otherwise, for any activities necessary or otherwise related to the pre-construction, construction and/or installation of any building or structure and/or other improvements on or about the Premises during the term of this Lease.

9.07 If Tenant's construction or installation activities, or other actions relative to the Premises, result in the introduction of hazardous materials or contamination of the soil and/or groundwater, then the Tenant agrees to: (1) immediately notify the Landlord of any contamination, claim of contamination or damage; (2) after consultation and with the approval of the Landlord, to clean up the contamination in full compliance with all applicable statutes, regulations and standards, at the Tenant's sole cost and expense; and

(3) to indemnify, defend and hold the Landlord harmless from and against any claim, suits, causes of action, liability, obligations, costs and/or fees, including any and all attorneys' fees arising from or connected with such contamination, claim of contamination or damage.

9.08 All leasehold improvements, including, but not limited to anything erected or installed on or about the Premises at any time, whether by or on behalf of the Tenant or by or on behalf of Landlord, shall not be removed from the Premises at any time, unless removal is consented to in advance, in writing, by Landlord; and at the expiration of this Lease (either on the Expiration Date or upon such earlier termination or cancellation as provided for in this Lease), all such leasehold improvements shall be deemed to be part of the Premises, and shall not be removed by Tenant when it vacates the Premises, and title thereto shall vest solely in the Landlord without payment of any kind or nature to Tenant. Tenant shall remove from the Premises at the expiration of the Lease, the Colonyl Model structure, attached hereto in Exhibit A at its sole cost and expense, and at its option, may remove the rainwater harvesting system at its sole cost and expense, and shall restore such areas to their pre-existing condition.

9.09 The Tenant's introduction of any supplies and/or equipment to the Premises, which personal property can be removed without damage to the Premises, shall remain the Tenant's property and may be removed from the Premises upon the expiration of this Lease.

9.10 Tenant agrees that in an effort to protect the Landlord in the event Tenant defaults hereunder, Tenant hereby grants to Landlord a security interest in all of the Tenant's personal property, including, but not limited to, all goods, equipment, and supplies belonging to the Tenant which are placed on or about the Premises during the term. Said security interest shall secure all amounts to be paid by Tenant to Landlord hereunder, including, but not limited to, the cost for maintenance and repairs to the Premises, and attorneys' fees, expert witness fees and court costs.

9.11 Prior to commencing any installation, construction, and/or repairs to the

Premises, or any structure or improvements on or about the Premises, Tenant shall obtain and deliver to the Landlord, at its sole cost and expense, both a payment bond and performance bond, or such other alternate form of security, any or all of which meets the requirements of Section 255.05, *Florida Statutes*, as set forth below, not less than ten (10) days prior to the anticipated commencement date of purchasing any equipment, materials, tools, supplies, as well as the anticipated date of the construction or installation of any building or structure, and/or any other improvements on or about the Premises. Said payment and performance bonds shall be in favor of the Landlord, the form of such bonds shall be as provided by Section 255.05, *Florida Statutes,* and each shall be in the amount of the entire cost of the improvements, or in instances of repair, the total cost associated with the repair project regardless of the source of funding. The payment and performance bonds shall name Landlord as an obligee on the multiple obligee rider attached to the payment and performance bond, and shall be issued by a surety insurer authorized to do business in the State of Florida. The bonds shall be subject to review and approval by Miami-Dade County, Internal Services Department, Risk Management Division. The Tenant shall be responsible for recording the bonds in the public records of Miami-Dade County and providing notice to subcontractors and suppliers, as required by Section 255.05 of the *Florida Statutes*. Said payment and performance bonds shall be maintained in full force and effect for the duration of any improvement and/or repair project. However, the foregoing requirement of securing a payment and performance bonds shall not be required when such contract for any repair work is estimated, in accordance with generally accepted cost-accounting principles, to have a cost of less than $25,000.

9.12 Tenant shall not be permitted to place signs or advertising matter on or about the Premises without the Landlord's prior written approval, which approval may be granted by the County Mayor, or the Mayor's designee, in his or her sole and absolute secretion. If permitted, Tenant will, at its sole cost and expense, maintain such sign and/or advertising matter, as may be permitted hereunder by the Landlord, in good condition and repair at all times. All signs shall be removed by Tenant upon the expiration or early termination of this Lease, and any damage or unsightly condition caused to the Premises because of, or due to, said signs or advertising matter shall be corrected or repaired by Tenant, at Tenant's expense, to the satisfaction of the Landlord in Landlord's sole discretion.

9.13 The provisions of this Article shall survive the termination or expiration of this Lease.

ARTICLE 10
MAINTENANCE AND REPAIR

10.01 Tenant agrees to maintain and keep in good repair, condition, and appearance, during the term of this Lease, or any extension or renewal thereof, at its sole cost and expense, the Premises, and any and all infrastructure (utility lines, pipes, wiring) leading to or from the Premises, as well as any and all vegetation, including, but not limited to, all grass, hedges, trees, and plants which are, now or in the future, on or about the Premises.

10.02 Tenant, at its expense, shall maintain and keep the Premises, including, but not limited to, any and all existing or future parking areas, pathways, and/or walkways adjacent to or leading to or from any building, structure and/or any other improvement which may be installed and/or constructed on the Premises, and any and all sidewalks surrounding the Premises, free from debris.

10.03 With regard to the general maintenance and occupancy of the Premises, Tenant will, at its sole expense: (a) maintain the Premises in a clean, orderly and safe condition and free of rodents, vermin and other pests; (b) keep any garbage, trash, rubbish and/or other refuse in safe containers that do not encourage the existence of vermin; (c) cause to have such garbage, trash, rubbish and refuse removed on a daily, weekly, or as needed basis to ensure cleanliness; (d) comply with all laws, ordinances, rules and regulations of governmental authorities regarding the removal of garbage, trash, rubbish and refuse from the Premises; (e) keep all construction and/or installation of any building or structure activities, and/or mechanical equipment apparatus free of vibration and noise which may be transmitted beyond the Premises and/or which could disturb adjacent landowners or occupiers; (f) prevent any objectionable odors to emanate or to be dispelled from the Premises; (g) comply with and observe all rules and regulations established by the Landlord from time to time which relates to the Tenant's occupancy on the Premises; and (h) conduct its operation in all respects in a dignified manner in

accordance with the high standards of other similar not-for-profit organizations. Further, should the Tenant fail to properly maintain the Premises, the Landlord may elect to clean, remove any trash or rubbish, or otherwise maintain the Premises. Should the Landlord elect to clean, remove any trash or rubbish or otherwise maintain the Premises, the Landlord shall invoice the Tenant the amount of the cost associated with such maintenance, which cost shall be paid immediately by the Tenant, and if the Landlord elects to do so, deem such cost as rent under this Lease.

10.04 Any damage or injury sustained by any person due to the work of the Tenant or any of its agents or contractors, or due to the poor maintenance of any mechanical equipment, and/or because of the operation or existence of any mechanical, electrical, plumbing or other equipment or the installation of such, shall be the sole responsibility of Tenant, and Tenant shall indemnify, defend and hold Landlord harmless from and against all claims, actions, causes of action, damages and liability in connection therewith, including, but not limited to reasonable attorneys' fees, other professional fees, and any other cost which Landlord may reasonably incur.

10.05 – This Article survives the termination or expiration of this Lease.

ARTICLE 11
DESTRUCTION OF IMPROVEMENTS

11.01 Tenant shall be responsible for and shall repair any and all damage caused to the Premises and/or any building, structure, and/or improvement on or about the Premises as a result of Tenant's use of the Premises or any vandalism, malicious mischief or criminal acts thereto. The Tenant shall immediately notify the Landlord, in writing within five (5) days, upon discovering any damage to the Premises and/or any building, structure, or improvement on or about the Premises. Subject to the provisions of 11.02, Tenant is responsible for maintaining, replacing and/or repairing any damaged real property, personal property, improvement, and/or building or structure.

11.02 In the event that a building or structure on the Premises should be destroyed or so damaged by fire, windstorm, or other casualty such as vandalism, mischief, or criminal acts thereto, to the extent that the Premises is rendered unfit for the intended purpose of this Lease or if such repair is not economically feasible, the Tenant

may terminate this Lease in accordance with Article 21.02 of this Lease, but only after entering into an agreement with the Landlord regarding the cost to immediately repair any damage and/or remove any trash and/or debris, and identifying an appropriate facility for the removal of any and all trash and debris. Tenant hereby agrees that prior to terminating this Lease, the Tenant shall be solely responsible for identifying appropriate facilities for all persons that might work on the PremisesIf a building or structure on the Premises, or which is otherwise part of the Project, is partially damaged, but the building or structure is not rendered unusable for the purposes of this Lease, the same shall be immediately repaired by Tenant from proceeds of the insurance coverage and/or at its own cost and expense. If the damage to any building or structure on the Premises shall be so extensive as to render it unusable for the purposes intended, but that such repairs are economically feasible and capable of being repaired within sixty (60) days, the damage shall be repaired with due diligence by Tenant from the proceeds of the insurance coverage policy and/or at its own cost and expense, including the costs associated with identifying a temporary housing and/or working facility(ies) for all of people working on the Premises, if any. In the event that Premises, any improvement on the Premises, and/or any nearby building, structure, or improvement is damaged or destroyed due to Tenant's negligence, or the negligence of Tenant's employee(s), vendor(s), agent(s), and/or contractor(s), the Tenant shall be solely liable and responsible to repair and/or compensate the Landlord and/or the owner for such damage or loss, and for any and all costs or expenses associated therewith. 11.03 This Article survives the termination or expiration of this Lease.

ARTICLE 12
ASSIGNMENT AND SUBLEASE

12.01 Without the written consent of Landlord first obtained in each case, through its Board of County Commissioners, Tenant shall not assign, sublet, transfer, mortgage, pledge, or dispose of this Lease or the term hereof, which consent may be withheld in Landlord's absolute discretion. This prohibition includes, but is not limited to: (a) any subletting or assignment which would occur by operation of law, merger, consolidation, reorganization, transfer or other change of Tenant's corporate or proprietary structure; and (b) an assignment of subletting to or by a receiver or trustee in any federal or state action, bankruptcy, insolvency, or other proceedings. In no event

shall Tenant be permitted to assign or sublet the Premises to any entity, for any purpose whatsoever, that fails to meet the requirements of Section 125.38, *Florida Statutes*.

ARTICLE 13
NO LIABILITY FOR PERSONAL PROPERTY

13.01 All personal property placed on or moved in the Premises shall be at the sole risk of Tenant or the owner thereof. Landlord shall not be liable to Tenant or any owner of such personal property for any damage to said personal property unless solely caused by or due to the gross negligence of Landlord, Landlord's agents or employees, subject to all limitations of *Florida Statutes*, Section 768.28.

ARTICLE 14
LANDLORD NOT RESPONSIBLE FOR ACTS OF OTHERS

14.01 Landlord shall not be responsible or liable to Tenant, or to those claiming by, through or under Tenant, for any loss or damage which may be occasioned by or through the acts or omissions of persons coming onto the Premises, including but not limited to invitees, trespassers, and/or licensees for any loss or damage resulting to Tenant, or those claiming by, through or under Tenant, for themselves and/or their personal property, from any actions or activity by such person(s), including, but not limited to, such actions or activity which is the direct or indirect cause of any lack of security, insufficient safety measures, failure to provide adequate or sufficient warnings, precautions, and/or inadequate protection to the Premises, the Tenant, or anyone claiming by, through or under the Tenant. To the maximum extent permitted by law, the Tenant agrees to use and occupy the Premises at Tenant's own risk. Tenant shall secure, maintain and utilize security personnel, at its sole cost and expense, as it deems necessary to protect the Tenant, its guests, licensees, any and all occupants, and/or the Premises.

ARTICLE 15
LANDLORD'S RIGHT OF ENTRY

15.01 Landlord or any of its agents shall have the right, but not the obligation, to enter the Premises during all reasonable working hours, upon the giving of twenty-four (24) hours' prior notice to examine the same or to make such repairs, additions, or alterations as may be deemed necessary for the safety, comfort, or preservation thereof.

Said right of entry shall likewise exist for the routine purpose of ensuring that the Premises is safe. The Landlord's right to enter the Premises to make repairs, additions, and/or alterations, shall exist only after the Landlord has provided the Tenant with ten (10) days advance notice of any such desire to enter the Premises to make such repairs, additions, and/or alterations, except that the Landlord, without prior notice to the Tenant, shall always be permitted to enter the Premises and make it safe in the event of an emergency, as solely determined by the Landlord.

ARTICLE 16
PEACEFUL POSSESSION

16.01 Subject to the terms, conditions, and covenants of this Lease, Landlord covenants and agrees that Tenant shall and may peaceably have, hold, and enjoy the Premises without hindrance or molestation by Landlord.

ARTICLE 17
SURRENDER OF PREMISES

17.01 Subject to the provisions of Section 9.08, Tenant agrees to surrender to Landlord, upon the Expiration Date, or any extension or renewal thereof, the Premises in as good condition as the Premises was at the beginning of the term of this Lease, along with any approved structures and/or improvements, ordinary wear and tear excepted. In addition, upon the Expiration Date, or any extension thereof, or upon any early termination or cancellation of this Lease, any structures and/or improvements constructed on the Premises shall remain on the Premises, and shall become the sole property of the Landlord, without any payment or obligation to Tenant.

ARTICLE 18
INDEMNIFICATION AND HOLD HARMLESS

18.01 Tenant shall indemnify and hold harmless the Landlord and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including reasonable attorneys' fees and costs of defense, which the Landlord or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Lease by the Tenant or its employees, agents,

servants, partners principals or subcontractors. Tenant shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the Landlord, where applicable, including appellate proceedings, and shall pay all costs, judgments, and reasonable attorneys' fees which may issue thereon. Tenant expressly understands and agrees that any insurance protection required by this Lease, or otherwise provided or secured by Tenant, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Landlord or its officers, employees, agents and instrumentalities as herein provided. The provisions of this Article shall survive the termination or expiration of this Lease.

ARTICLE 190
LIABILITY FOR DAMAGE OR INJURY

19.01 Landlord shall not be liable for any damage or injury which may be sustained by any party or person on the Premises other than the damage or injury caused solely by the gross negligence of Landlord, its officers, employees, or agents, subject to the limitations of *Florida Statutes*, Section 768.28. The provisions of this Section shall survive the termination of this Lease.

ARTICLE 20
SUCCESSORS IN INTEREST

20.01 It is hereby acknowledged and agreed between the parties that all covenants, conditions, agreements, and undertakings contained in this Lease shall extend to and be binding upon the respective successors and assigns of the respective parties hereto, the same as if they were in every case named and expressed.

ARTICLE 21
TERMINATION

21.01 **TERMINATION BY LANDLORD:** The occurrence of any of the following shall cause this Lease to be terminated by the Landlord, upon the terms and conditions also set forth below, with the Premises and Improvements reverting to the Landlord at no cost or expense, as follows:

A. Automatic Termination:

1) Institution of proceedings in voluntary bankruptcy by the Tenant.

2) Institution of proceedings in involuntary bankruptcy against the Tenant if such proceedings continue for a period of ninety (90) days or more.

3) Assignment of Lease by Tenant for the benefit of creditors.

4) Failure of Tenant to maintain its not-for-profit tax status.

5) Failure to obtain all permits, including zoning approvals, within eighteen (18) monthsfrom the Commencement Date.

6) Failure to obtain a temporary certificate of occupancy, or equivalent document in the Landlord's sole and absolute discretion, within three years of the Commencement Date of this Lease.

B. Termination after ten (10) calendar days written notice by the Landlord to Tenant for doing any of the following:

1) Non-payment of any sum or sums due hereunder after the due date for such payments; provided, however, that such termination shall not be effective if Tenant makes the required payment(s) during the ten (10) calendar day period following mailing of the written notice.

2) Notice of any condition posing a threat to health or safety of the public or to others and not remedied within the ten (10) day period from date of written notice.

3) Failure to continuously use the Premises for the Permitted Use, and open to the public.

C. Termination after thirty (30) calendar days written notice to Tenant for the reason(s) as set forth below:

1) Non-performance of any covenant of this Lease, other than non-payment of rent and other matters listed in A and B above, and failure of the Tenant to remedy such breach within the ninety (90) day period from receipt of the written notice.

D. The Tenant agrees that under no circumstances shall the Tenant be entitled to any termination or cancellation fee or any similar economic incentive or payment with regard to this Lease should this Lease be terminated or cancelled, unless specifically

set forth in this Lease.

E. With respect to any termination under this section, the Premises and the Improvements shall revert to the Landlord at no cost or expense to the Landlord.

22.02 **TERMINATION BY TENANT:** The Tenant, shall have the right to cancel this Lease at any time by giving the Landlord at least ten (10) days prior written notice after it has received notification that it will not receive the necessary financing to timely proceed with the Project. Tenant shall also have the right to terminate this Lease if the Premises are damaged or destroyed in the manner stated in Article 11 or in the event of a non-performance by the Landlord of any covenant or agreement herein and the failure of the Landlord to remedy same within a reasonable period of time, but in no event more than ninety (90) days, following receipt of written notice from the Tenant of such default. Should Tenant elect to terminate this Lease, Tenant shall remain fully responsible for any and all costs, fees, expenses, and/or invoices incurred during the time of its occupancy on, or leasehold interest in, the Premises, and all Improvements shall revert to Landlord at no cost or expense to the Landlord except for the Colony1Model structure and rainwater harvesting system stated in Section 9.08 of this Lease (removal of which shall be at Tenant's sole cost and expense no later than thirty days prior to such termination. Tenant shall provide written notice to Miami-Dade County of its intent to remove the rain harvesting system Notwithstanding the foregoing, in the event the Colony1Model structure and or the rainwater harvesting system are not removed within forty five days of such termination, it shall be deemed to be abandoned and shall revert to the Landlord and the Landlord may dispose of same in the manner it elects, without any compensation, remuneration or reimbursement to the Tenant or any other owner or person with an interest in such property, and Landlord shall have the right to recover all costs and expenses for the removal of same. Tenant shall restore all areas from which such items are removed to their condition at the inception of the Lease at Tenant's sole cost and expense.

ARTICLE 22
NOTICES

22.01 Notices provided herein in this paragraph shall include all notices required in this Lease or required by law. Any notice or other communication given or made pursuant to this Lease shall be in writing and shall be deemed given if: (i) delivered personally or by courier; (ii) sent by certified mail, return receipt requested, with all postage pre-paid; or (iii) sent by a nationally recognized overnight delivery service (such as FedEx or DHL) and addressed to a party at its respective address as set forth below (or at such other address as shall be specified, in writing, by a party, from time to time):

If to Landlord:	MIAMI-DADE COUNTY Internal Services Department 111 N.W. 1st Street, Suite 2460 Miami, Florida 33128-1907 Attention: Director
with a copy to:	County Attorney's Office Miami-Dade County 111 N.W. 1st Street, 28th Floor Miami, Florida 33128 Attention: County Attorney
If to Tenant:	The Art of Cultural Evolution, Inc. 244 N.W. 44th Street Miami, Florida 33127 Attention: Ms. Blair E. Butterfield
with a copy to:	Vivianette Velazquez Legal Services of Greater Miami 3000 Biscayne Blvd., Suite 500 Miami, FL 33137-4129

All such notices and other communications shall be deemed given on the date of personal or local courier delivery, or delivery to overnight courier or express delivery service, and shall be deemed to have been received upon receipt or refusal thereof. For the sake of convenience and rapidity of transmission, copies of notices may be sent by electronic or facsimile transmission, but such transmissions alone, or together, shall not be deemed to satisfy the notice requirements of this Lease absent a written acknowledgement by the other party of actual receipt or the giving of notice by one of the other means as stated

above.

ARTICLE 23
INSURANCE

243.01 Prior to occupancy, Tenant shall furnish to the Real Estate Development Division of Miami-Dade County, c/o Internal Services Department, 111 N.W. First Street, Suite 2460, Miami, Florida 33128-1907, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

A. Worker's Compensation Insurance as required by Chapter 440, *Florida Statutes*.

B. Commercial General Liability Insurance on a comprehensive basis, including Explosion, Collapse and Underground Liability coverage, in an amount not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage. Miami-Dade County must be shown as an additional insured with respect to this coverage.

C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage.

23.02 All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must 1) be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength, by Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division, or 2) hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of Financial Services.

NOTE: CERTIFICATE HOLDER MUST READ:

MIAMI-DADE COUNTY
111 N.W. 1st STREET
SUITE 2340
MIAMI, FL 33128

ARTICLE 24
PERMITS, REGULATIONS & SPECIAL ASSESSMENTS

24.01 Tenant shall, at its sole cost and expense, obtain any and all necessary governmental permits, licenses and approvals, and that all uses of the Premises will be in complete conformance with all applicable laws, ordinances, codes, rules, and regulations, including all including all applicable zoning regulations.

24.02 Any and all charges, taxes, or assessments levied against the Premises shall be paid by Tenant, and failure to do so will constitute a breach of this Lease. The provisions of this section shall survive the termination or expiration of this Lease.

24.03 County as Sovereign

It is expressly understood and agreed that notwithstanding any other provision of this Lease and the Landlord's status thereunder:

(a) The Landlord retains all of its sovereign prerogatives and rights as a county under Florida laws and shall in no way be estopped from withholding or refusing to issue any approvals of applications for building, zoning, planning or development under present or future laws and regulations of whatever nature applicable to the planning, design, installation, construction and improvement of the Premises and/or the operation thereof, or be liable for the same; and

(b) The Landlord shall not by virtue of this Lease be obligated to grant the Tenant any approvals of applications for building, zoning, planning or development under present or future laws and ordinances of whatever nature applicable to the planning, design, installation, improvement and/or operation of the Premises.

24.04. No Liability for Exercise of Police Power

Notwithstanding and prevailing over any contrary provision in this Lease of any other document relating to this matter, including any Landlord covenant or obligation that may be contained in this Lease, or any implied or perceived duty or obligation of the Landlord including but not limited to the following:

(a) To cooperate with, or provide good faith, diligent, reasonable or other similar efforts to assist the Tenant, regardless of the purpose required for such cooperation;

(b) To execute documents or give approvals, regardless of the purpose required for such execution or approvals;

(c) To apply for or assist the Tenant in applying for any county, city or third party permit or needed approval; or

(d) To contest, defend against, or assist the Tenant in contesting or defending against any challenge of any nature;

shall not bind the Board of County Commissioners, the Regulatory and Economic Resources (RER) department or any other county, city, federal or state department or authority, committee or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of the Landlord or any other applicable governmental agencies in the exercise of its police power; and the Landlord shall be released and held harmless, by the Tenant from and against any liability, responsibility, claims, consequential or other damages, or losses to the Tenant or to any third parties resulting from denial, withholding or revocation (in whole or in part) of any zoning or other changes, variances, permits, waivers, amendments, or approvals of any kind or nature whatsoever. Without limiting the foregoing, the parties recognize that the approval of any building permit and/or certificate of occupancy may require the Landlord

to exercise its quasi-judicial or police powers. Notwithstanding any other provision of this Lease, the Landlord shall have no obligation to approve, in whole or in part, any application for any type of permit, license, zoning or any other type of matter requiring government approval or waiver. The Landlord's obligation to use reasonable good faith efforts in the permitting of the use of Landlord-owned property regarding the Premises shall not extend to any exercise of quasi-judicial or police powers, and shall be limited solely to ministerial actions, including the timely acceptance and processing of any requests or inquiries by Tenant as authorized by this Lease. Moreover, in no event shall a failure of the Landlord to adopt any of the Tenant's request or application for any type of permit, license, zoning or any other type of matter requiring government approval or waiver be construed a breach or default of this Lease.

ARTICLE 25
OWERNSHIP OF ABANDONED PERSONAL PROPERTY

25.01 At the expiration or early termination of this Lease, Tenant shall peaceably leave, quit and surrender the Premises. Upon expiration or termination of this Lease, the Tenant, with the Landlord's permission, shall promptly remove its personal property and the personal property of its employees, agents, and contractors. Should Tenant fail to remove its personal property, and/or the personal property of others within thirty (30) days of terminating this Lease, the Tenant agrees that said personal property shall be deemed abandoned and the Landlord may dispose of the personal property in the manner it elects, without any compensation, remuneration or reimbursement to the Tenant or any other owner or person with an interest in such personal property.

ARTICLE 26
EMINENT DOMAIN

26.01 The word "Taking" in this Lease shall mean any taking of the title to, access to, or use of the Premises or any portion thereof by any governmental authority or any conveyance under the threat thereof, for any public, quasi-public, or private use or purpose. A Taking may be total or partial, permanent or temporary.

26.02 Upon receipt by either the Landlord or the Tenant of any notice of Taking, or the institution of any proceedings for Taking the Premises, or any portion

thereof, the party receiving such notice shall promptly give notice thereof to the other, and such other party may also appear in such proceeding and may be represented by an attorney.

26.03 The full amount of any award whether *pro tanto* or final for any Taking (the "Award"), shall, notwithstanding any allocation made by the awarding authority, be paid and allocated as set forth below, provided that there shall first be deducted from the Award the following, in the order stated: (i) all reasonable fees and expenses of collection, including reasonable attorneys' fees and experts' fees, which shall be paid to the party which has paid such fees and expenses and/or undertaken such work, (ii) any unpaid fees or expense due to the Landlord, or due to a third-party, which Landlord will be ultimately responsible for, and (iii) any outstanding amounts which represent unpaid loans used for the manufacturer or installation of any structures and/or improvements on the Premises. With respect to the balance of such Award, Landlord and Tenant shall be entitled to receive and retain such separate awards and portions of lump sum awards as may be allocated to their respective interests in any condemnation proceedings, with consideration given to the fact that the Landlord's interest in the Premises is not limited to the land encumbered by this Lease, but also the reversionary interest in the Premises upon expiration of the term and the building and/or structure and improvements thereon.

26.04 In the event of a permanent Taking of the fee simple interest or title of the Premises, or control of the entire leasehold estate hereunder (a "Total Taking"), this Lease shall thereupon terminate as of the effective date of such Total Taking, without liability or further recourse to the parties, provided that any and all obligations of Tenant under this Lease have been fully and completely complied with by Tenant as of the date of said Total Taking, otherwise Tenant hereby agrees that an appropriate amount of its portion of the Award shall be paid to Landlord, and such payment shall be allocated to complete any unfinished work by Tenant or fulfill any unfulfilled obligations.

26.05 If, in the event of a partial Taking of less than the entire Premises, the remaining portion of the Premises not so taken cannot be adequately restored, repaired or reconstructed so as to constitute a complete architectural unit of substantially the same

usefulness, design, construction, and commercial feasibility, as immediately before such Taking, then Tenant shall have the right, to be exercised by written notice to Landlord within one hundred twenty (120) days after the date of Taking, to terminate this Lease on a date to be specified in said notice, which date shall not be earlier than the date of such Taking, in which case Tenant shall pay and shall satisfy all rents and other payments due and accrued hereunder up to the date of such termination and shall perform all of the obligations of Tenant hereunder to such date, and thereupon this Lease and the term herein demised shall cease and terminate. Upon such termination the Tenant's interest under this Lease in the remainder of the leasehold interest not taken shall be returned to the Landlord.

ARTICLE 27
FORCE MAJEURE

27.01 Tenant and Landlord shall be excused for the period of any delay and shall not be deemed in default with respect to the performance of any of the non-monetary terms, covenants, and conditions of this Lease when prevented from so doing by cause or causes beyond Tenant's or Landlord's control, excluding filing of bankruptcy, but which shall include, without limitation, all labor disputes, fire or other casualty, acts of God, or any other cause, whether similar or dissimilar to the foregoing, not within the control of Tenant, or caused directly or indirectly by Tenant. However, in order for the Tenant to claim or otherwise take advantage of *force majeure*, the Tenant must first notify the Landlord in writing of the event, and then secure from the Landlord a written acknowledgement that the Landlord recognizes the existence of an event of *force majeure,* which acknowledgment shall be determined in Landlord's sole and absolute discretion. Further, the Tenant shall only be entitled an extension of time, equal to the exact same period of the *force majeure* delay to complete its duty to perform under the terms and conditions of this Lease.

ARTICLE 28
WAIVER

28.01 If, under the provisions hereof, Landlord or Tenant shall institute proceedings and a compromise or settlement thereof shall be made, the same shall not constitute a waiver of any covenant herein contained nor of any of Landlord's or Tenant's

rights hereunder, unless expressly stated in such compromise or settlement agreement. No waiver by Landlord or Tenant of any provision hereof shall be deemed to have been made unless expressed in writing and signed by both parties. No waiver by Landlord or Tenant of any breach of covenant, condition, or agreement herein contained shall operate as a waiver of such covenant, condition, or agreement itself, or of any subsequent breach thereof. No payment by Tenant or receipt by Landlord of lesser amount than the monthly installments of rent (or additional rent if such obligations are stipulated herein), if any, shall be deemed to be other than on account of the earliest amount of rent due and owing to the Landlord; and likewise neither shall any endorsement or statement on any check or letter accompanying a check for payment of rent or any other amounts owed to Landlord be deemed an accord and satisfaction, and the Landlord may accept such check or payment without prejudice to or waiver of Landlord's right to recover the balance of such rent or other amount owed, or to pursue any other remedy provided in this Lease or at law or in equity. Further, any endorsement or statement on any check or letter accompanying a check for payment of rent or any other amounts owed to Landlord may not be deemed to limit or restrict the Landlord in any manner whatsoever, and such endorsement or statement shall have no effect whatsoever, and shall be deemed to have never been written at all. No reentry by Landlord and no acceptance by Landlord of keys, if any, from Tenant shall be considered an acceptance of a surrender of this Lease.

ARTICLE 29
DEFAULT OF TENANT AND REMEDIES

29.01 Consistent with and in addition to Article 21 Termination, above, if Tenant shall fail comply with the terms and/or condition of this Lease, and if such violation or failure continues for a period of ninety (90) calendar days after written notice thereof to Tenant by Landlord, then Landlord may proceed with any remedy available at law or in equity in the State of Florida, or by such other proceedings, including reentry and possession, as may be applicable.

29.02 Should Tenant elect or fail to perform or observe any covenant or condition of this Lease (other than a default involving the payment of rent, or a condition posing a threat to the health and safety of the public or nearby businesses), which default has not been cured within ninety (90) calendar days after the giving of notice by

Landlord, unless such default is of such nature that it cannot be cured within such ninety (90) day period, in which case no event of default shall occur so long as Tenant shall commence the curing of the default within such ninety (90) day period and shall thereafter diligently prosecute the curing of same, and/or such remedy for any such default is not otherwise addressed in this Lease, then the Landlord shall be permitted to terminate this Lease, and immediately take possession of the Premises.

29.03 Should Tenant vacate or abandon the Premises at any time during the term of this Lease, for a period of thirty (30) days or more, the Landlord shall be permitted to immediately take possession of the Premises. It shall be the Landlord's determination in its sole discretion as to whether or not the Tenant has either vacated or abandon the Premises.

29.04 Upon any default, and after the expiration of any cure period, Landlord may, in accordance with any lawful process, enter the Premises and take possession of any and all goods, inventory, equipment, fixtures and all other personal property of Tenant situated in the Premises without liability for trespass or conversion, and may sell or otherwise dispose of any and all such property after thirty (30) calendar days' notice to Tenant, which notice shall constitute reasonable and sufficient notice (so long as such property is valued by the Landlord at more than Five Thousand ($5,000.00) Dollars, otherwise, such property shall be considered abandoned by the Tenant, and Landlord shall have no obligation to either store, maintain, sell, or otherwise dispose of the personal property). The proceeds of any such sale or disposition shall be applied first to the payment of all costs and expenses of conducting the sale and/or caring for and/or storing said property, including reasonable attorneys' fees; second, toward the payment of any indebtedness, including (without limitation) indebtedness for rent, which may be due or become due to Landlord; and third, to pay Tenant, on demand in writing, any surplus remaining after all indebtedness of Tenant to Landlord has been fully paid, so long as Tenant in fact makes such demand within sixty (60) calendar days of any such sale of such personal property.

29.05 Upon any default, Landlord may perform, on behalf of and at the

expense of the Tenant, any obligation of Tenant under this Lease which Tenant has failed to perform and of which Landlord shall have given Tenant notice of, the cost of which performance by Landlord, together with interest thereon, at the highest legal rate of interest as permitted by the State of Florida, and shall be immediately payable by Tenant to Landlord.

29.06 Notwithstanding the provisions of clause 29.05 above, and regardless of whether an event of default shall have occurred, Landlord may exercise the remedy described in clause 29.05 without any notice to Tenant if Landlord, in its sole discretion, believes it would be injured by failure to take rapid action or if the unperformed obligation by Tenant constitutes an emergency.

29.07 If this Lease is terminated or cancelled by Landlord, Tenant nevertheless shall remain liable for any and all rent and/or damages which may be due, become due or sustained by Landlord, along with any and all reasonable costs, fees and expenses including, but not limited to, attorneys' fees, costs and expenses incurred by Landlord in pursuit of its remedies hereunder, or in renting the Premises, or a portion thereof, to others.

29.08 In addition to any and all other remedies in law or in equity that Landlord may have against Tenant, Landlord shall be entitled to sue Tenant for all actual damages, costs and expenses arising from Tenant committing an event of default hereunder and to recover all such damages, costs and expenses, including reasonable attorneys' fees at both trial and appellate levels.

29.09 All rights and remedies of Landlord under this Lease shall be cumulative and shall not be exclusive of any other rights and remedies provided to Landlord under applicable law.

29.10 The provisions of this Article 29 shall survive any termination or cancellation of this Lease.

ARTICLE 30
ADDITIONAL PROVISIONS

30.01 Non-Discrimination.

The Board of County Commissioners declared and established as a matter of policy, by Resolution No. 9601 dated March 24, 1964, that there shall be no discrimination based on race, color, creed, or national origin and Resolution No. 85-92 dated January 21, 1992, that there shall be no discrimination on the basis of disability in connection with any Miami-Dade County property or facilities operated or maintained under a lease agreement, license, or other agreement from Miami-Dade County, or its agencies.

30.02 Notification of any injury on the Premises. Tenant agrees that it will immediately notify the Landlord should any person sustain(s), or is found to have, a serious bodily injury or dies on or about the Premises, due to any cause that might give rise to liability for or to the Landlord, for any potential claim, or cause of action, including, but not limited to, personal injury or wrongful death. The parties hereby agree that the definition of serious bodily injury shall include, but not be limited to, any injury to a person which requires medical treatment either at a hospital or by emergency medical technicians. Further, in instances where someone sustained a serious bodily injury or died, due to any cause that might give rise to liability for or to the Landlord, for any potential claim, or cause of action, including, but not limited to, personal injury or wrongful death, in addition to any other requirement(s) regarding notice under this Lease, the Tenant shall also immediately (same day, or in situations where the same day is not possible, then next day) call the Landlord's Internal Services Department, and notify the Director of such incident, in detail, with or without the name of the individual that died or sustained the serious bodily injury. Further, in instances where an individual died or sustained a serious bodily injury, the Tenant must complete a detailed injury and incident report and immediately (same day or next day) send it to the Landlord, in accordance with the terms of the notice provisions found in this Lease.

30.03 Security. The Tenant, as mentioned above in Section 14.01 of this Lease, is solely responsible for securing and maintaining its own security in and around, and for, the Premises. Should the Tenant, at any time and for any reason, believe

that security and/or additional security is needed to protect the Tenant, or any of its invitees, licensees, guests, employees, staff, management, and/or anyone else, and/or the personal property belonging to any of the foregoing, and/or the Premises, then it is understood and agreed that Tenant shall, at its sole cost and expense, hire and maintain such security. The Tenant further acknowledges and agrees that the Landlord is not expected to supply, or otherwise provide, any security staff and/or security equipment to, on, or about the Premises which would be designed to prevent or deter vandalism, theft, burglary, and/or any other type of criminal activity, or any other type of incident.

30.04 The Tenant hereby acknowledges that in accordance with the Landlord's rules and regulations, all privately funded construction with a total value over $200,000 must comply with Sections 10-33.02 and 2-10.4.01 of the County Code of Miami Dade County ("Code"), which governs, respectively, the Landlord's Community Small Business Enterprise ("CSBE") program, and the Community Business Enterprise ("CBE") Program for Architectural, Landscape Architectural, Engineering, and Surveying and Mapping Professional Services. As a result, the Tenant hereby agrees to timely communicate with the Landlord's Small Business Development Division of the Regulatory and Economic Resources Department ("SBD/RER") to determine whether or not the construction or installation of a building or structure and/or any other improvement(s) on or about the Premises constitutes, or is considered, "construction" under Sections 10-33.02 and 2-10.4.01 of the Code. If required, the Tenant shall submit, or cause to be submitted, any design and construction packages, to the SBD/RER, in accordance with the Code, and prior to any advertisement or solicitation for any design or construction work, for review and determination of appropriate small business program measures, and the application of same. The Tenant further agrees that, if necessary, it shall advertise or otherwise solicit all design and construction packages with the applicable small business measures in accordance with the requirements of the above mentioned sections of the Code.

30.05 Construction. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the party or parties may require. The parties hereby acknowledge and agree that each was properly

represented by counsel and this Lease was negotiated and drafted at arm's length so that the judicial rule of construction to the effect that a legal document shall be construed against the draftsman shall be inapplicable to this Lease which has been drafted by counsel for both Landlord and Tenant.

30.06 Headings. The headings of the various paragraphs and sections of this Lease are for convenience and ease of reference only, and shall not be construed to define, limit, augment, or describe the scope, context or intent of this Lease, or any part(s) of this Lease. The word Article shall mean all of the sections contained in such Article.

30.07 Successors and Assigns. The terms herein contained shall bind and inure to the benefit of Landlord, its successors and assigns, and Tenant, its successors and assigns, except as may be otherwise provided herein.

30.08 Holidays. It is hereby agreed and declared that whenever the day on which a payment or other obligation is due under the terms of this Lease, or the last day on which a response is due to a notice, or the last day of a cure period, falls on a day which is a legal holiday in Miami-Dade County, Florida, or on a Saturday or Sunday, such due date or cure period expiration date shall be postponed to the next following business day. Any mention in this Lease of a period of days for performance shall mean calendar days.

30.09 Waiver. Any waiver of any portion of this Lease shall be evidenced in writing by the party that made such waiver. Waiver of any breach of this Lease shall not constitute waiver of any other breach. Invalidation of any portion of this Lease due to any waiver, shall not automatically invalidate any other portion of this Lease.

30.10 Severability. If any provisions of this Lease or the application thereof to any person or situation shall, to any extent, be held invalid or unenforceable, the remainder of this Lease, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected thereby, and shall continue valid and be enforced to the fullest extent permitted by law.

30.11 Survival. The parties hereby acknowledge and agree that many of the duties and obligations in this Lease will survive the term, termination, and/or cancellation hereof. Accordingly, the respective obligations of the Tenant and the Landlord under this Lease, which by nature would continue beyond the termination, cancellation, or expiration thereof, shall survive termination, cancellation, or expiration hereof, regardless of whether such survival is specified under such individual articles.

30.12 Brokers. Landlord and Tenant hereby represent and agree that no real estate broker or other person is entitled to claim a commission as a result of the execution and delivery of this Lease.

ARTICLE 31
GOVERNING LAW AND VENUE

31.01 This Lease, including any exhibits or amendments, if any, and all matters relating thereto (whether in contract, statute, tort or otherwise) shall be governed by and construed in accordance with the laws of the State of Florida.

31.02 The Landlord and Tenant hereby agree that venue shall be Miami-Dade County, Florida, and as a result, any litigation, action, cause of action, including, but not limited to any lawsuit, shall be brought and presented exclusively in a court located in Miami-Dade County, Florida.

ARTICLE 32
WRITTEN AGREEMENT

32.01 The parties hereto agree that this Lease sets forth the entire agreement and understanding between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms, and/or conditions in this Lease may be added to, modified, superseded, or otherwise altered, except as may be authorized herein, or by a resolution approved by the Miami-Dade Board of County Commissioners.

32.02 Each signatory of this Lease represents hereby that he or she has the authority to execute, bind and deliver the same on behalf of the party hereto for which such signatory is acting.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]
[ONLY THE SIGNATURE PAGE REMAINS]

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease, with the intent for it to be legally binding, as of the day and year first above written.

Landlord:

MIAMI-DADE COUNTY

a political subdivision of the State of Florida

_____
Witness/Attest:

By: _____

Name: _____

_____
Witness/Attest:

Title: _____

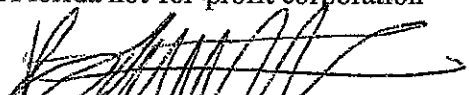
Date signed: _____

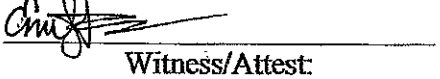
Tenant:

THE ART OF CULTURAL EVOLUTION, INC.

a Florida not-for-profit corporation

Witness/Attest:

By: 


Witness/Attest:

Name: Blair Butterfield

Title: Director

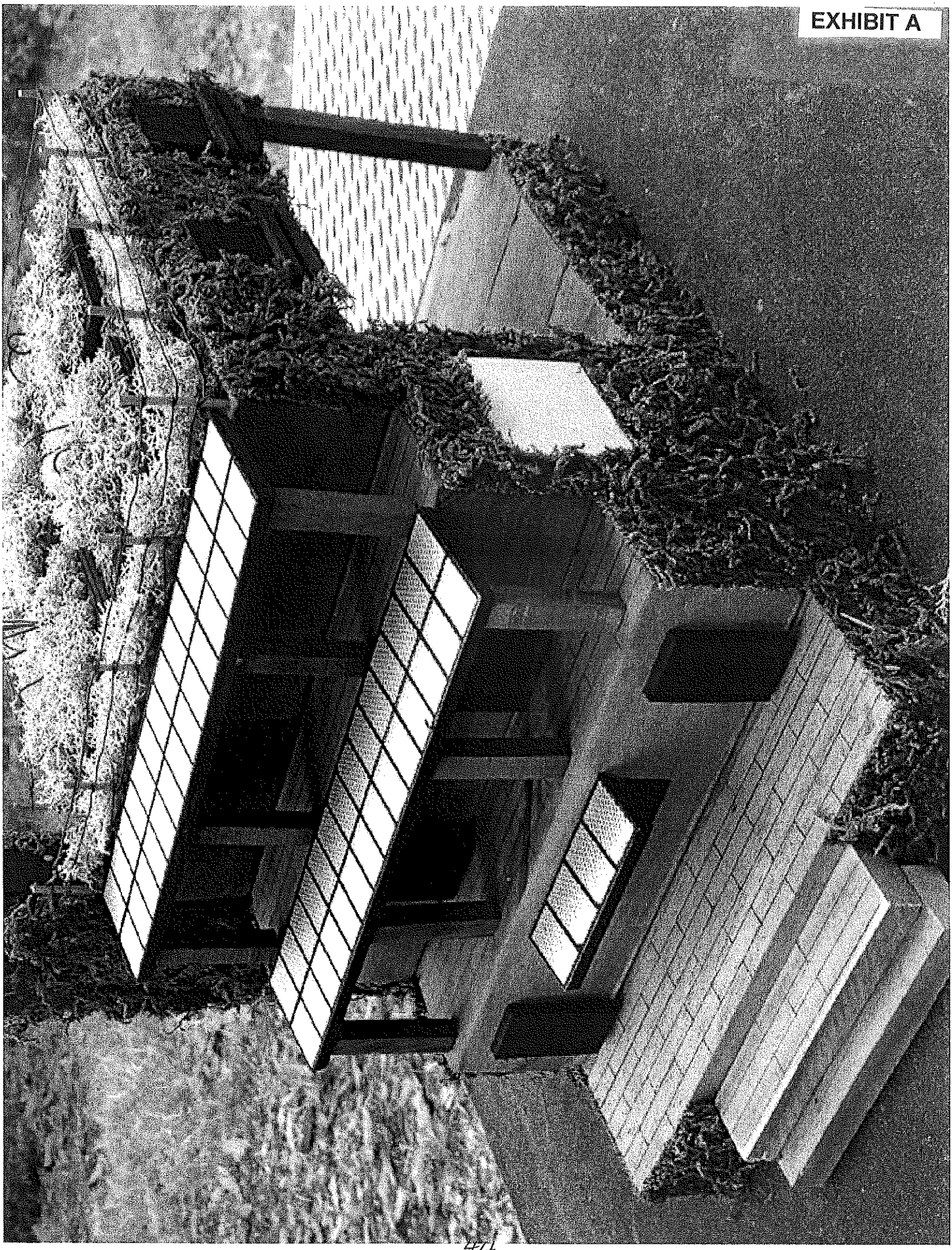


EXHIBIT A