

Location: 1624 New York Ave, Arlington TX

Property Owner: Nanoscope Technologies LLC

Attn: SAMARENDRA MOHANTY, PRESIDENT

1312 Brown Tr

Bedford TX 76022

About the Project

Nanoscope Technologies, LLC, desires to lease space from the City of Arlington located at 1624 New York Avenue. Nanoscope Technologies, LLC, will renovate into the desired space at its sole cost the property that was formerly the east library facility. All costs associated with maintaining the building along with utilities will be paid by tenant. The lease agreement is for a ten-year term, and rent revenues are deposited to the Innovation Venture Capital Fund.

The lease agreement was amended during FY24 to allow for the reimbursement of the installation of a generator and an additional HVAC unit, with the City contributing 90% of the costs up to \$162,000 for the combined cost of two HVAC units and a generator, and up to \$81,000 contribution if a third HVAC unit is needed. When Nanoscope vacates the facility at the end of their lease, the City will then repurpose the HVAC units in another city-owned facility.

During the process of amending the lease to allow for the generator and HVAC, it was discovered that Nanoscope had not been paying property taxes on either the leasehold interest of the city-owned real estate or the business personal property located at the site. Due to cash flow issues of the startup, Nanoscope asked for additional assistance through the restructuring of the lease agreement, to which the City agreed. From rent revenues already paid by Nanoscope, an advance of \$24,000 was authorized to be returned to Nanoscope in FY24 so that the taxes could be paid, with the agreement that they would repay all the rents on an escalating scale over the remaining lease term. This way the City could be made 'whole' according to the original lease term, other taxing entities could benefit from the taxes being paid, and Nanoscope could better manage its startup costs.

Goals of the Project

To allow a startup biomed research firm to conduct its testing in an affordable facility.

Current Status

Nanoscope is working towards installing HVAC system and continuing its research and testing processes.

Benefit to City

Retain a startup biomed firm.

Year Approved by Council	2020
Base Year	n/a
Beginning Year	2021
Ending Year	2030
Duration	10 years
Property Tax Account Number(s)	BPP - 14964509 RE - 43038894

Resolution No. 24-012

A resolution authorizing the execution of a Second Amendment to Lease Agreement with Nanoscope Technologies, LLC, relative to the property located at 1624 New York Avenue, Arlington, Tarrant County, Texas

WHEREAS, on October 13, 2020, the City Council approved Resolution No. 20-283, authorizing the City Manager or his designee to execute a ten-year lease agreement with Nanoscope Technologies, LLC, for the property located at 1624 New York Avenue, Arlington, Texas (the “Lease”); and

WHEREAS, in accordance with the Lease Agreement, Nanoscope Technologies, LLC renovated the property into office and laboratory space; and

WHEREAS, on September 26, 2023, the City Council approved Resolution No. 23-263, authorizing the first amendment to the Lease to provide for further contribution by the City to the costs of improvements and to allow for termination of the lease without penalty if Nanoscope Technologies, LLC relocates its operations from the leased property to another location in Arlington; and

WHEREAS, the City and Nanoscope Technologies, LLC desire to further amend the Lease to allow for further City contribution to the cost of further improvements and restructure the lease payment schedule; NOW THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

I.

That all of the recitals contained in the preamble of this resolution are found to be true and are adopted as findings of fact by this governing body and as part of its official record.

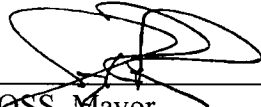
II.

That the City Manager or his designee is hereby authorized to execute a Second Amendment to Lease Agreement with Nanoscope Technologies, LLC, relative to the property located at 1624 New York Avenue. The Second Amendment provides for a contribution by the City to the costs of improvements and restructures the schedule of lease payments.

III.

A substantial copy of said Second Amendment to Lease Agreement is attached hereto and made a part hereof for all purposes.

PRESENTED AND PASSED on this the 9th day of January, 2024, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.



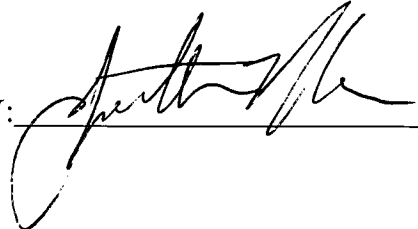
JIM R. ROSS, Mayor

ATTEST:



ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:
MOLLY SHORTALL, City Attorney

BY: 

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

SECOND AMENDMENT TO LEASE AGREEMENT

This SECOND AMENDMENT TO LEASE AGREEMENT (hereafter referred to as the "Amendment"), is made and entered into on this _____ of _____, 2024 (the "Effective Date") by and between the **CITY OF ARLINGTON**, a Texas municipal corporation (hereinafter referred to as "LESSOR"), and **NANOSCOPE TECHNOLOGIES, LLC** (hereinafter referred to as "LESSEE").

WITNESSETH:

- WHEREAS, LESSOR and LESSEE entered into that certain Lease Agreement, dated October 11, 2020, (hereinafter referred to as "Lease") in which LESSOR leased to LESSEE certain real property, land and improvements located at 1624 New York Avenue, Arlington, Texas; and
- WHEREAS, LESSOR and LESSEE agreed to a modification of the Lease in December 2023 to allow for contributions by LESSOR to the costs of improvements to the City-owned facility,
- WHEREAS, the LESSOR and LESSEE desire to further modify the Lease to provide for a contribution by LESSOR to the costs of improvements; and
- WHEREAS, the LESSOR and LESSEE also desire to modify the rent payment structure to more appropriately capture the value of the Lease to the Parties and allow for LESSEE's continued operation on the property; and
- WHEREAS, a contribution of funds by the LESSOR towards the costs of the improvements will promote local economic development and stimulate business and commercial activity and create and retain jobs within the City of Arlington; NOW THEREFORE

In consideration of the mutual covenants and obligations herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Section 5.1 of the Lease shall be amended to read as follows:

- 5.1 For the use and occupancy of the Leased Premises herein granted, the LESSEE agrees to pay to the CITY throughout the term of this lease a monthly rental to be computed as follows:
 - (a) Annual rents are due as follows:
 - (i) For the first three years of the Lease, the sum of \$2,876 annually, in twelve monthly payments;
 - (ii) For the fourth and fifth years of the Lease, the sum of \$10,876 annually, in twelve monthly payments;
 - (iii) For the sixth and seventh year of the Lease, the sum of \$54,380 annually, in twelve monthly payments;
 - (iv) For the eighth, ninth, and tenth years of the Lease, the sum of \$62,380 annually, in twelve monthly payments;
 - (v) For the eleventh year and all subsequent years of the Lease, the sum of \$54,380 annually.
 - (b) All monthly rents shall be due in advance on the 1st day of each month, and shall be paid not later than the 10th day of each month to the City of Arlington, P.O. Box 90231, MS 01-0300, Office of Economic Development, Stuart Young, Real Estate Manager, Arlington, TX 76004-3231, or at such other offices as may be directed in writing by the LESSOR. If rents, including any accrued late fees, are not received by the 10th, the CITY may notify

LESSEE in writing of the delinquency. If rents are still not paid ten (10) additional calendar days after a notice is delivered, LESSEE shall be in default.

- (c) LESSEE shall pay CITY a late payment fee equal to ten percent (10%) of the late payment for any payment received after the 10th day of the month.
- (d) LESSOR and LESSEE agree that any monthly rentals paid prior to the Effective Date of this Lease Amendment in excess of the amounts identified in Section 5.1 shall be refunded by LESSOR to LESSEE no later than sixty (60) days of the Effective Date of this Lease Amendment.

2. Section 7.1(i) of the Lease shall be amended to read as follows:

7.1 LESSEE warrants that it will inspect the LEASED PREMISES and accept possession of the LEASED PREMISES and any improvements thereon in their "as is" condition when accepted, and subject to all limitations imposed upon the use thereof by the rules and regulations of the FEDERAL and State government, or CITY or other applicable rules and regulations, and will admit upon acceptance its suitability and sufficiency for the uses permitted hereunder. **LESSOR has not made and does not make and specifically disclaims any representations, guarantees, promises, covenants, agreements or warranties of any kind or character whatsoever unless otherwise provided for herein, whether express or implied, oral or written, past, present or future of, as to, concerning or with respect to the nature, quality or condition of the LEASED PREMISES, the income to be derived, the suitability of the LEASED PREMISES for uses allowed under this LEASE, or merchantability or fitness for a particular purpose.** Except as may otherwise be provided for herein, the CITY shall not be required to maintain nor to make any improvements, repairs or restorations upon or to the improvements, including the HVAC system, located thereon. CITY shall never have any obligation to repair, maintain or restore, during the term of this LEASE or any extensions thereof, any improvements on the LEASED PREMISES. Notwithstanding, in recognition that LESSOR owns the leased premises and any improvements thereon, LESSOR agrees to contribute ninety percent (90%) of the costs of HVAC improvements and repairs as well as for purchase and installation of a generator unit. In no case will LESSOR's contribution exceed the maximum total contribution of One Hundred and Sixty-Two Thousand and 00/100 Dollars (\$162,000.00) for the purchase and installation of one (1) generator and two (2) HVAC units in total. LESSEE will contribute the remaining Ten percent (10%) of the costs as well as any remainder should the LESSOR make the maximum contribution. Additionally, should replacement of a third HVAC unit become necessary because of failure of an existing unit, LESSOR agrees to contribute ninety percent (90%) of the costs of replacement as above, but in no case will LESSOR's maximum contribution exceed Eighty-One Thousand and 00/100 Dollars (\$81,000) for the third HVAC unit, and LESSEE will contribute the remaining Ten Percent (10%) as well as any remainder once the LESSOR reaches its maximum contribution. The LESSOR shall pay such contribution to LESSEE within 30 days of providing to the LESSOR substantiation of the costs incurred in carrying out the HVAC improvements and repairs. Within sixty (60) days of the date the HVAC improvements and repairs have been completed, LESSEE shall provide LESSOR with documentation substantiating that LESSOR's contribution was used to pay for costs associated with the HVAC improvements and repairs.

3. Section 6.2 of the Lease shall be amended to read as follows:

6.2 Except as otherwise indicated in this LEASE, all alterations and improvements on or in the LEASED PREMISES at the commencement of the term, or those that may be erected or installed during the term, shall immediately become part of the LEASED PREMISES and the property of the City of Arlington. Any alterations or improvements erected or installed during any extension of this LEASE shall immediately become part of the LEASED PREMISES and the property of the CITY. Such alterations and improvements include, but are not limited to, the HVAC improvements and repairs and generators installed on the LEASED PREMISES, including those to which the CITY contributed under Section 7.1

of this LEASE. LESSEE specifically agrees to keep and maintain all buildings and other improvements attached, erected or installed to or upon the real property throughout the term of the LEASE, or any extension thereof subject to LESSEE'S right to remove certain property at the time of termination of the lease as provided in 23.1 below.

4. Section 9.4 of the Lease is hereby added and reads as follows:
 - 9.1. LESSEE shall not fail to render for taxation any property owned by LESSEE and located within the City of Arlington. LESSEE shall not allow ad valorem taxes owed on any property owned or leased by LESSEE and located within the City of Arlington to become delinquent beyond the last day they can be paid without assessment of penalty, as such date is generally extended to allow for any appeal. For purpose of clarity, LESSEE is solely responsible for paying all ad valorem taxes on its leasehold interest in the LEASED PREMISES.
5. Binding Effect; Governing Law. Except as modified hereby, the Lease shall remain in full effect and this Amendment shall be binding upon LESSOR and LESSEE and their respective successors and assigns. If any inconsistency exists or arises between the terms of this Amendment and the terms of the Lease, the terms of this Amendment shall prevail. This Amendment shall be governed by the laws of the State of Texas.
6. Entire Agreement. This Amendment, together with the Lease, embodies the entire agreement and understanding between LESSOR AND LESSEE regarding the LEASED PREMISES. Any and all prior or contemporaneous oral or written representations, agreements, understandings, or statements other than those set forth in the Lease and this Amendment are of no force and effect.
7. Headings; Capitalized Terms. The headings appearing in this Amendment are for the purpose of easy reference only and cannot be considered a part of this Amendment or in any way to modify, amend, or affect the provisions of this Amendment. Capitalized terms used but not defined herein shall have the same meanings ascribed to such terms in the Lease.
8. Severability. If any term or provision of this Amendment is found to be invalid, illegal, or unenforceable, the remaining terms and provisions of this Amendment cannot be affected thereby, and each term and provision of this Amendment will be valid and enforceable to the fullest extent permitted by law.
9. Construction. The parties acknowledge that each party and, if it so chooses, its counsel have reviewed this Amendment and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Amendment.
10. Ratification of the Lease. LESSOR and LESSEE hereby ratify and confirm the Lease, as amended by this Amendment.
11. Counterparts. This Amendment may be executed in multiple counterparts, each of which shall constitute an original, but all of which shall constitute one document.

EXECUTED THIS _____ day of _____, 2024.

LESSEE

NANOSCOPE TECHNOLOGIES

By: _____
Name: Samarendra Mohanty
Title: President

LESSOR

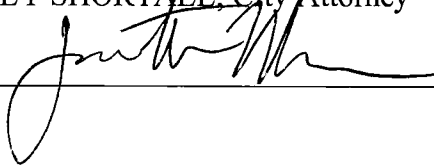
CITY OF ARLINGTON, TEXAS

By: _____
Name: _____
Title: _____

ATTEST:

Alex Busken, City Secretary

APPROVED AS TO FORM:
MOLLY SHORTALL, City Attorney

BY  _____

STATE OF TEXAS §
 §
COUNTY OF TARRANT
§

NANOSCOPE TECHNOLOGIES, LLC

ACKNOWLEDGMENT

This instrument was acknowledged before me on the _____ day of _____, 2024, by Samarendra Mohanty, the President of Nanoscope Technologies, on behalf of said corporation.

Notary Public in and for the State of Texas

My Commission Expires:

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

CITY OF ARLINGTON ACKNOWLEDGMENT

This instrument was acknowledged before me on the _____ day of _____, 2024, by Trey Yelverton, the City Manager of the City of Arlington, Texas, a duly incorporated home rule city of the State of Texas.

Notary Public in and for the State of Texas

My Commission Expires:

Resolution No. 23-263

A resolution authorizing the execution of a First Amendment to Lease Agreement with Nanoscope Technologies, LLC, relative to the property located at 1624 New York Avenue, Arlington, Tarrant County, Texas

WHEREAS, on October 13, 2020, the City Council approved Resolution No. 20-283, authorizing the City Manager or his designee to execute a ten-year lease agreement with Nanoscope Technologies, LLC, for the property located at 1624 New York Avenue, Arlington, Texas; and

WHEREAS, in accordance with the Lease Agreement, Nanoscope Technologies, LLC renovated the property into office and laboratory space; and

WHEREAS, the City and Nanoscope Technologies, LLC desire to amend the Lease Agreement to provide for a contribution by the City to the costs of improvements and to allow for termination of the lease without penalty if Nanoscope Technologies, LLC relocates its operations from the leased property to another location in Arlington; NOW THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

I.

That all of the recitals contained in the preamble of this resolution are found to be true and are adopted as findings of fact by this governing body and as part of its official record.


II.

That the City Manager or his designee is hereby authorized to execute a First Amendment to Lease Agreement with Nanoscope Technologies, LLC, relative to the property located at 1624 New York Avenue. The First Amendment provides for a contribution by the City to the costs of improvements and provides Nanoscope Technologies the ability to terminate the lease without penalty if they relocate to another facility in Arlington.

III.

A substantial copy of said First Amendment to Lease Agreement is attached hereto and made a part hereof for all purposes.

PRESENTED AND PASSED on this the 26th day of September, 2023, by a vote of 8 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.



JIM R. ROSS, Mayor


ATTEST:



Alex Busken

ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:
MOLLY SHORTALL, City Attorney

BY: 

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

FIRST AMENDMENT TO LEASE AGREEMENT

This FIRST AMENDMENT TO LEASE AGREEMENT (hereafter referred to as the "Amendment"), is made and entered into on this 21st of Feb. 2024 ~~2023~~ by and between the CITY OF ARLINGTON, a Texas municipal corporation (hereinafter referred to as "LESSOR"), and NANOSCOPE TECHNOLOGIES, LLC (hereinafter referred to as "LESSEE").

WITNESSETH:

- WHEREAS, LESSOR and LESSEE entered into that certain Lease Agreement, dated October 15, 2020, (hereinafter referred to as "Lease") in which LESSOR leased to LESSEE certain real property, land and improvements located at 1624 New York Avenue, Arlington, Texas; and
- WHEREAS, the LESSOR and LESSEE desire to modify the Lease to provide for a contribution by LESSOR to the costs of improvements; and
- WHEREAS, the LESSOR and LESSEE desire to modify the Lease to allow the LESSEE to terminate the lease without penalty if LESSEE vacates the Leased Premises and relocates to another facility in Arlington; and
- WHEREAS, a contribution of funds by the LESSOR towards the costs of the improvements will promote local economic development and stimulate business and commercial activity and create and retain jobs within the City of Arlington; NOW THEREFORE

In consideration of the mutual covenants and obligations herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Section 7.1(i) of the Lease shall be amended to read as follows:

- 7.1 LESSEE warrants that it will inspect the LEASED PREMISES and accept possession of the LEASED PREMISES and any improvements thereon in their "as is" condition when accepted, and subject to all limitations imposed upon the use thereof by the rules and regulations of the FEDERAL and State government, or CITY or other applicable rules and regulations, and will admit upon acceptance its suitability and sufficiency for the uses permitted hereunder. **LESSOR has not made and does not make and specifically disclaims any representations, guarantees, promises, covenants, agreements or warranties of any kind or character whatsoever unless otherwise provided for herein, whether express or implied, oral or written, past, present or future of, as to, concerning or with respect to the nature, quality or condition of the LEASED PREMISES, the income to be derived, the suitability of the LEASED PREMISES for uses allowed under this LEASE, or merchantability or fitness for a particular purpose.** Except as may otherwise be provided for herein, the CITY shall not be required to maintain nor to make any improvements, repairs or restorations upon or to the improvements, including the HVAC system, located thereon. CITY shall never have any obligation to repair, maintain or restore, during the term of this LEASE or any extensions thereof, any improvements on the LEASED PREMISES. Notwithstanding, under the authority provided in Chapter 380 of the Texas Local Government Code, LESSOR agrees to contribute ninety percent (90%) of the costs of necessary HVAC repairs or replacement, but in no case will LESSOR's contribution exceed the maximum contribution of Eighty-One Thousand and 00/100 Dollars (\$81,000.00) for each HVAC unit replaced or repaired. LESSOR agrees to make such contributions for repair or replacement of up to two (2) HVAC units. LESSEE will contribute the remaining Ten percent (10%) of the costs as well as any remainder should the LESSOR make the maximum contribution. LESSOR shall pay such to LESSEE within 30 days of providing to the LESSOR substantiation of the costs incurred in carrying out the HVAC

replacement and repairs. Within sixty (60) days of the date the HVAC replacement and repairs have been completed, LESSEE shall provide LESSOR with documentation substantiating that LESSOR's contribution was used to pay for costs associated with the HVAC improvements and repairs.

2. Section 19.4 is hereby added to the Lease, and reads as follows:


- 19.4** LESSEE may terminate this LEASE for convenience before the end of the Lease Term if LESSEE vacates the Leased Premises and relocates its operations from the Leased Premises to another location within the city limits of Arlington, Texas, including a biotech campus or research hub. In such instance, LESSEE must resume its operations at a new location in Arlington, Texas within thirty days (30) of vacating the Leased Premises and must enter into a lease for the new location in Arlington, Texas for a lease term of at least ten (10) years from the date LESSEE vacates the Leased Premises. In order to terminate the lease for convenience, LESSEE must give written notice of its intent to vacate to LESSOR at least sixty (60) days prior to vacating the property and moving to another location in Arlington, Texas, and must also give written notice that LESSEE has recommenced the operations described in Section 4.1 within thirty (30) days of recommencement, specifying the location within Arlington, Texas where such operations have recommenced and providing substantiation that the lease for the new location complies with the required term of ten (10) years as described above. Should LESSEE comply with all requirements for termination for convenience, the LEASE will be considered terminated as of the last day of the month for which LESSEE has tendered a monthly lease payment, and no other lease payments shall be due to the LESSOR, unless otherwise provided for within the terms of the LEASE.
3. Binding Effect; Governing Law. Except as modified hereby, the Lease shall remain in full effect and this Amendment shall be binding upon LESSOR and LESSEE and their respective successors and assigns. If any inconsistency exists or arises between the terms of this Amendment and the terms of the Lease, the terms of this Amendment shall prevail. This Amendment shall be governed by the laws of the State of Texas.
4. Entire Agreement. This Amendment, together with the Lease, embodies the entire agreement and understanding between LESSOR AND LESSEE regarding the LEASED PREMISES. Any and all prior or contemporaneous oral or written representations, agreements, understandings, or statements other than those set forth in the Lease and this Amendment are of no force and effect.
5. Headings; Capitalized Terms. The headings appearing in this Amendment are for the purpose of easy reference only and cannot be considered a part of this Amendment or in any way to modify, amend, or affect the provisions of this Amendment. Capitalized terms used but not defined herein shall have the same meanings ascribed to such terms in the Lease.
6. Severability. If any term or provision of this Amendment is found to be invalid, illegal, or unenforceable, the remaining terms and provisions of this Amendment cannot be affected thereby, and each term and provision of this Amendment will be valid and enforceable to the fullest extent permitted by law.
7. Construction. The parties acknowledge that each party and, if it so chooses, its counsel have reviewed this Amendment and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Amendment.
8. Ratification of the Lease. LESSOR and LESSEE hereby ratify and confirm the Lease, as amended by this Amendment.

9. Counterparts. This Amendment may be executed in multiple counterparts, each of which shall constitute an original, but all of which shall constitute one document.

EXECUTED THIS 9th day of February, 2024, ~~2023~~.

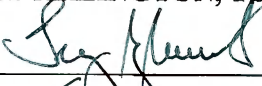
LESSEE

NANOSCOPE TECHNOLOGIES

By: 
Name: Samarendra Mohanty
Title: President

LESSOR

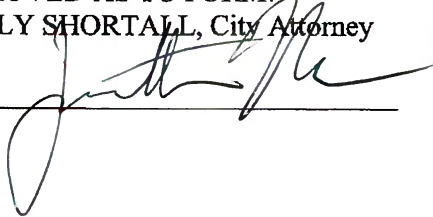
CITY OF ARLINGTON, TEXAS

By: 
Name: Tracy Delvecchio
Title: City Manager

ATTEST:


Alex Busken, City Secretary

APPROVED AS TO FORM:
MOLLY SHORTALL, City Attorney

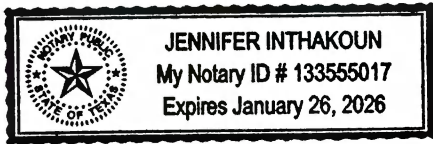
BY 

STATE OF TEXAS §
 §
COUNTY OF TARRANT
§

NANOSCOPE TECHNOLOGIES, LLC

ACKNOWLEDGMENT

This instrument was acknowledged before me on the 9th day of February 2024, ~~2023~~, by Samarendra Mohanty, the President of Nanoscope Technologies, on behalf of said corporation.



[Signature]
Notary Public in and for the State of Texas

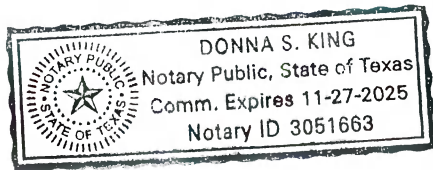
My Commission Expires:

1/26/24

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

CITY OF ARLINGTON ACKNOWLEDGMENT

This instrument was acknowledged before me on the 21st day of February, 2024, by Trey Yelverton, the City Manager of the City of Arlington, Texas, a duly incorporated home rule city of the State of Texas.



[Signature]
Notary Public in and for the State of Texas

My Commission Expires:

11/27/25

Site Map - 1624 New York Avenue



Resolution No. 20-283

A resolution authorizing the execution of a Lease Agreement with Nanoscope Technologies, LLC, relative to an office and laboratory space use to be located at 1624 New York Avenue, Arlington, Tarrant County, Texas.

WHEREAS, Nanoscope Technologies, LLC, desires to lease laboratory/office space for business operations;

WHEREAS, Nanoscope Technologies, LLC, will invest to convert the space into the needed laboratory/office space at their sole cost;

WHEREAS, Nanoscope Technologies, LLC, will pay a monthly rent of \$906.33 for the first five years with an escalation to \$4,531.66 per month for the second five years;

WHEREAS, the City Council of Arlington, Texas believes leasing the property to Nanoscope Technologies, LLC, will serve a public purpose; NOW THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

I.

That all of the recitals contained in the preamble of this resolution are found to be true and are adopted as findings of fact by this governing body and as part of its official record.

II.

That the City Manager or his designee is hereby authorized to execute a Lease Agreement with Nanoscope Technologies, LLC, relative to an office and laboratory space use to be located at 1624 New York Avenue. The Lease Agreement is for ten years, and the agreement stipulates that Nanoscope Technologies, LLC, will renovate the space in the building at their sole cost.

III.

A substantial copy of said Lease Agreement is attached hereto and made a part hereof for all purposes.

IV.

That this Resolution shall be effective from and after its passage by the City Council and approval by the Mayor in accordance with law and the provisions of the Charter of the City of Arlington, and it is accordingly so resolved.

PRESENTED AND PASSED on this the 13th day of October, 2020, by a vote of 99 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.



W. JEFF WILLIAMS, Mayor

ATTEST:



ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY:



THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

LEASE AGREEMENT

This LEASE AGREEMENT (hereafter referred to as the "LEASE"), is made and entered into by and between the **CITY OF ARLINGTON**, a Texas municipal corporation (hereafter referred to as "LESSOR" or "CITY"), and **NANOSCOPE TECHNOLOGIES, LLC** (hereafter referred to as "LESSEE").

WITNESSETH:

- WHEREAS, the CITY is the owner of the real property which is the subject of this lease; and
- WHEREAS, the CITY and LESSEE are mutually desirous of entering into this LEASE for the benefit of the public; and
- WHEREAS The CITY finds that execution and delivery of this LEASE promotes the state and local economy, alleviates unemployment and underemployment within the CITY, and stimulates business and commercial activity therein, and
- WHEREAS In furtherance of the aforesaid purposes, the CITY will, during the lease term provided herein, consider entering into non-binding negotiations for the sale of the LEASED PREMISES (as hereinafter defined) to LESSEE, provided such sale is permitted by law and provided such sale is authorized by the Arlington City Council; and.
- WHEREAS, in consideration of the rents to be paid and other consideration, CITY hereby enters into this LEASE and leases, lets and demises to LESSEE certain space within buildings, structures, improvements, additions and installations; and
- WHEREAS, LESSEE and LESSOR enter into this LEASE and contract, stipulate and agree during the term of this LEASE, and any extensions thereof, to follow and be subject to the following terms, covenants and conditions:

1.
Term

- 1.1** The initial term of this LEASE shall be a period of TEN (10) years beginning on the 1st day of November, 2020 and ending on the 31st day of October, 2030 (hereafter, the "Initial Term").

2.
LEASED PREMISES

- 2.1** The LEASED PREMISES shall be:

The real property and improvements existing or approved to be constructed or installed on the property described as:

Being a portion of Block 33, Plaza Terrace Addition, Seventh Installment, out of the Jebez Degman Survey, Abstract No. 426, in the City of Arlington, Tarrant County, Texas; according to the plat thereof recorded in Volume 388-37, Page 92, Plat Records of Tarrant County, Texas, and more particularly described in that certain Warranty Deed from 846274 Texas, Inc. d/b/a Park Plaza Shopping Center to the City of Arlington, Texas, recorded in Instrument No. D198100293 of the Deed Records of Tarrant County, Texas; and located at 1624 New York Avenue, Arlington, Texas.

TOGETHER WITH any and all rights, alleys, ways, privileges, appurtenances and advantages, to the same belonging or in any way appertaining.

- 2.2 The property and the improvements described in 2.1 are hereinafter referred to as the "LEASED PREMISES".

3.
Grant of LEASE

- 3.1 Pursuant to the terms and conditions of this LEASE, LESSOR hereby leases, lets and demises to LESSEE the real property described in 2.1 above.
- 3.2 The LESSOR will, during the lease term provided herein, consider entering into non-binding negotiations for the sale of the LEASED PREMISES (as herein defined) to LESSEE, provided such sale is permitted by law and provided such sale is authorized by the Arlington City Council.

4.
Use of LEASED PREMISES

- 4.1 The LESSEE will occupy and use the LEASED PREMISES for the following purpose:
- (a) Activities consistent with the purposes of office, wet/clean room laboratory and Good Manufacturing Practice (GMP) analytical/manufacturing use. In addition, LESSEE has rights to permit any of LESSEE's subsidiaries, parent companies and affiliates to use the leased premises for the same purposes.

5.
Rent

- 5.1 For the use and occupancy of the Leased Premises herein granted, the LESSEE agrees to pay to the CITY throughout the term of this lease a monthly rental to be computed as follows:

- (a) The sum of \$10,876.00 annually and continuing thereafter subject to rent increases as provided herein. The rent is calculated based upon 10,876 square feet of improved area being let at the rate of **\$1.00** per sq. ft/year for a total of \$10,876.00 payable in twelve (12) equal monthly payments (\$906.33) equal to 1/12 of the annual rent. Monthly payments shall be subject to a rental increase at the end of the fifth year and thereafter, as provided in Section 5.1(c).
- (b) All monthly rents shall be due in advance on the 1st day of each month, and shall be paid not later than the 10th day of each month to the City of Arlington, P.O. Box 90231, MS 01-0300, Office of Economic Development, Stuart Young, Real Estate Manager, Arlington, TX 76004-3231, or at such other offices as may be directed in writing by the LESSOR. If rents, including any accrued late fees, are not received by the 10th, the CITY may notify LESSEE in writing of the delinquency. If rents are still not paid ten (10) additional calendar days after a notice is delivered, LESSEE shall be in default.
- (c) LESSEE shall pay CITY a late payment fee equal to ten percent (10%) of the late payment for any payment received after the 10th day of the month.
- (d) From the beginning of the 6th year and for the remainder of the initial term, the annual rent for the LEASED PREMISES shall be calculated at the rate of \$5.00 per square foot of the 10,876 square feet of improved area per year, payable in twelve (12) equal monthly payments as provided in Article 5.1(a).

6.
Improvements

- 6.1 During the term of this LEASE and any extensions thereof, LESSEE shall (subject to the other terms and conditions of this LEASE) have the ability with prior written approval by LESSOR to remodel, renovate and/or refurbish the LEASED PREMISES and any improvements and facilities thereon, or any part thereof, and to build and construct new additions and improvements as approved by LESSOR. LESSEE is responsible for all costs of the renovations and improvements thereon.
- (a) Prior to entering into any contract for any work, LESSEE shall first submit or cause to be submitted to LESSOR for written approval, a written request for approval of such work and complete architectural, engineering and/or geotechnical plans and specifications of the proposed work in such detail so as to allow a proper review for approval or disapproval, and the name of the contractor to whom LESSEE proposes to award the contract for any work. When constructing any improvement upon the LEASED PREMISES, the plans and specifications shall be prepared by state-licensed architects or engineers who are acceptable to LESSOR's Building Official. LESSEE will require any contractor to furnish a "Performance", "Payment" and minimum one (1) year "Maintenance" Bond in the full amount of the improvements, repairs, or other work in favor of the CITY. Each bond will be payable to the CITY and approved as to form, substance and surety by LESSOR. LESSEE will accomplish the work as approved in accordance with the plans and specifications, or as the same may thereafter be modified with the consent of LESSOR.
- (b) LESSEE shall include in all LESSEE construction contracts the following provisions:
- (1) **Contractor does hereby contract to waive all claims, release, indemnify, defend and hold harmless the CITY of Arlington and all of its officials, officers, agents and employees, in both their public and private capacities, from and against any and all liability, claims, losses, damages, suits, demands or causes of action including all expenses of litigation and/or settlement, court costs and attorney fees which may arise by reason of injury to or death of any person or for loss of, damage to, or loss of use of any property occasioned by error, omission or negligent act of contractor, his officers, agents, employees, subcontractors, invitees or any other persons, arising out of or in connection with the performance of this contract, and contractor will at his or her own cost and expense defend and protect the City of Arlington from any and all such claims and demands.**
 - (2) **Contractor does hereby contract to waive all claims, release, indemnify, defend and hold harmless the City of Arlington and all of its officials, officers, agents and employees, from and against any and all claims, losses, damages, suits, demands or causes of action, and liability of every kind including all expenses of litigation and/or settlement, court costs and attorneys' fees for injury or death of any person or for loss of, damages to, or loss of use of any property, arising out of or in connection with the performance of this contract. Such indemnity shall apply whether the claims, losses, damages, suits, demands or causes of action arise in whole or in part from the negligence of the City of Arlington, its officers, officials, agents or employees. It is the express intention of the parties thereto that the indemnity provided for in this paragraph is indemnity by contractor to indemnify and protect the City of Arlington from the consequences of the City of Arlington's own negligence, whether that negligence is a sole or concurring cause of the injury, death or damage.**
 - (3) **In any and all claims against any party indemnified hereunder by any employee of the contractor, any subcontractor, anyone directly or indirectly employed by any**

of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or for the contractor or any subcontractor under workers' compensation or other employee benefit acts.

- (c) LESSEE shall require the contractor, in all LESSEE construction contracts, to furnish insurance in such amounts as specified in Section 11, Paragraph 11.4(e), of this LEASE.
 - (d) LESSEE agrees that all work to be performed by it or its contractor, including all workmanship and materials, shall be of first-class quality and shall be performed in full compliance and in accordance with the specifications approved by the LESSOR, and such work shall be subject to its inspection during the performance thereof and after it is completed. LESSEE shall assume the risk of loss or damage to all such work prior to the completion thereof. LESSEE shall repair or replace any such loss or damage in a timely manner for such repair or replacement and without cost to LESSOR.
 - (e) LESSEE shall deliver within five (5) business days of a request from LESSOR, written progress reports of the work performed and shall at all times during the term of this LEASE and any extensions thereof, keep construction reports and drawings current showing any changes or modifications made in or to the improvements constructed on the LEASED PREMISES.
 - (f) LESSEE shall discharge all obligations to contractors, subcontractors, materialmen, workmen and/or other persons for all work performed and for materials furnished for or on account of LESSEE as such obligations mature. LESSEE shall provide LESSOR all bills paid affidavits from LESSEE and LESSEE's contractors, subcontractors, materialmen, workmen and/or other persons for all work performed and for materials furnished for or on account of LESSEE or arising out of or relating to this LEASE. LESSEE expressly agrees in the making of any repairs on the improvements that it will neither give nor grant, nor purport to give or grant any mechanic's or materialman's lien upon the LEASED PREMISES or upon any improvements thereupon in the process of construction or repair, nor allow any condition to exist or situation to develop whereby any party would be entitled, as a matter of law, to a mechanic's or materialman's lien against said LEASED PREMISES and improvements thereon, and LESSEE will discharge any such lien as soon as reasonably possible after notice of filing thereof.
 - (g) Nothing in this LEASE shall be construed as an agreement by the CITY to waive any lien the CITY may have, constitutional, statutory or contractual, upon any leasehold improvements on the property.
 - (h) Unless otherwise mutually agreed upon by the parties the complete cost of developing all necessary plans and specifications as provided herein and the construction of improvements and facilities which support the LEASE whether off site or upon the LEASED PREMISES by LESSEE shall be borne solely by LESSEE and be at no expense to LESSOR whatsoever. LESSEE shall be responsible for the repair or replacement in equal or better condition of any offsite areas disturbed by the development of the LEASED PREMISES.
- 6.2** Except as otherwise indicated in this LEASE, all alterations and improvements on or in the LEASED PREMISES at the commencement of the term, or those that may be erected or installed during the term, shall immediately become part of the LEASED PREMISES and the property of the City of Arlington. Any alterations or improvements erected or installed during any extension of this LEASE shall immediately become part of the LEASED PREMISES and the property of the CITY. LESSEE specifically agrees to keep and maintain all buildings and other improvements attached, erected or installed to or upon the real property throughout the term of the LEASE, or any extension thereof subject to LESSEE'S right to remove certain property at the time of termination of the lease as provided in 23.1 below.

- 6.3 Unless otherwise mutually agreed upon by the parties any and all offsite improvements (except utilities which are covered in Section 15) necessary to develop the LEASED PREMISES shall be constructed at LESSEE's sole cost (including the payment of impact fees and other fees). Upon completion, these improvements shall become property of the CITY, however LESSEE shall have the obligation to maintain said improvements for one year from date of completion.
- 6.4 LESSEE shall conduct its operations hereunder in an orderly and proper manner, considering the nature of such operation, so as not to unreasonably annoy, disturb, endanger or be offensive to others.
- 6.5 In the construction of any and all drainage improvements, LESSEE shall comply with CITY's subdivision rules and regulations as well as any other applicable statute, law, ordinance, rule or regulation, and LESSEE will obtain prior written approval from the CITY's Department of Engineering Services for all plans and specifications relating to drainage improvements including any off site letters of permission as determined by the accepted engineering plans.
- 6.6 Notwithstanding the foregoing, the LESSOR acknowledges that the LESSEE is permitted to make any of the following improvements to the Building interior without any further consent from the LESSOR: partitioning, improvement needed for the laboratories/clean rooms, removeable workspace cubicle installations, and additional mezzanine floor installation if necessary. Nothing herein shall be construed to relieve Grantee of the obligation to comply with all CITY ordinances and to secure any permits required.

7.

Acceptance, Care, Maintenance and Repair

- 7.1 LESSEE warrants that it will inspect the LEASED PREMISES and accept possession of the LEASED PREMISES and any improvements thereon in their "as is" condition when accepted, and subject to all limitations imposed upon the use thereof by the rules and regulations of the FEDERAL and State government, or CITY or other applicable rules and regulations, and will admit upon acceptance its suitability and sufficiency for the uses permitted hereunder. **LESSOR has not made and does not make and specifically disclaims any representations, guarantees, promises, covenants, agreements or warranties of any kind or character whatsoever unless otherwise provided for herein, whether express or implied, oral or written, past, present or future of, as to, concerning or with respect to the nature, quality or condition of the LEASED PREMISES, the income to be derived, the suitability of the LEASED PREMISES for uses allowed under this LEASE, or merchantability or fitness for a particular purpose.** Except as may otherwise be provided for herein, the CITY shall not be required to maintain nor to make any improvements, repairs or restorations upon or to the improvements, including the HVAC system, located thereon. CITY shall never have any obligation to repair, maintain or restore, during the term of this LEASE or any extensions thereof, any improvements on the LEASED PREMISES.
- 7.2 LESSEE, unless otherwise mutually agreed upon by the parties, shall throughout the term of this LEASE, and any extensions thereof, assume the entire responsibility, cost and expense for all repair, reconstruction and maintenance whatsoever on the improvements and maintain improvements thereon in a good workmanlike manner, whether such repair or maintenance be ordinary or extraordinary, structural or otherwise. Additionally, LESSEE, without limiting the generality hereof, shall:
- (a) Keep at all times, in a clean and orderly condition and appearance, the LEASED PREMISES, all improvements thereon and all of the LESSEE's fixtures, equipment and personal property which are located on any part of the LEASED PREMISES (including but not limited to the mowing of grass and painting the exteriors of buildings and structures).

- (b) Provide and maintain on the LEASED PREMISES all safety equipment required by law, rule, order, ordinance, resolution or regulation.
- (c) Repair any damage caused by LESSEE to the LEASED PREMISES or adjacent property or caused by any agent, employee, representative or business invitee of LESSEE.
- (d) Take measures to prevent erosion, including planting, irrigation, maintaining and replanting of grasses and landscaping with respect to all portions of the LEASED PREMISES not paved or built upon or offsite areas.
- (e) Maintain all the aboveground items connected to any perimeter fence and screening wall on the LEASED PREMISES.
- (f) The LESSEE will be responsible for the construction of all utility lines placed on or off the LEASED PREMISES and for the maintenance and repair of all utility service lines placed on the LEASED PREMISES including, but not limited to, service water lines, service gas lines, fire hydrants, electrical power, sanitary sewers, storm sewers and all common *taxiways*, unless those lines do not serve LESSEE. LESSEE will not interfere with any of LESSOR's easements, present or future.
- (g) LESSEE shall be solely responsible as necessary to provide adequate security for the LEASED PREMISES.
- (h) LESSEE shall control the conduct and demeanor of its employees or agents.

8.

Right of Entry by CITY

- 8.1** The LESSOR, its authorized agents and authorized agents of other governmental agencies, shall have the right to enter the LEASED PREMISES, whether publicly or privately owned, to conduct inspections of items or areas in order to determine compliance with all federal, state and municipal laws, ordinances, rules and regulations. However, the LESSOR or its authorized agent(s) will provide sufficient prior notice so that LESSEE operations are not abruptly affected. Further, entry to the clean rooms is restricted and guided by LESSEE's standard operating procedures to maintain sterility of the products being tested/manufactured. LESSEE covenants to observe and comply with all applicable laws, rules and regulations pertaining to its activities.

9.

Additional Obligations of LESSEE

- 9.1** LESSEE shall comply with all health and safety laws and requirements of any other federal, state or municipal laws, ordinances, rules, regulations and requirements applicable to the LEASED PREMISES.
- 9.2** LESSEE shall not do, nor permit to be done, anything which may interfere with the effectiveness of accessibility of the drainage system, sewage system, fire protection system, sprinkler system, alarm system, or fire hydrants and hoses, if any are located on or adjacent to the LEASED PREMISES.
- 9.3** LESSEE shall repair any damage to any offsite improvements caused by or resulting from any activities or operations of the LESSEE, or LESSEE's agents, employees and contractors.

10.
Subletting and Assignments

- 10.1** LESSEE may sublet or assign any part of the LEASED PREMISES only after receiving the prior written consent of LESSOR. Any such subletting, if permitted, shall not release LESSEE from its obligations hereunder.

11.
Damage or Destruction and Insurance

- 11.1** In the event of damage or destruction to any of the improvements upon the LEASED PREMISES, the CITY shall have no obligation to repair or rebuild the improvements or any fixtures, equipment or other personal property installed by LESSEE pursuant to this LEASE. Upon the failure of LESSEE to repair or rebuild, the CITY may, as agent of LESSEE, repair or rebuild such damage or destruction at the expense of LESSEE, which replacement expense shall be due and payable on demand.
- 11.2** Upon completion of all the work, the LESSEE shall certify by a responsible officer or authorized representative that such rebuilding and repairs have been completed. Nothing herein contained shall be deemed to release the LESSEE from any of its repair, maintenance or rebuilding obligations under this LEASE.
- 11.3** In no event shall LESSEE be obligated to provide equipment and fixtures in excess of those existing prior to such damage or destruction. LESSEE agrees that such work will promptly commence and proceed to completion with due diligence.
- 11.4** Prior to the commencement of any activity permitted on the LEASED PREMISES as provided in this LEASE, LESSEE shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with companies duly authorized to do business in the State of Texas and satisfactory to the LESSOR and the LESSOR's Risk Manager. All applicable insurance coverages shall require that the CITY be named as an additional insured and provide for thirty (30) days written notification to the CITY prior to cancellation.

Insurance

- (a) Commercial General Liability Insurance; including Premises/Operations, Independent Contractor's Liability and Contractual Liability insuring LESSEE's, LESSEE's officers, directors, agents, employees, invitees and LESSEE's Independent Contractors (or subcontractors), and any of LESSEE's Sublessees liability for injury to or death of City of Arlington employees and third parties, with combined single limits of liability for bodily injury and property damage of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate.
- (b) Workers' Compensation Insurance with statutory limits for Workers' Compensation and Employers Liability limits of \$1,000,000 per occurrence, \$1,000,000 for disease each employee and \$1,000,000 for disease policy limit.
- (c) Fire and Extended Coverage Insurance covering the improvements presently existing on, or hereafter created on, the Leased Premises, against loss or damage by fire, windstorm, hail, tornado, explosion, water, lightning, rain, sleet, snow, sprinkler leakage, riots, civil commotion, vandalism, malicious mischief, and aircraft/vehicle damage. This type of insurance shall be carried with a company or companies satisfactory to Lessor and in an amount of coverage not less than replacement cost of the property dedicated to or necessary to performance of LESSEE's obligations under this agreement, and the policy or policies of insurance shall be issued to the LESSEE, with Lessor named as Loss Payee, as their interests may appear. In the event of damage

to such buildings and structures, LESSEE will immediately notify Lessor of the nature and extent of such damage. If damage results in the partial or the total destruction of a building, improvement or structure which has been erected by LESSEE, mortgagees and assignees agree to apply all insurance proceeds to the rebuilding of the improvements as approved by the CITY.

(d) Construction Insurance

- (1) For construction of any permanent improvement erected by or on behalf of the LESSEE, the LESSEE or his Contractor shall purchase and maintain, until final completion and acceptance of all work, Builder's Risk Insurance, All Risk Form in an amount equal to one hundred percent (100%) of the construction contract value, as amended, Completed Value Form. This policy shall be written jointly and in the names of the City of Arlington, the LESSEE, the Contractor, Subcontractors and Sub-subcontractors as their interests may appear. The policy shall have the endorsements as follows:
 - a. This insurance shall be specific as to coverage and shall not be contributing insurance with any permanent insurance maintained on the property;
- (2) Prior to the commencement of construction of any permanent improvement, LESSEE or his Contractor shall purchase and maintain until final completion and acceptance of all work:
 - a. General Liability Insurance, Including Premises Operations, Independent Contractors, Contractual Liability and Owners and Contractors Protective Liability coverage to include the indemnity provisions of the construction contract. Coverage shall apply as specified under Paragraph 13.4(b) with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate. The completed operations coverage must be maintained for a minimum of one (1) year after final completion and acceptance of the permanent improvements, with evidence of same filed with the Risk Manager.
 - b. Workers' Compensation Insurance with the same coverages and limits as specified under Paragraph 12.4 (c) above;

(e) Policy Endorsements and Special Conditions

- (1) In all insurance policies previously described herein except Workers' Compensation, the City of Arlington shall be named as an additional insured warranting no operational interest.
- (2) The term "Owner" or "City of Arlington" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of the City of Arlington and individual members, employees and agents thereof in their official capacities, or while acting on behalf of the City of Arlington.
- (3) Certificates of each insurance policy required herein, together with a statement by the issuing company to the extent that said insurance policy will not be canceled without thirty (30) days prior notice being given to the City of Arlington, shall be delivered to the CITY's Risk Manager, Post Office Box 231, MS 63-0790, Arlington, Texas 76004-0231, prior to either beneficial occupancy of the LEASED PREMISES or the commencement of any construction of permanent improvements, whichever is applicable.

- (4) The term "Permanent Improvements" is meant to include, but is not limited to, buildings, structures, wings, annexes to buildings, paved areas, utility lines, roads, fences, drainage improvements, irrigation improvements, landscaping, light apparatuses, walls or anything affixed to any building in such a manner as to become a fixture under Texas law.
- (5) It being the intention that the insurance policies shall protect all parties to the contract and be primary coverage for all losses covered by the policy, insurers shall have no right of recovery or subrogation against the City of Arlington and all insurance policies required herein shall provide the City of Arlington with a Waiver of Subrogation.
- (6) The policy clause "Other Insurance" shall not apply to the City of Arlington where the City of Arlington is insured on the policy.
- (7) Companies issuing the insurance policies shall have no recourse against the City of Arlington for payment of any premiums or assessments for any deductibles which all are at the sole risk of the LESSEE.
- (8) LESSEE shall require its general construction contractor to carry the required insurance until final completion and acceptance of all work. Certificates evidencing such coverage and satisfactory to the CITY shall be provided to the City Manager and the Risk Manager prior to commencement of construction.
- (9) LESSEE shall not do or permit to be done any act or thing in or upon the LEASED PREMISES which will invalidate or be in conflict with the certificate of occupancy or the Texas State Standard Form of fire, boiler, sprinkler, water damage or other insurance policies covering the buildings and the fixtures therein; and, the LESSEE shall, at its own expense, comply with applicable rules, orders, regulations or requirements of any local Board of Fire Underwriters or any other similar body having jurisdiction.
- (10) Approval, disapproval or failure to act by the City of Arlington regarding any insurance supplied by LESSEE (or any of LESSEE's subcontractors or sublessees) shall not relieve the LESSEE of full responsibility or liability for damages and accidents as set forth in the insurance documents. Neither shall the bankruptcy, insolvency or denial of liability by the insurance company exonerate the LESSEE from liability.
- (11) Any of such insurance policies required under this section may be written in combination with any of the others, where legally permitted; provided, however, that none of the specified limits stated herein may be lowered thereby.
- (12) In the event that any claim for loss or damage exceeds the limits of the insurance policies and/or is not insured under the terms of the policies, the LESSEE shall stand the risk at their sole expense.
- (13) It is understood and acknowledged by both parties that the minimum amounts for insurance, as provided for in this Section XII, may be adjusted to the then prevailing amounts for insurance required by the LESSOR at any time during the term of the lease.

12.

Liabilities and Indemnities

12.1 LESSEE DOES HEREBY CONTRACT TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY OF ARLINGTON AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES, FROM AND

AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, SUITS, DEMANDS OR CAUSES OF ACTION, AND LIABILITY OF EVERY KIND INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, COURT COSTS AND ATTORNEYS FEES FOR (A) INJURY OR DEATH OF ANY PERSON, (B) ANY LOSS OR DAMAGE TO OR SUSTAINED BY ANY PERSON OR, (C) LOSS OF USE OF, OR DAMAGE TO, ANY PROPERTY, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS CONTRACT OR OCCURRING ON OR ABOUT THE LEASED PREMISES AS A RESULT OF ANY OPERATION, WORKS, ACTS OR OMISSIONS PERFORMED ON OR ABOUT THE LEASED PREMISES, OR OFF THE LEASED PREMISES IF RELATED TO THE LESSEE'S OPERATIONS OR ACTIONS. SUCH INDEMNITY SHALL APPLY WHETHER THE CLAIMS, LOSSES, DAMAGES, SUITS, DEMANDS OR CAUSES OF ACTION ARISE IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE CITY, ITS OFFICERS, OFFICIALS, AGENTS OR EMPLOYEES. IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH REQUIRES LESSEE TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF THE CITY'S OWN NEGLIGENCE, WHETHER THAT NEGLIGENCE IS A SOLE OR CONCURRING CAUSE OF THE INJURY, DEATH OR DAMAGE.

- 12.2 LESSEE DOES HEREBY CONTRACT TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY OF ARLINGTON AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, SUITS, DEMANDS OR CAUSES OF ACTION, AND LIABILITY OF EVERY KIND INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, COURT COSTS AND ATTORNEYS FEES FOR OR IN CONNECTION WITH (A) ANY INFRINGEMENT OF ANY PATENT, TRADEMARK OR COPYRIGHT ARISING FROM OR OUT OF THE OPERATIONS OF LESSEE, OR (B) ANY CLAIM FOR COMMISSION OR BROKERAGE MADE BY ANY SUCH BROKER WHEN SUCH CLAIM IS BASED IN WHOLE OR IN PART UPON ANY ACT OR OMISSION OF THE LESSEE.
- 12.3 IN ANY AND ALL CLAIMS AGAINST ANY PARTY INDEMNIFIED HEREUNDER BY ANY EMPLOYEE OF THE LESSEE, ANY CONTRACTOR OR SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION HEREIN PROVIDED SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR FOR THE LESSEE OR ANY CONTRACTOR OR SUBCONTRACTOR UNDER WORKERS' COMPENSATION OR OTHER EMPLOYEE BENEFIT ACTS.

13.

Environmental Concerns and Monitoring Requirements

- 13.1 LESSEE TO THE EXTENT ALLOWED BY LAW HEREBY RELEASES, DISCHARGES AND HOLDS LESSOR HARMLESS AND AGREES TO INDEMNIFY LESSOR FOR CLAIMS, LIABILITIES, SUITS, DAMAGES, EXPENSES AND FINES ARISING OUT OF OR RESULTING FROM ANY SUDDEN OR GRADUAL OR ANY OTHER RELEASE, DISCHARGE, SPILL, CONTAMINATION OR POLLUTION BY OR FROM HAZARDOUS WASTES OR SUBSTANCES CAUSED BY LESSEE, ITS CONTRACTORS, SUBCONTRACTORS, AGENTS, OFFICERS, INVITEES AND REPRESENTATIVES, EXISTING, CREATED OR OCCURRING ON OR UNDER THE LEASED PREMISES. LESSEE'S OBLIGATIONS AND LIABILITIES UNDER THIS SECTION SHALL

CONTINUE SO LONG AS LESSOR REMAINS RESPONSIBLE FOR ANY RELEASE, SPILLS, DISCHARGES OR CONTAMINATION OF HAZARDOUS SUBSTANCES OR WASTES EXISTING ON THE LEASED PREMISES OR RESULTING OR CAUSED BY OR ATTRIBUTABLE TO THE LESSEE.

- 13.2 LESSEE acknowledges that its uses of the LEASED PREMISES and the operations, maintenance and activities conducted thereon may be subject to federal, state and local laws, rules and regulations, collectively referred to as "Governmental Regulations". As a material covenant of the LEASE, LESSEE, at its sole expense, shall comply with all such present and future Governmental Regulations, applicable to LESSEE's construction, operations, maintenance, use and activities on the LEASED PREMISES.
- 13.3 LESSEE's obligation under this section shall survive any assignment or subletting of the LEASED PREMISES. Furthermore, LESSEE's obligations under this section shall survive the termination of this LEASE as to any activity or omissions which occurred during the term of the LEASE or any extensions thereof.
- 13.4 The term "hazardous wastes" is used herein as it is defined in 42 U.S.C. Section 69.01 *et seq.* The term "hazardous substances" is used herein as it is defined in CERCLA. These terms shall also include, for the purposes of the LEASE, any substance requiring special treatment, handling, manifesting and records according to a governmental authority.

**14.
Rules and Regulations,
Sign and Development Standards**

- 14.1 LESSEE agrees to observe and obey any and all rules and regulations and all other federal, state and municipal rules, regulations, ordinances and laws including, but not limited to the impact fees, subdivision rules and regulations, zoning, landscape standards and the construction sections of the Code of the City of Arlington and require its officers, agents, employees, contractors and suppliers to observe and obey the same.
- 14.2 LESSEE agrees to obtain, from all governmental authorities having jurisdiction, all licenses, certificates and permits necessary for the conduct of its operations and to keep them current.
- 14.3 Signs shall comply with CITY ordinances.

**15.
Utilities**

- 15.1 Unless otherwise mutually agreed upon by the parties, LESSEE will bear costs, expenses and fees electricity, water and sanitary sewer, and trash and other utilities needed for facilities as required for the business or required by the ordinances of the City of Arlington on the LEASED PREMISES. Any drainage construction (including but not limited to storm sewers, inlet/outlet structures, lined or unlined drainage channels) on or off the LEASED PREMISES necessitated by the erection of additions to or improvements to or upon the LEASED PREMISES in order to provide for drainage will be the responsibility of LESSEE. LESSEE will, at its expense, also make arrangements for the installation or connection of whatever private utilities it may desire or need in connection with the use of improvements or additions made by the LESSEE to the LEASED PREMISES. LESSEE shall also maintain these utilities, whether on or off the LEASED PREMISES. Any construction performed by LESSEE within any drainage or utility easement area must meet utility company and CITY criteria for design and construction in such easement area. Any and all connections to water and sewer lines must occur at the existing utility connection points, unless otherwise agreed to in writing by CITY. All costs incurred with any relocation of existing utility lines or facilities or installation of additional utility lines or facilities shall

be entirely at LESSEE's expense whether on or off the LEASED PREMISES. LESSEE shall also provide LESSOR legal descriptions for any required utility easements.

16.

Nondiscrimination

- 16.1** The LESSOR and LESSEE, for itself, its personal representative, successors in interest, assigns and heirs, as a part of the consideration hereof, do hereby covenant and agree as a covenant running with the land that:
- (a) No persons on the grounds of race, color, disability or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the LEASED PREMISES;
 - (b) That in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, disability or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

17.

Rights of Entry Reserved

- 17.1** In the event that any personal property of LESSEE shall obstruct the access of the CITY, its officers, employees, agents or contractors, or the utility company furnishing utility service to any of the existing utility, mechanical, electrical and other systems, and thus shall interfere with the inspection, maintenance or repair of any such system, LESSEE shall move such property, as directed by the CITY or said utility company, in order that access may be had to the system or part thereof for inspection, maintenance or repair. If LESSEE shall fail to so move such property after direction from the CITY or said utility company to do so, the CITY or the utility company may move it, and the LESSEE hereby agrees to pay the costs of such moving upon demand, and further, LESSEE hereby waives any claim for damages as a result therefrom. However, the LESSOR or its authorized agent(s) will provide sufficient prior notice so that LESSEE operations are not abruptly affected. Further, entry to the clean rooms is restricted and guided by LESSEE's standard operating procedures to maintain sterility of the products being tested/manufactured.

18.

Additional Rents and Charges

- 18.1** Except as provided elsewhere in this LEASE, in the event LESSEE, its lender, heir, assignees or successors fails within thirty (30) days after receipt of written notice from CITY to perform or commence to perform any obligation required herein to be performed by LESSEE, the CITY may enter the LEASED PREMISES (without such entering causing or constituting a cancellation of this LEASE or an interference with the possession in such LEASED PREMISES by LESSEE) and do all things reasonably necessary to perform such obligation, charging to LESSEE the cost and expense thereof, and LESSEE agrees to pay to the CITY upon demand such charge. CITY hereby agrees that placing orders for any structural components and/or requesting bids on repairs means to commence to maintain, clean, repair, replace, rebuild or repaint for purposes of this section.
- 18.2** If the CITY elects to pay any sum or sums or incur any obligation or expense by reason of the failure, neglect or refusal of LESSEE to perform or fulfill any one or more of the conditions, covenants or agreements contained in this LEASE, or as the result of any act or omission of LESSEE contrary to said conditions, covenants or agreements, LESSEE hereby agrees to pay the sum or sums so paid or expense so incurred by the CITY, including all interests, costs, damages and penalties, as the result of such failure,

neglect or refusal of LESSEE. In such event, the total of such amounts may be added to any installment of rent thereafter due hereunder, and each and every part of the same shall be and become additional rent recoverable by the CITY in the same manner and with like remedies as if it were originally a part of the rent provided for in this LEASE. The LESSEE has the right to contest any request as unreasonable and unnecessary.

19.
Default

- 19.1** The following events shall be deemed to be events of default by LESSEE under this LEASE:
- (a) LESSEE shall fail to pay any installment of rent, and such failure shall continue for a period of ten business days after notice of such delinquency is delivered to LESSEE.
 - (b) LESSEE shall fail to comply with any term, provision, clause, sentence, covenant or any other item of this LEASE, other than the payment of rent, and shall not cure such failure within thirty (30) calendar days after written notice thereof to LESSEE provided however if the failure to comply cannot reasonably be cured within such 30 day period, no event of default shall be deemed to have occurred so long as LESSEE substantially begins the cure within such 30 day period and diligently pursues curing the default as soon as possible thereafter, but in no event to exceed 180 days after the written notice.
 - (c) LESSEE shall desert or vacate any substantial portion of the premises for a period of five (5) calendar days or more provided however if there is civil unrest or an event of force majeure, no event of default shall be deemed to have occurred.
 - (d) It is recognized that if LESSEE is adjudged a bankrupt, or makes a general assignment for the benefit of creditors, or if a receiver is appointed for the benefit of its creditors, or if a receiver is appointed on account of its insolvency, such could impair or frustrate LESSEE's performance of this LEASE. Accordingly, it is agreed that upon the occurrence of any such event, LESSOR shall be entitled to request of LESSEE or its successor in interest adequate assurance of future performance in accordance with the terms and conditions hereof. Failure to comply with such request within ten (10) calendar days of delivery of the request shall entitle LESSOR to terminate this LEASE and to the accompanying rights set forth below.
- 19.2** Upon the occurrence of any event of default specified above, LESSOR shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:
- (a) Terminate this LEASE in which event LESSEE shall immediately surrender the premises to LESSOR; and if LESSEE fails to do so, LESSOR may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession and expel or remove LESSEE and any other person who may be occupying said premises or any part thereof, by force if necessary, without being liable for prosecution or any claim of damages therefor; and LESSEE agrees to pay to LESSOR on demand the amount of all loss and damages which LESSOR may suffer by reason of such termination, whether through inability to relet the premises on satisfactory terms or otherwise.
 - (b) Enter upon and take possession of the premises and expel or remove LESSEE and any other person who may be occupying the premises or any part thereof, by force if necessary, without being liable for prosecution or any claim of damages therefor; and if LESSOR so elects, relet the premises on such terms as LESSOR shall deem advisable and receive the rent thereof; and LESSEE agrees to pay to LESSOR on demand any deficiency that may arise by reason of such reletting.

- (c) Enter upon the premises, by force if necessary, without being liable for prosecution or any claim of damages therefor and do whatever LESSEE is obligated to do under the terms of this LEASE; and LESSEE agrees to reimburse LESSOR on demand for any expenses which LESSOR may incur, thus effecting compliance with LESSEE's obligations under this LEASE; and LESSEE further agrees that LESSOR shall not be liable for any damages resulting to LESSEE from such action.

19.3 No reentry or taking possession of the premises by LESSOR shall be construed as an election on its part to terminate this LEASE, unless a written notice of such intention shall be given to LESSEE. Notwithstanding any such reletting or reentry or taking possession, LESSOR may at any time thereafter elect to terminate this LEASE for a previous default. Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law, nor shall the pursuit of any remedy herein provided constitute a forfeiture or waiver of any payments due to LESSOR hereunder or of any damages accruing to LESSOR by reason of the violation of any of the terms, provisions and covenants herein contained. LESSOR's acceptance of payments following an event of default hereunder shall not be construed as LESSOR's waiver of such event of default. No waiver by LESSOR of any violation or breach of any of the terms, provisions and covenants herein contained shall be deemed or constitute a waiver of any other violation or breach of any of the terms, provisions and covenants herein contained. Forbearance by LESSOR to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default. The loss or damage that LESSOR may suffer by reason of termination of this LEASE or the deficiency from any reletting as provided for above shall include the expense of repossession and any repairs or remodeling undertaken following possession. Should LESSOR at any time terminate this LEASE for any default, in addition to any other remedy LESSOR may have, LESSOR may recover from LESSEE all damages LESSOR may incur by reason of such default, including cost of recovering the premises and reasonable attorney's fees expended by reason of default.

20.

Condemnation

- 20.1** If during the term of this LEASE, or any extensions thereof, all of the LEASED PREMISES should be taken for any public or quasi-public use under any governmental law or by right of eminent domain, or should be sold to the condemning authority under threat of condemnation, this LEASE shall terminate and the LESSEE, its heirs, successors and assignees shall be fairly compensated for the fair market value of their improvements on and to the LEASED PREMISES, but shall have no claim for loss or damage to their leasehold interests. Rent shall be abated during the unexpired portion of this LEASE effective as of the date of the taking of the premises by the condemning authority.
- 20.2** If less than all, but more than fifty percent (50%), of the LEASED PREMISES is taken for any public or quasi-public use under any governmental law or by right of eminent domain, or should be sold to the condemning authority under threat of condemnation, LESSEE may terminate the LEASE by giving written notice to LESSOR within thirty (30) days after possession of the condemned portion is taken by the entity exercising the power of condemnation. If the LEASED PREMISES are partially condemned and LESSEE fails to exercise the option provided in the preceding paragraph to terminate the LEASE, or if less than fifty percent (50%) of the LEASED PREMISES are condemned, this LEASE shall not terminate but LESSOR shall immediately, at its sole expense, restore and reconstruct the building and other improvements situated on the LEASED PREMISES to make them reasonably tenantable and suitable for the uses for which the premises are leased.

21.

Surrender and Right of Re-entry

- 21.1** Upon the cancellation or termination of this LEASE, LESSEE agrees peaceably to surrender the LEASED PREMISES to the CITY. Upon any such cancellation or termination, the CITY may re-enter the LEASED PREMISES together with all improvements and additions thereto at CITY's election. Furthermore, upon such cancellation or termination, and for a reasonable time thereafter (not exceeding thirty [30] days after such cancellation or termination), LESSEE shall have the right to remove its personal property, fixtures and trade equipment which it may have on the LEASED PREMISES, provided the removal thereof does not impair, limit or destroy the utility of said LEASED PREMISES and LESSEE either repair or pay the costs for any repairs caused by such removal.
- 21.2** If LESSEE fails to remove its property within thirty (30) days after the termination of or expiration of this LEASE, LESSOR may remove such property to a public warehouse for deposit or retain the same in its own possession. If the LESSEE fails to take possession and remove such property, after paying any appropriate rental fees, within sixty (60) days after termination of the LEASE, the property shall be deemed to be abandoned and LESSOR may sell the same at public auction.

22.

Notices

- 22.1** All notices, consents and approvals required or desired to be given by the parties hereto shall be sent in writing, and shall be deemed sufficiently given when same is hand delivered or deposited in the United States mail, sufficient postage prepaid, registered or certified mail, return receipt requested, addressed to the recipient at the address set forth below:

To LESSOR:

City of Arlington
Office of Economic Development
Attn: Stuart Young, Real Estate Manager
101 West Abram Street, MS 01-0300
Arlington, Texas 76010

To LESSEE:

Nanoscope Technologies LLC
Attn: Samarendra Mohanty, President
1312 Brown Trail, Bedford
Bedford, Texas 76022

23.

Holding Over

- 23.1** A holding over by LESSEE after the termination of this LEASE and after written notice by CITY to vacate such premises, and continued occupancy thereof by LESSEE shall constitute LESSEE a trespasser.
- 23.2** Any holding over by LESSEE beyond the thirty (30) day period permitted for removal of fixtures without the written consent of the CITY shall make the LESSEE liable to the CITY for rent and damages.
- 23.3** All insurance coverage that LESSEE is required to maintain shall continue in effect for so long as LESSEE, or any of LESSEE's sublessees or tenants occupy the LEASED PREMISES or any part of the LEASED PREMISES.

24.

Invalid Provisions

- 24.1 If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other portion of this LEASE are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants or conditions of this LEASE shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

25.

Miscellaneous Provisions

- 25.1 All remedies provided in this LEASE shall be deemed cumulative and additional and not in lieu of, or exclusive of, each other, or of any other remedy available to the CITY, or LESSEE, at law or in equity, and the exercise of any remedy, or the existence herein of other remedies or indemnities shall not prevent the exercise of any other remedy.
- 25.2 Notwithstanding any other provision of this LEASE, LESSEE shall not be entitled to claim or receive any compensation as a result of or arising out of any delay, hindrance, disruption, force majeure, impact or interference, foreseen or unforeseen.
- 25.3 The LESSEE assumes the risk of all suspensions of or delays in performance of this LEASE, regardless of length thereof, arising from all causes whatsoever, whether or not relating to this LEASE, and the LESSEE shall bear the burden of all costs, expenses and liabilities which he may incur in connection with such suspensions or delays, and all such suspensions, delays, costs, expenses and liabilities of any nature whatsoever, whether or not provided for in this LEASE, shall conclusively be deemed to have been within the contemplation of the parties.

26.

General Provisions

- 26.1 This LEASE shall be performable and enforceable in the City of Arlington and County of Tarrant, Texas, and shall be construed in accordance with the laws of the State of Texas.
- 26.2 This LEASE is made for the sole and exclusive benefit of the CITY, LESSEE, their successors, assigns, heirs and the public.
- 26.3 Subject to the limitations upon assignment herein contained, this LEASE shall be binding upon and inure to the benefit of the parties hereto, their respective successors and assigns.
- 26.4 In the event of any ambiguity in any of the terms of this LEASE, it shall not be construed for or against any party hereto on the basis that such party did not author the same.
- 26.5 All covenants, stipulations and agreements in this LEASE shall extend to and bind each party hereto, its legal representatives, successors, assigns and heirs.
- 26.6 The titles of the sections of this LEASE are inserted herein for convenience only and are not intended and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.
- 26.7 For purposes of this LEASE, including its intended operation and effect, the parties (CITY and LESSOR) specifically agree that:

- (a) the LEASE only affects matters/disputes between the parties to this LEASE, and is in no way intended by the parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with CITY or LESSEE or both; and
- (b) The terms of this LEASE are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either the CITY or LESSEE.

27.
Local Businesses

- 27.1** In performing this Contract, LESSEE agrees to use diligent efforts to purchase all goods and services from Arlington businesses whenever such goods and services are comparable in availability, quality and price.

As a matter of policy with respect to CITY projects and procurements, CITY also encourages the use, if applicable, of qualified contractors, subcontractors and suppliers where at least fifty-one percent (51%) of the ownership of such contractor, subcontractor or supplier is vested in racial or ethnic minorities or women. In the selection of subcontractors, suppliers or other persons in organizations proposed for work on this Contract, the LESSEE agrees to consider this policy and to use its reasonable and best efforts to select and employ such company and persons for work on this Contract.

28.
Independent Contractor

- 28.1** LESSEE covenants and agrees that it will perform the work hereunder as an independent contractor, and not as an officer, agent, servant or employee of CITY; that LESSEE shall have exclusive control of and exclusive right to control the details of the work performed hereunder, and all persons performing same, and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondeat superior shall not apply as between CITY and LESSEE, its officers, agents, employees, contractors, subcontractors and consultants; and nothing herein shall be construed as creating a partnership or joint enterprise between CITY and LESSEE.

29.
Entire Agreement

- 29.1** This LEASE embodies the entire agreement of the parties hereto superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein; and may not be changed, modified, discharged or extended except by written instrument duly executed by the CITY and the LESSEE or as otherwise provided herein.

Signatures on following page

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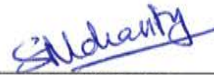
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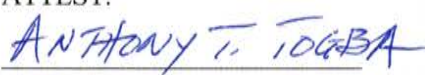
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Signatures on following page

IN WITNESS WHEREOF, I have executed this LEASE on the 5th day of October, 2020.

NANOSCOPE TECHNOLOGIES, LLC


BY 
Samarendra Mohanty
President

ATTEST:


IN WITNESS WHEREOF, the I have executed this LEASE on the 15th day of October, 2020

CITY OF ARLINGTON

BY 
James Parajon
Assistant City Manager

ATTEST:

ALEX BUSKEN
City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY 