

## LEASE AGREEMENT

THIS LEASE AGREEMENT, dated this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between the **City of Kirksville, MO** (hereinafter, the “City”) and **Cenveo Corporation**, Successor-In-Interest to Commercial Envelope Manufacturing Co., Inc. (hereinafter, the “Company”).

### WITNESSETH:

In consideration of the rent, terms, covenants, conditions and agreements hereinafter contained, the parties agree as follows:

### ARTICLE I

#### REPRESENTATIONS

**Section 1.1. Representations by the City.** The City represents as follows:

- a. The City is a third class city of the State of Missouri.
- b. The City has lawful power and authority to enter into and execute this Lease Agreement and to carry out its obligations hereunder and by all necessary action has been duly authorized to execute and perform the same acting by and through its duly authorized officers.

**Section 1.2. Representations by the Company.** The Company represents as follows:

- a. The Company is or upon occupancy of the Leased Premises will be duly authorized to do business in the State of Missouri.
- b. The Company has lawful power and authority to enter into and execute this Lease Agreement and to carry out its obligations hereunder, and by all necessary corporate action has been duly authorized to execute the Lease Agreement by its duly authorized officers.

## ARTICLE II

### LEASING OF THE PREMISES: RENT AND OTHER PROVISIONS

**Section 2.1 Grant of Leasehold.** The City hereby leases to the Company and the Company hereby leases and takes from the City, the following described Leased Premises, to – wit:

All that parcel of land in the Northwest 1/4 of Section 33, Township 63 North, Range 15 West, described as commencing on the East right of way line of Missouri Route “B”, formerly “D” in Adair County, at a point 3768.75 feet North of the South line of said Section 33, the true point of beginning for this description, thence Northerly 650 feet along the East right of way line of Route “B”, formerly “D”, thence 1017.17 feet East along a line parallel to the South line of said Section 33, thence 650 feet, South parallel to the East right of way of Missouri Route “B”, formerly “D”, thence 1017.17 feet West along a line parallel to the South line of said Section 33, to the point of beginning.

The Leased Premises is commonly known as 3010 North Industrial Road, Kirksville, MO 63501.

**Section 2.2. Reservation of Easement.** The City hereby reserves a non-exclusive easement along, across, over and upon the driveways and parking surface areas of the Leased Premises for purposes of ingress and egress to the City's property lying east of and adjacent to the Leased Premises.

**Section 2.3. Term.** The term of this Lease Agreement shall be for an initial term of three (3) years commencing on the 7th day of December, 2011 and ending on the 6th day of December, 2014, subject to renewal or termination as provided herein. If this Lease is not previously cancelled or terminated, and if the Company has complied with and performed all of the terms, covenants, and conditions of this Lease, then the Company shall have the option to renew this Lease for the same rent, and upon the same terms, covenants and conditions contained herein for one additional two (2) year term commencing on the date the initial term of this Lease would expire. The Company shall give ninety (90) days written notice to the City of its intent to exercise its option to renew this Lease prior to the expiration of the initial term hereof.

**Section 2.4. Rent.** Commencing on the 7th day of December, 2011, and on the same day of each month thereafter, the Company shall pay to the City during the term hereof monthly rent in the amount of \$9,500.00 per month.

**Section 2.5. Additional Rent.** The parties acknowledge that during Company's prior occupancy of the Leased Premises, roof repairs were made by the City at a cost of \$68,842.00. In order to equally share the cost of such repairs and to reimburse the City for the Company's share of such costs, the Company shall pay to the City during the initial term hereof, additional rent in the amount \$956.14 per month. In the event Company does not renew this Lease for an additional two (2) year term as herein provided, then upon the termination or

expiration of this Lease, Company shall immediately pay to the City a lump sum in the amount of \$13,768.40, which represents an additional reimbursement to the City of twenty percent (20%) of the cost of such prior roof repairs.

**Section 2.6. Possession, Operation and Use of the Leased Premises.** Subject to the provisions contained herein, the Company shall have the exclusive possession and use of the Leased Premises during the term hereof without hindrance by the City and shall have the exclusive right and responsibility for the management, direction and control of its possession and use of the Leased Premises and of operations conducted upon the Leased Premises. The Company shall comply with all statutes, laws, ordinances, rules and regulations of all federal, state and local governmental authorities, now or hereafter applicable to the Company in connection with its occupancy and use of the Leased Premises. The Company shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Company to comply with this Section; provided, however, the Company shall have the right, at its own expenses, to contest or challenge the validity or legality of any such statute, law, ordinance, rule or regulation.

**Section 2.7. Prepayment of Rent.** The Company may at any time prepay all or any part of the rent payments provided for herein.

**Section 2.8. Net Lease.** It is intended that this Lease is a triple net lease that is completely carefree to the City, except as may be expressly stated herein, and the Company, in addition to the rent provided herein, shall pay all charges, expenses, costs, and outlays of every nature and kind relating to the Leased Premises, except as may be expressly stated herein, including but not limited to taxes, insurance, utilities, maintenance and repairs.

**Section 2.9. Quiet Enjoyment.** The City covenants and agrees that the Company, upon payment of the basic rent and additional rent reserved herein and upon observing and keeping the covenants, agreements and stipulations of this Lease on its part to be kept, shall lawfully, peaceably and quietly hold, occupy and enjoy the Leased Premises during the Term of this Lease and any extension or extensions thereof, without hindrance, ejection or molestation by the City or any person or persons claiming under the City or claiming a title superior to that of the City.

### ARTICLE III

#### COVENANTS OF THE COMPANY

**Section 3.1. Maintenance and Repair.**

- a. The Company has inspected and knows the condition of the Leased Premises and accepts them in their present "As Is" condition, including all defects, latent or otherwise, existing as of the Lease commencement. The City hereby assigns to the Company any and all warranties that it has with respect to the roof and all other improvements, on or about the Leased Premises.

- b. The Company shall maintain, replace, keep in good condition and repair the improvements located upon the Leased Premises, and every part thereof, including driveways, parking areas, roof, sprinkler system and all plumbing, heating, electrical, air conditioning and ventilating systems, whether or not the need for such maintenance, replacement or repair occurs as a result of Company's use, or any prior use, the elements or other casualty. City shall have no obligation to maintain, replace or repair the Leased Premises or any part thereof.
  
- c. The Company may, from time to time, make reasonable alterations to the improvements located upon the Leased Premises in a good and workmanlike manner. Any such alterations shall comply with all applicable requirements of law, including all applicable codes of the City. The Company shall have no right, however, to make any change, alteration or addition to such improvements that would impair the structural soundness thereof. All costs of such work shall be paid promptly by the Company so as to prevent the assertion of any liens for labor or materials.
  
- d. The Company shall have the right to place or install upon the Leased Premises such trade fixtures and equipment as it shall deem desirable or necessary for the conduct of its business and, provided the Company is not then in default hereunder, at the expiration of the Lease Agreement, Company may remove from the Leased Premises all trade fixtures and equipment that were placed or installed upon the Leased Premises, and the Company shall repair any damage caused by the removal thereof.
  
- e. At the end of the Lease Agreement, by lapse of time or otherwise, the Company will quit and surrender the Leased Premises in as good condition as they were in at the commencement hereof, reasonable wear and tear excepted. All alterations, additions, erections or improvements upon the Leased Premises at the end of this Lease Agreement, except trade fixtures and equipment, shall be and become a part of the Leased Premises and shall be surrendered with the Leased Premises. Should the Company fail to remove any such trade fixtures or equipment on or before the end of this Lease Agreement, then the same shall be considered as abandoned and become the property of the City; provided, however, that the Company shall have 30 days to remove said trade fixtures or equipment following the termination or expiration of this Lease Agreement.

- f. The Company shall be responsible for all snow and ice removal, grounds and lawn maintenance, and landscaping.

**Section 3.2. Utilities.** Company shall pay directly to the appropriate supplier the cost of all utilities and services provided to the Leased Premises.

**Section 3.3. Insurance.** Prior to the commencement of the Company's use or occupancy of the Leased Premises, the Company will provide to the City certificates of insurance evidencing the following insurance:

- a. Comprehensive General Liability Insurance-with a limit of not less than \$1,000,000.00 combined single limit Bodily Injury and Property Damage.
- b. Fire and Property Damage Insurance-during the term hereof, Company shall maintain fire and extended coverage property insurance in an amount not less than Five Million Dollars (\$5,000,000.00).
- c. Worker's Compensation Insurance required by law.

Each of the above certificates of insurance shall provide that the policy may not be changed or canceled without 10 days prior written notice to the City. The policy or policies described in (a) and (b) above shall name the City as an additional insured, as its interest may appear, consistent with this Lease Agreement.

**Section 3.4. Indemnification.**

- a. The City shall not be liable to the Company for any loss or damage to property caused by the Act of God, acts of the public enemy, riot, strike, war, or other causes beyond the City's control. In addition, the City shall not be liable for any liability for any damage or injury to persons or property caused by or resulting from steam, electricity, gas, water, rain, ice or snow, or from any damage or injury resulting from any cause or happening whatsoever, unless resulting from the negligence of the City, its employees, agents or servants.
- b. The Company shall be solely responsible for all loss, expense (including attorneys fees), and damages, and shall indemnify the City against and save the City harmless from all claims, demands and judgments made or recovered against the City because of personal injuries, including death, and/or because of damage to property, from any cause whatsoever, including environmental contamination to the Leased Premises, arising out of, incidental to,

or in connection with the Company's use and occupancy of the Leased Premises, whether or not caused by negligence of the Company, its contractors or its employees, servant or agents; provided, however, that said indemnification and hold harmless obligation shall not apply to circumstances resulting from the intentional misconduct or negligence by the City, or its employees, agents or servants.

**Section 3.5. Taxes.** The Company shall pay all taxes, both real and personal, assessed on the Leased Premises.

## ARTICLE IV

### DAMAGE, DESTRUCTION AND CONDEMNATION

**Section 4.1. Damage and Destruction.** If, during the term of this Lease, the Leased Premises, or any part thereof, shall be destroyed or damaged by fire or other casualty:

- a. If such damage or loss is such that fifty percent (50%) or greater of the Leased Premises are unfit for occupancy or use, Company shall promptly notify the City in writing as to whether the Company deems it practicable and desirable to rebuild, repair, restore or replace such damage or loss. If the Company shall determine that such rebuilding, repairing, restoring or replacing is not practicable and desirable, then the Company shall have the right to terminate this Lease from the date of such damage or destruction by giving written notice to the City. Upon giving such notice, Company shall immediately surrender the Leased Premises and all interest therein to the City. In case of such termination, the City may re-enter and repossess the Leased Premises, the proceeds of any applicable casualty or property insurance received or payable with respect to such damage or loss to the Leased Premises shall be the property of the City, and the Company shall immediately pay to the City an amount equal to the greater of the deductibles for any applicable insurance or the cost of rebuilding, repairing, restoring or replacing such damage or loss to the Leased Premises. If the Company shall determine that rebuilding, repairing, restoring or replacing is practicable and desirable, then the Company shall forthwith proceed with and complete with reasonable dispatch such rebuilding, repairing, restoring or replacing, in which case any proceeds of casualty or property insurance required by this Lease, and received or payable with respect to any such damage or loss to the Leased Premises shall be used and applied for the purpose of paying the cost of such rebuilding, repairing, restoring or replacing such damage or loss. If such insurance proceeds are insufficient to

rebuild, repair, restore or replace the damage or loss to the Leased Premises, then Company shall pay all additional amounts required. In the event the Leased Premises shall be rebuilt, repaired, restored or replaced by the Company, then such damage or loss shall not void or terminate this Lease, except that the Company shall be entitled to a proportionate reduction of rent if there is a substantial interference with the Company's business while repairs or restorations are being made.

- b. If such damage or loss is such that less than fifty percent (50%) of the Leased Premises are unfit for occupancy or use, or if no part of the Leased Premises are made unfit for occupancy or use, then the Company shall forthwith proceed with and complete with reasonable dispatch, all repairs necessary to restore the Leased Premises. Any proceeds of casualty or property insurance required by this Lease, and received or payable with respect to any such damage or loss to the Leased Premises shall be used and applied for the purpose of paying the cost of such rebuilding, repairing, restoring or replacing such damage or loss. If such insurance proceeds are insufficient to pay such costs, then the Company shall pay all additional amounts required. Such partial damage or destruction to the Leased Premises shall not void or terminate this Lease, except that the Company shall be entitled to a proportionate reduction of rent if there is a substantial interference with Company's business while repairs or restorations are being made.

**Section 4.2. Condemnation.** In case the whole or a substantial part of the Leased Premises shall be taken by the state or other public authority for any public use, then this Lease Agreement shall terminate from the time when possession of the whole or the part so taken is required for such public use, and the Company shall not claim or be entitled to any part of the award to be made for damages for such taking for public use, and such taking shall not be deemed a breach of the City's covenant for quiet enjoyment contained herein.

## **ARTICLE V**

### **EVENTS OF DEFAULT AND REMEDIES**

**Section 5.1. Events of Default.** Any one of the following events shall be an Event of Default hereunder:

- a. Failure by the Company to pay the rent herein provided, or any part thereof, for a period of five (5) days after notice from the City.
- b. Failure by the Company to do, observe, keep and perform any of the terms, covenants, conditions, agreements and provisions of this Lease Agreement to be done, observed, kept and performed by the

Company, and the same is not remedied within thirty (30) days after the City has given the Company written notice specifying such failure.

- c. The abandonment of the Leased Premises by the Company, the filing by or against the Company as a debtor of a petition under the United States Bankruptcy Code or similar law, the making by the Company of a general assignment for the benefit of creditors, the taking by the Company of the benefit of any insolvency act or law, or the appointment of a permanent receiver or trustee in bankruptcy for the Company's property.

## **Section 5.2. Remedies.**

- a. If any Event of Default occurs (with the exception of a "Work Force Default"), the City may at its option terminate this Lease Agreement, re-enter, take possession of the Leased Premises and remove all property therefrom without notice or legal process and without being deemed guilty of trespass, or liable for any loss or damage occasioned thereby.
- b. In the event of re-entry by the City, under the terms contained herein, or after the abandonment of the Leased Premises by the Company, it is agreed that the Company shall remain liable and will pay the rent which subsequently accrues thereafter when due, up to the time that some third party tenant is obtained for and is in possession of the Leased Premises. The City agrees to use its best efforts to obtain an alternative or substitute tenant. In the event that the rent obtained from such alternative or substitute tenant is less than the rent provided herein, then the Company shall be obligated and liable to the City for the payment of the difference between the rent reserved herein and the rent collected from such alternative or substitute tenant during the remainder of the unexpired term hereof.
- c. The City or the Company shall pay all costs, expenses and attorneys fees that may be incurred or paid by the other in enforcing the terms, covenants and conditions of this Lease Agreement provided such party prevails in any litigation arising out of, or related to, this Lease Agreement.
- d. No waiver by the City or Company of a breach of any of the terms, covenants or conditions of this Lease Agreement shall be construed as a waiver of any future breach of the same or any other terms, covenants or conditions hereof.



## ARTICLE VI

### EMPLOYMENT INCENTIVE

**Section 6.1. Rent Reduction For New Employees.** During the term of this Lease, or renewal period hereof, for each new employee position/job created by the Company and filled by an employee at the Leased Premises, which is in addition to the current number of positions/jobs filled by employees at the Leased premises as of the date of this Lease, then the Company shall be entitled to a reduction in subsequent monthly rent in the amount of \$63.30 per month per new employee position/job created and filled by an employee for so long as each such new employee position/job remains filled by an employee.

**Section 6.2. Definition of New Employees.** For purposes of this Article, any such new employee position/job filled by an employee shall mean individuals employed by the Company at the Leased Premises on a full time basis (35 hours per week or more), receiving an "Average Hourly Wage" of not less than \$14.00 per hour, and for which the Company pays at least one half of the individual's health insurance coverage costs. "Average Hourly Wage" means the Company's total payroll at the Leased Premises divided by the number of hours worked by all employees of the Company at the Leased Premises during that payroll period.

**Section 6.3. Certification of Work Force.** The Company shall certify in writing to the City the Company's average monthly work force of employees at the Leased Premises for the calendar month preceding the date of this Lease, together with the average hourly wage for such employees. Thereafter, for each month during the term of this Lease for which the Company seeks a reduction in rent under the provisions of this Article, the Company shall certify in writing to the City the Company's average monthly work force of employees at the Leased Premises for the preceding month, together with the average hourly wage for such employees.

## ARTICLE VII

### OBLIGATIONS OF THE CITY FOR ENVIRONMENTAL CLAIMS

**Section 7.1. Environmental Warranty and Representation.** Except as may be disclosed on environmental reports, assessments and tests as provided to the Company by City, City further warrants and represents that during City's period of ownership, there has been no storage, disposal, discharge, deposit, injection, dumping, leaking, spilling, placing, or escape of any Hazardous Substances on, in, under, or from the Leased Premises. The City further warrants and represents that it has not received any notice from any Federal or State agency of appropriate jurisdiction, of the existence of any such substance on, in, under or from said premises.

**Section 7.2. Environmental Indemnification.** The City agrees to indemnify and hold the Company harmless from and against any and all costs, claims, suits, causes of action, losses, injury or damages including, without limitation, personal injury damage as well as injury to property resulting from the presence of Hazardous Substances on, in or under the Licensed Premises or removal of Hazardous Substances from, the Leased Premises, provided that such

Hazardous Substances were present on, in, or under the Leased Premises (regardless of whether or not the City had knowledge of such presence) prior to the Company's occupancy thereof. The City, at no cost to the Company, shall be solely responsible for and shall comply with all laws, rules, ordinances or regulations with respect to the presence or removal of Hazardous Substances provided that such Hazardous Substances were present on, in, or under the Leased Premises (regardless of whether or not the City had knowledge of such presence) prior to the Company's occupancy thereof. "Hazardous Substance" means any pollutant, contaminant, toxic or hazardous waste, dangerous substance, potentially dangerous substance, noxious substance, toxic substance, flammable, explosive, radioactive material, urea formaldehyde foam insulation, asbestos, PCB's, or any other substances the removal of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling, or ownership of which is restricted, prohibited, regulated or penalized by any and all federal, state, county or municipal statutes or laws now or hereafter at any time in effect. Without limiting the generality of the foregoing, this environmental indemnification includes all costs, claims, suits, causes of action, losses, injury or damages resulting from the removal of underground tank (s) from the Leased Premises and asbestos abatement that the City shall perform prior to the Company's occupancy of the Leased Premises.

## ARTICLE VIII

### GENERAL PROVISIONS

**Section 8.1. Relationship of the Parties.** Nothing contained herein shall be deemed or construed by the parties hereto or any third party as creating the relationship of principal and agent or partnership or joint venture.

**Section 8.2. Notices.** All notices which are required or permitted hereunder shall be in writing and shall be sufficient if delivered personally, sent by facsimile transmission, or sent by registered, certified, or express mail, postage prepaid. Any such notice shall be deemed to have been given when so delivered personally, sent by facsimile transmission or if mailed, three (3) days after such mailing to the following addresses:

City: City of Kirksville  
201 S. Franklin  
Kirksville, MO 63501  
ATTENTION: City Manager

Company: Cenveo Corporation  
\_\_\_\_\_  
\_\_\_\_\_  
ATTENTION: \_\_\_\_\_

**Section 8.3. Subleasing and Assignment.** The Company shall not sublease the Leased Premises in any manner whatsoever without the prior written consent of the City. This Lease Agreement may not be assigned by any party herein without the prior written consent of

the other party; provided, however, that the Company may assign this Lease Agreement to an affiliated entity upon prior notice to the City.

**Section 8.4. Binding Effect.** This Lease Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.

**Section 8.5. Governing Law and Venue.** It is the intention of the parties hereto that this Lease Agreement shall be governed by and construed in accordance with the laws of the State of Missouri. Any legal action filed by either party in connection with this Lease Agreement shall be filed in the Circuit Court of Adair County, Missouri, and both parties waive their rights to seek removal of said legal action from the State Courts of Missouri to a federal court of competent jurisdiction.

**Section 8.6. Entire Agreement.** This Lease Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, and may be amended only in a writing signed by both parties.

**Section 8.7. Headings.** The headings under articles and sections are for convenience and reference only and do not in any way modify, interpret or construe the intent of the parties or effect any of the provisions of the Lease Agreement.

**IN WITNESS WHEREOF**, the parties hereto have executed this Lease Agreement the day and year first written above.

City of Kirksville, Missouri

By: \_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Clerk

Cenveo Corporation

By: \_\_\_\_\_  
President

Attest: \_\_\_\_\_  
Secretary

