



## Triple Net Lease

**Document 5021C**

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# **LEASE**

**By and Between**

**[NAME OF LANDLORD],**  
a \_\_\_\_\_[ corporation],  
as Landlord

**and**

**[NAME OF TENANT],**  
a \_\_\_\_\_[ corporation],  
as Tenant

**TABLE OF CONTENTS**

**ARTICLE 1 - REFERENCE, DEFINITIONS AND EXHIBITS** .....

    1.1 Definitions.....

    1.2 Effect of Reference to Definitions .....

    1.3 Exhibits .....

**ARTICLE 2 - LEASED PREMISES, TERM AND COMMENCEMENT OF TERM** .....

    2.1 Leased Premises.....

    2.2 Term.....

**ARTICLE 3 - RENT, ITS DETERMINATION, COMMENCEMENT AND METHOD OF PAYMENT** .....

    3.1 Basic Rent .....

    3.2 Additional Rent.....

    3.3 Payment on Account of Operating Expenses.....

    3.4 Rent.....

    3.5 Lease to be Deemed Net .....

    3.6 Tenant’s Right to Seek Abatement .....

    3.7 Landlord’s Right to Seek Abatement.....

**ARTICLE 4 - PREPAID RENT AND SECURITY DEPOSIT** .....

**ARTICLE 5 - UTILITIES AND SERVICES**.....

**ARTICLE 6 - INSURANCE** .....

    6.1 Required Coverage.....

    6.2 Writing and Disposition of Insurance Policies .....

    6.3 Mutual Waiver of Subrogation .....

    6.4 Blanket Policies .....

    6.5 Landlord’s Insurance Covenants.....

**ARTICLE 7 - ADDITIONAL COVENANTS** .....

    7.1 Performing Obligations.....

    7.2 Use .....

    7.3 Maintenance and Repair .....

    7.4 Compliance with Laws .....

    7.5 Payment for Tenant’s Work.....

    7.6 Indemnity .....

    7.7 Personal Property at Tenant’s Risk.....

    7.8 Payment of Landlord’s Cost of Enforcement .....

    7.9 Yield Up.....

    7.10 Subordination.....

    7.11 Estoppel Certificates .....

    7.12 Nuisance.....

7.13	Changes and Alterations .....
7.14	Financial Statements .....
<b>ARTICLE 8</b>	<b>- <u>QUIET ENJOYMENT</u></b> .....
<b>ARTICLE 9</b>	<b>- <u>DAMAGE AND EMINENT DOMAIN</u></b> .....
9.1	Fire and Other Casualty .....
9.2	Eminent Domain .....
<b>ARTICLE 10</b>	<b>- <u>DEFAULTS BY TENANT AND REMEDIES</u></b> .....
10.1	The Condition .....
10.2	Reimbursement of Landlord's Expenses .....
10.3	Damages.....
10.4	Mitigation.....
10.5	Claims in Bankruptcy .....
10.6	Late Charge.....
10.7	Landlord's Right to Cure Defaults.....
10.8	Effect of Waiver's of Default .....
<b>ARTICLE 11</b>	<b>- <u>ASSIGNMENT AND SUBLETTING</u></b> .....
<b>ARTICLE 12</b>	<b>- <u>NOTICES</u></b> .....
<b>ARTICLE 13</b>	<b>- <u>NOTICE OF LEASE</u></b> .....
<b>ARTICLE 14</b>	<b>- <u>APPLICABLE LAW, SEVERABILITY, CONSTRUCTION</u></b> .....
<b>ARTICLE 15</b>	<b>- <u>SUCCESSORS AND ASSIGNS, ETC.</u></b> .....
<b>ARTICLE 16</b>	<b>- <u>LANDLORD'S ACCESS</u></b> .....
<b>ARTICLE 17</b>	<b>- <u>CONDITION OF PREMISES</u></b> .....
<b>ARTICLE 18</b>	<b>- <u>WARRANTY REGARDING BROKER</u></b> .....
<b>ARTICLE 19</b>	<b>- <u>HAZARDOUS MATERIALS</u></b> .....
<b>ARTICLE 20</b>	<b>- <u>EXTENSION TERM</u></b> .....

## LEASE

This LEASE is dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 200\_ (this “**Lease**”) and is entered into by and between [NAME OF LANDLORD], a \_\_\_\_\_ [corporation] with a principal address at [ADDRESS] (the “**Landlord**”) and the [NAME OF TENANT], a \_\_\_\_\_ [corporation], with a principal address at [ADDRESS] (the “**Tenant**”).

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, the parties hereto hereby agree as follows:

### ARTICLE I. – Reference, Definitions, Exhibits

#### 1.1 Definitions.

Original Address of Tenant:	
Address of Tenant after Term Commencement Date:	
Broker:	
Term Commencement Date:	The Term Commencement Date shall be [DATE].
Original Lease Term:	_____ through _____ (unless the same is earlier terminated or extended in accordance with the terms and conditions of this Lease).
Option to Extend Original Lease Term:	
Lease Term:	The Original Lease Term, as the same may have been extended or earlier terminated, in accordance with the terms and condition of this Lease.
Leased Premises:	The approximately _____ square feet of rentable space in the Building as shown on the plan attached hereto as <u>Exhibit A</u> .
Building:	The building containing approximately _____ square feet of rentable space located on the Site. The Building is shown on the plan attached hereto as <u>Exhibit B</u> .
Site:	The site located in the Town of _____, State/Commonwealth of _____, having an address of _____ and the Building and all improvements and other buildings now or hereafter located thereon (including, without limitation, all driveways, pavement, parking areas, landscaping, and utilities). A legal description of the boundaries of the Site is

	attached hereto as <u>Exhibit C</u> .
Parking:	
Permitted Uses:	Use only for _____ and uses customarily accessory thereto and for no other purpose; subject in all cases to applicable legal requirements.
Lease Year:	The 12 - month period commencing on the Term Commencement Date and each successive 12 - month period included in the Lease Term commencing on the anniversary of that day and, if the expiration of the Lease Term or the earlier termination of this Lease does not coincide with the termination of such a 12 - month period, Lease Year shall mean the portion of such 12 - month period before such expiration or termination.
Impositions	All taxes including real estate taxes (which term shall include payments in lieu of real estate taxes), assessments, water and sewer rents, rates and charges, levies, license and permit fees and other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, which at any time during the Lease Term may be assessed, levied, confirmed, imposed upon, or may become due and payable out of or in respect of, or become a lien upon, all or any portion of the Site (including, without limitation, all improvements thereto) <u>other than</u> : (i) municipal, state and federal income taxes (if any) assessed against Landlord; or (ii) municipal, state or federal capital levy, gift, estate, succession, inheritance or transfer taxes of Landlord; or (iii) corporation excess profits or franchise taxes imposed upon any corporate owner of the Site, <u>provided, however</u> , that if at any time during the Lease Term the methods of taxation prevailing at the commencement of the Lease Term shall be altered so that in lieu of, as a substitute for, or in addition to, the whole or any part of the taxes, assessments, levies or charges now levied, assessed or imposed on real estate and the improvements thereon, there shall be levied, assessed and imposed a tax, assessment, levy, imposition or charge, wholly or partially as a capital levy or otherwise, on the rents received therefrom, or measured by or based in whole or in part upon the Site and imposed upon Landlord, then all such taxes, assessments, levies, impositions or charges or the part thereof so measured or based, shall be deemed to be included within the term "Impositions" for the purposes hereof. In addition to the foregoing, the term "Impositions" shall include any new tax of a nature not presently in effect, but which may be hereafter levied, assessed, or imposed upon Landlord or all or any portion of the Site, if such tax shall be based on or arise

	out of the ownership, use or occupation of all or any portion of the Site.
Tenant's Proportionate Share:	_____ %
Operating Expenses:	<p>The term "<b>Operating Expenses</b>" shall mean the aggregate expenses incurred by Landlord in the operation, maintenance and management of the Site during the Lease Term including, without limitation, the following: utilities supplied to the Site (to the extent the same are not being paid directly by the Tenant or other tenants of the Building); "fringe" benefits for employees or contractors engaged on a full-time basis in connection with servicing the Site and payroll taxes, workmen's compensation insurance premiums and similar costs with respect thereto, and an appropriate portion of same with respect to employees or contractors on a part-time basis; all insurance obtained by Landlord relating to or otherwise in connection with its ownership or the operation, rental, or management of the Site, the foregoing to include without limitation any liability insurance, rent loss insurance, and any insurance required by Landlord's Mortgagee; services obtained for the benefit of the Site (including, without limitation, window cleaning, rubbish removal, snow removal and grounds maintenance); repairs, replacement, repainting, maintenance, supplies and the like for the Site; management fees (provided that if such fees are paid to any party having an interest in or affiliated with or under common control with or owned by Landlord then such fees must be consistent with generally prevailing rates for similarly situated properties), legal fees and expenses, excluding any legal fees incurred by Landlord in connection with Landlord's dealings with any specific tenant of the Buildings, auditing fees and expenses; depreciation (on a straight line basis) for capital expenditures made by Landlord to improve services provided to Tenant or to reduce operating expenses ( in Landlord's reasonable judgment). The following items shall be excluded from "Operating Expenses" except as specifically provided above: principal or interest payments on any mortgages or other financing arrangements, leasing commissions, depreciation for the Site, capital expenditures, as defined under generally accepted accounting principles ("GAAP") other than the portion amortized on a straight line basis over a period equal to the useful life thereof for federal income tax purposes and only to the extent of the amortized amount for the period falling within the Term, ground rent under ground leases, utility charges payable by Tenant directly to the applicable provider, any costs, fines or penalties incurred due to violations by Landlord of any legal</p>

	requirements provided that such violation is not caused, directly or indirectly, by any act or omission of Tenant or any employee, agent, contractor, subcontractor, customer or business invitee of Tenant; costs covered by a guarantee or warranty; and marketing costs.
Landlord's Mortgage:	Any party holding a mortgage on the Site including, without limitation, the Leased Premises, given as security for indebtedness owed by the Landlord to the holder of the mortgage.

1.2 Effect of Reference to Definitions. Any reference in this Lease to any term defined above shall be deemed, to the extent possible, to mean and include all aspects of the definition set forth above for such term.

1.3 Exhibits. The exhibits listed in this Section and attached to this Lease are incorporated by reference and are a part of this Lease.

- Exhibit A: Plan of Leased Premises
- Exhibit B: Site Plan Showing Building
- Exhibit C: Legal Description of the Boundaries of the Site
- Exhibit D: Parking Plan

**ARTICLE II. – Leased Premises, Term and Commencement of Term.**

2.1 Leased Premises. Landlord hereby LEASES to Tenant the Leased Premises subject to and with the benefit of the terms, covenants, conditions and provisions of this Lease and all easements, covenants and restrictions appurtenant thereto, if any.

2.2 Term. TO HAVE AND TO HOLD the Leased Premises for the Original Lease Term commencing on the Term Commencement Date, subject to the terms, covenants, agreements and conditions contained in this Lease.

**ARTICLE III – Rent, its Determination, Commencement and Method of Payment.**

3.1 Basic Rent. Tenant covenants and agrees to pay, during the Lease Term, to Landlord, or to such other person as Landlord by written notice instructs Tenant to make such payments for Landlord's benefit and account, without demand (except as otherwise herein specifically provided), at the Original Address of Landlord or at such other place as Landlord may by written notice to Tenant direct, commencing with the Term Commencement Date (except to the extent any of the initial rent installments have been paid prior to the Term Commencement Date, in which case Tenant will receive appropriate credits for such payments), Basic Rent, as follows:

[INSERT RENT SCHEDULE]

The rent shall be paid on the first day of each full calendar month of the Lease Term, and pro rata for any portion of a calendar month included at the beginning or end of the Lease



Term, 1/30 of a monthly payment being due for each day of a partial month, payable on the first day of such month or partial month.

3.2 Additional Rent. In addition to the Basic Rent, Tenant shall also pay during the Lease Term as Additional Rent the following, each such amount to be paid when requisitioned, except as otherwise stated:

(i) Tenant's Proportionate Share of all Impositions, all such payments to be made when due, but in any event prior to any date on which interest or penalties would begin to accrue on account of such Impositions if not paid;

(ii) one hundred (100%) percent of all utilities (including, without limitation, electricity, gas, telephone, water and sewer charges) supplied to or consumed at the Leased Premises during the Lease Term as measured by separate meters therefor (or prorated if and when separate meters are not in place); and

(iii) Tenant's Proportionate Share of all Operating Expenses.

All monetary obligations of Tenant under this Lease, except for the obligation to pay Basic Rent, shall be deemed obligations to pay Additional Rent, unless such presumption is repugnant to the context.

3.3 Payment on Account of Operating Expenses and Impositions. Tenant shall make estimated monthly payments to Landlord to cover the portion of the Operating Expenses and Impositions that the Tenant is expected to owe as Additional Rent during the current calendar year and each subsequent calendar year thereafter falling entirely or partly within the Lease Term. The amount of such monthly payments shall be determined as follows: on the Term Commencement Date and at the beginning of each calendar year thereafter, Landlord shall submit to Tenant a statement setting forth Landlord's reasonable estimates (based on costs of which Landlord is aware and other reasonable assumptions of Landlord) of the amount of Operating Expenses and Impositions that are expected to be incurred during such calendar year, and the computation of Tenant's Proportionate Share of such anticipated Operating Expenses and Impositions. Tenant shall pay to Landlord on the first day of each month following receipt of such statement an appropriate amount to amortize on a monthly basis Tenant's Proportionate Share of the anticipated Operating Expenses and Impositions, with appropriate adjustments if any period includes less than one (1) full month. If at any time during the Lease Term Landlord in Landlord's discretion determines it appropriate to revise the estimates of Operating Expenses and Impositions which have been submitted, then Landlord may submit such revised estimates to Tenant, and then commencing with the next monthly payment to be made by Tenant, appropriate adjustment shall be made to the amount being paid by Tenant on account of Tenant's Proportionate Share of anticipated Operating Expenses and Impositions. Within ninety (90) days after the expiration of each calendar year during the Lease Term, Landlord shall submit to Tenant a statement certifying (i) Tenant's Proportionate Share of the actual Operating Expenses and Impositions incurred during the preceding calendar year, (ii) the aggregate amount of the estimated payments, if any, made by Tenant on account thereof, and (iii) any credit to which Tenant is entitled. Tenant shall deduct the overpayment

from its next estimated payment or payments for Operating Expenses and Impositions for the then current year. If Tenant's actual liability for such Operating Expenses and Impositions exceeds the estimated payments, if any, made by Tenant on account thereof, then Tenant shall pay to Landlord within five (5) business days the total amount of such deficiency as Additional Rent due hereunder. Tenant's liability for Tenant's Proportionate Share of the Operating Expenses and Impositions for the last calendar year falling entirely or partly within the Lease Term shall survive the expiration of the Lease Term. Similarly, Landlord's obligation to refund to Tenant the excess, if any, of the amount of Tenant's actual liability therefore shall survive the expiration of the Lease Term.

Tenant or an independent, certified public accountant designated by Tenant shall have the right, during regular business hours and after giving fifteen (15) days' advance written notice to Landlord, to inspect and audit Landlord's books and records relating to the Operating Expenses and Impositions billed during any calendar year falling within the Lease Term for a period of one (1) year following the receipt by Tenant of any statement submitted pursuant to this Section. If as a result of such audit it becomes clear that an error was made in the calculation of Tenant's Proportionate Share of Operating Expenses and Impositions, then an appropriate adjustment shall be made promptly.

3.4 Rent. References in this Lease to "Rent" or "rent" shall be deemed to include both Basic Rent and Additional Rent when the context so allows.

3.5 Lease to be Deemed Net. This Lease shall be deemed and construed to be an absolutely triple net lease (a "NNN Lease") and Tenant shall accordingly pay to Landlord, absolutely net, the Basic Rent and Additional Rent, free of any off-sets or deductions of any kind.

3.6 Tenant's Right to Seek Abatement. If Tenant occupies more than sixty (60%) percent of the rentable area of the Buildings, then Tenant shall have the right, with Landlord's prior written consent, which consent shall not be withheld or delayed unreasonably, to seek a reduction in the valuation of the Leased Premises assessed for tax purposes and to contest in good faith by appropriate proceedings, at Tenant's expense, the amount or validity in whole or in part of any Imposition or of the method by which any Imposition is calculated, assessed or imposed; and may defer payment thereof if allowed by law, provided that (i) Tenant shall provide Landlord with security reasonably satisfactory to Landlord to assure payment of contested items; and (ii) Tenant shall immediately pay such contested item or items if the protection of the Leased Premises or of the Landlord's interest therein from any lien or claim shall, in the reasonable judgment of Landlord, require such payment. If Tenant occupies less than sixty (60%) percent of the rentable area of the Buildings, then Tenant together with other tenants in the Buildings who together with Tenant occupy more than seventy-five (75%) percent of the rentable area of the Buildings shall have the rights to seek abatement granted under this provision to a Tenant occupying more than sixty (60%) percent of the rentable area of the Buildings, provided that such group of tenants first obtain Landlord's written consent for same, which consent will not be withheld or delayed unreasonably.

3.7 Landlord's Right to Seek Abatement. Landlord shall have the right to seek a reduction in the valuation of the Site or any of the Buildings assessed for tax purposes and to prosecute

any action or proceeding theretofore commenced by Tenant. To the extent to which any tax refund payable as a result of any proceeding which Landlord or Tenant may institute, or payable by reason of compromise or settlement of any such proceeding, may be based upon a payment made by Tenant, then Tenant shall be authorized to collect the same (or the appropriate portion thereof), subject, however, to Tenant's obligation to reimburse Landlord forthwith for Tenant's Proportionate Share of any expense incurred by Landlord in connection therewith.

Landlord shall not be required to join in any proceedings referred to in Section 3.6 hereof unless the provisions of any law, rule or regulation at the time in effect shall require that such proceedings be brought by or in the name of Landlord, in which event Landlord shall join in such proceedings or permit the same to be brought in its name. Landlord shall not be subjected to any liability for the payment of any costs or expenses in connection with any such proceedings, and Tenant shall indemnify and save harmless Landlord from any such costs and expenses. Tenant shall be entitled to any refund of its share of any Imposition and penalties or interest thereon received by Landlord which have been paid by Tenant, or which have been paid by Landlord but previously reimbursed in full by Tenant.

#### **ARTICLE 4 – Prepaid Rent and Security Deposit.**

4.1 Prepaid Rent and Security Deposit. Upon the execution of this Lease, Tenant shall pay \$\_\_\_\_\_ representing a prepayment of Basic Rent due for the first month of the Lease Term and \$\_\_\_\_\_ representing a security deposit to be held as security for Tenant's full performance of all terms and conditions under this Lease. Upon default by Tenant hereunder, the Landlord shall have the right, without the giving of any notice, to apply all or any portion of said security deposit to cure such default which right shall be in addition to all other rights and remedies. At all times Landlord shall be entitled to hold a security deposit in an amount of not less than two months worth of Basic Rent then in effect and Tenant agrees to provide any deficiency upon demand.

#### **ARTICLE 5 – Utilities and Services.**

5.1 Tenant shall make arrangements with appropriate utility or service companies for its own service for any utilities and/or services which are to serve the Leased Premises exclusively or directly and which can be billed to Tenant directly, and Tenant shall promptly pay all costs with respect to same, such payments to be made, to the extent possible, directly to the utility or service provider or to the appropriate party charged with collecting the same, the foregoing to include all charges for such utilities or services. All costs for utilities which are not separately metered shall be included in Operating Expenses, and Tenant shall be responsible for Tenant's Proportionate Share thereof. Landlord shall be under no obligation to furnish any utilities or services to the Leased Premises and shall not be liable for any interruption or failure in the supply of any such utilities or services to the Leased Premises.

5.2 Landlord, during the Lease Term, shall provide the following services, the cost of which shall be included in the Operating Expenses:

(i) Landlord shall be responsible for the repair, maintenance and replacement (when necessary or appropriate) to the structural components of the Leased Premises including the exterior walls and roof (but specifically excluding all glass, interior and exterior), the mechanical systems serving the Leased Premises, and the utility lines leading into the Leased Premises. Landlord shall never be liable for damages caused by its failure to make any such repairs, provided that Landlord has used reasonable efforts to attempt to have such repair made, after having been notified by Tenant that such repair must be made promptly and that Tenant will be damaged by the failure to make such repairs promptly:

(ii) maintaining the landscaping on the Site;

(iii) maintenance and repair of the parking area located on the Site;

(iv) snow and ice removal for the parking areas, driveways, and walkways located on the Site;

(v) the insurance which the Landlord is required to maintain on the site pursuant to Article 6 below;

(vi) the management of the Site;

(vii) parking lot lighting; and

(viii) electricity to the common areas of the Site.

5.3 Tenant shall have access to the Leased Premises twenty-four hours a day, seven days a week and Tenant shall be solely responsible, at Tenant's sole cost and expense, for security for the Leased Premises.

## **ARTICLE 6 – Insurance.**

6.1 Required Coverage. Tenant covenants and agrees with Landlord that during the Lease Term the following insurance shall be obtained by Tenant and carried at Tenant's sole expense:

(a) Tenant's comprehensive public liability insurance insuring and indemnifying Tenant, Landlord, and Landlord's Mortgagee against liability for injury to persons and damage to property which may be claimed to have occurred upon the Leased Premises or the sidewalks, ways and other real property adjoining said Leased Premises and covering all Tenant's obligations under this Lease and with limits at least as high as the amounts respectively stated below, or such higher limits in any case as may reasonably be required in case of increase in risk or as may be customarily carried in Massachusetts by prudent occupants of similar property, as determined by Landlord in its reasonable discretion: \$1,000,000 for property damage, \$3,000,000 for injury or death of one person, and \$5,000,000 for injury or death of more than one person in any single accident.

(b) Workmen's Compensation covering all Tenant's employees, contractors and agents working on the Premises.

(c) Such additional insurance (including, without limitation, rent loss insurance) as Landlord or Landlord's Mortgagee shall reasonably require provided that such insurance is in an amount, of the type, and customary for comparable properties.

6.2 Writing and Disposition of Insurance Policies. All insurance required under Section 6.1 above shall be written with companies reasonably satisfactory to Landlord and in forms customarily in use from time to time in the Greater Boston area. Tenant shall furnish the Landlord with duplicates of said policies, and said policies shall (i) name Landlord and Landlord's Mortgagee as named insureds, as their respective interests may appear, and (ii) provide that the coverage thereunder may not lapse or be canceled without twenty (20) days prior written notice to Landlord, Landlord's Mortgagee and Tenant. If Landlord so requests, and to the extent it can be procured without additional premium, Tenant agrees that any insurance which Tenant may carry with respect to the Leased Premises shall list Landlord and Landlord's Mortgagee as additional named insureds, as their interest may appear.

6.3 Mutual Waiver of Subrogation. Landlord and Tenant each hereby releases the other, its officers, directors, employees and agents, from any and all liability or responsibility (to the other or anyone claiming through or under them by way of subrogation or otherwise) for any loss or damage to property covered by valid and collectible insurance, even if such loss or damage shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible. However, this release shall be applicable and in force and effect only with respect to loss or damage (a) actually recovered from an insurance company and (b) occurring during such time as the releaser's insurance policies shall contain a clause or endorsement to the effect that any such release shall not adversely affect or impair said policies or prejudice the right of the releaser to recover thereunder. Landlord and Tenant each agrees that any fire and extended coverage insurance policies will include such a clause or endorsement as long as the same shall be obtainable without extra costs, or, if extra cost shall be charged therefor, so long as the other party pays such extra cost. If extra cost shall be chargeable therefor, each party shall advise the other party and of the amount of the extra cost, and the other party, at its election, may pay the same, but shall not be obligated to do so.

6.4 Blanket Policies. Nothing contained herein shall prevent Tenant from taking out insurance of the kind and in the amounts provided for herein under a blanket insurance policy or policies covering properties other than the Leased Premises, provided however, that any such policy or policies of blanket insurance (a) shall specify therein, or Tenant shall furnish Landlord with the written statement from the insurers under such policy or policies, specifying the amount of the total insurance allocated to the Leased Premises, which amounts shall not be less than the amounts required herein, and (b) amounts so specified shall be sufficient to prevent any of the insureds from being a co-insurer within the terms of the applicable policy or policies, and provided further, however, that any such policy or policies of blanket insurance shall, as to the Leased Premises, otherwise comply as to endorsements and coverage with the provisions herein.

6.5 Landlord's Insurance Covenants. Landlord covenants and agrees that during the Lease Term it shall obtain all risk insurance against damage by fire or other casualty in an amount at least equal to the replacement costs of the Leased Premises as determined from time to time by Landlord or (at Landlord's election or upon Tenant's request) by appraisal made at the expense of Tenant by an accredited insurance appraiser approved by Landlord. One hundred percent (100%) of the cost of such insurance shall be paid by Tenant as an Operating Expense.

## **ARTICLE 7 – Additional Covenants.**

Tenant covenants and agrees during the Lease Term and such further time as Tenant occupies the Leased Premises or any part thereof:

7.1 Performing Obligations. To perform fully, faithfully and punctually all of the obligations of Tenant set forth in this Lease; and to pay when due Rent and all charges, rates and other sums which by the terms of this Lease are to be paid by Tenant.

7.2 Use. To use the Leased Premises only for the Permitted Uses, and for no other purposes.

7.3 Maintenance and Repair. At Tenant's expense, and except for reasonable wear and tear and damage from fire or other casualty, to keep the Leased Premises, including all interior and exterior glass clean, neat and in good order, repair and condition, and to arrange for, or enter into contracts regarding the provision of such services as are necessary to do so including, without limitation, the removal of rubbish and to keep the Leased Premises in as good condition, order and repair as the Leased Premises are at the Term Commencement Date or such better condition as the Leased Premises may be thereafter may be put, reasonable wear and use and damage by fire or other casualty only excepted, it being understood that the foregoing exception for reasonable wear and use shall not relieve Tenant from the obligation to keep the Leased Premises in good order, repair and condition including, without limitation, all necessary and ordinary non-structural repairs, replacements and the like. Tenant also agrees to abide by reasonable rules and regulations which may be adopted by Landlord from time to time.

7.4 Compliance with Laws. At Tenant's expense, to comply promptly with all present and future laws, ordinances, orders, rules, regulations and requirements of all federal, state and municipal governments, departments, commissions, boards and officials, foreseen and unforeseen, ordinary as well as extraordinary, which may be applicable to the Leased Premises or to Tenant's use, occupancy or presence in or at the Leased Premises or the Site, including all laws with respect to the handling, storage and disposal of hazardous materials, except that the Tenant may defer compliance so long as the validity of any such law, ordinance, order, rule, regulation or requirement shall be contested by Tenant in good faith and by appropriate legal proceedings, and:

(a) If by the terms of such law, ordinance, order, rule regulation or requirement, compliance therewith pending the prosecution of any such proceeding may legally be delayed without the incurrance of any lien, charge or liability of any kind against the Leased Premises

or Site and without subjecting Tenant or Landlord to any liability, civil or criminal, for failure so to comply therewith, Tenant may delay compliance therewith until the final determination of such proceeding, or

(b) If any lien, charge or civil liability would be incurred by reason of any such delay, Tenant nevertheless may contest as aforesaid and delay as aforesaid, provided that such delay would not subject Landlord to criminal liability or fine, and Tenant (i) furnishes to Landlord security, reasonably satisfactory to Landlord, against any loss or injury by reason of such contest or delay, and (ii) prosecutes the contest with due diligence; and

(c) Such delay in compliance will not constitute a default by Landlord under any lease, mortgage or other agreement, will not affect the use of all or any portion of the Site by Landlord or any tenant of the Site, and will not affect the sale, leasing, or refinancing of all or any portion of the Site.

7.5 Payment for Tenant's Work. To pay promptly when due the entire cost of any work at or on the Leased Premises undertaken by Tenant so that the Leased Premises shall at all times be free of liens for labor and materials; promptly to clear the record of any notice of any such lien; to procure all necessary permits and before undertaking such work; to do all of such work in a good and workmanlike manner, employing materials of good quality and complying with all governmental requirements; and to save Landlord harmless and indemnified from all injury, loss, claims or damage to any person or property occasioned by or growing out of such work.

7.6 Indemnity. To save Landlord harmless and indemnified from, and to defend Landlord against, all injury, loss, claims or damage (including reasonable attorneys' fees) to any person or property while on the Leased Premises unless arising from any omission, fault, negligence or other misconduct of Landlord, or its agents, servants, employees, or contractors; to save Landlord harmless and indemnified from, and to defend Landlord against, all injury, loss, claims or damage (including reasonable attorneys' fees) to any person or property anywhere occasioned by any act, omission, neglect or default of Tenant or Tenant's agents, servants, employees, contractors, guests, invitees or licensees.

7.7 Personal Property at Tenant's Risk. That all personal property, equipment, inventory and the like from time to time upon the Leased Premises shall be at the sole risk of Tenant; and that Landlord shall not be liable for any damage which may be caused to such property or the Leased Premises or to any person for any reason including, without limitation, the bursting or leaking of or condensation from any plumbing, cooling or heating pipe or fixture.

7.8 Payment of Landlord's Cost of Enforcement. To pay on demand Landlord's expenses, including reasonable attorneys' fees, incurred in enforcing any obligation of Tenant under this Lease or in curing any default by Tenant under this Lease, provided that Landlord is successful in enforcing such obligation or has a right under this Lease to cure such default.

7.9 Yield Up. At the termination of this Lease, peaceably to yield up the Leased Premises clean and in good order, repair and condition, reasonable wear and tear and damage by fire or

casualty excepted; and at either Landlord's or Tenant's option, to remove any and all of Tenant's trade fixtures, business equipment and furniture, provided however, that Tenant shall restore any damage caused by such removal and provided further that if Tenant fails so to restore the Leased Premises, then Tenant shall pay all of Landlord's costs to make such restoration.

7.10 Subordination. Upon the request of Landlord, to execute and deliver all such instruments as may reasonably be requested to subordinate this Lease to any mortgages or deeds of trust securing notes or bonds executed by Landlord and to all advances made thereunder and to the interest thereon and all renewals, replacements and extensions thereof, provided that, the mortgagee or trustee shall agree to recognize this Lease in the event of foreclosure and perform all of the covenants contained herein to be performed by Landlord, if Tenant is not in default beyond the expiration of any period allowed for the cure of such default. Any such mortgagee or trustee may at any time subordinate its mortgage or deed of trust to this Lease, without Tenant's consent, by notice in writing to Tenant and thereupon this Lease shall be deemed prior to such mortgage or deed of trust without regard to their respective dates of execution, delivery and recording; and in that event such mortgagee or trustee shall have the same rights with respect to the Lease as though it had been executed and delivered (and notice thereof recorded) prior to the execution and delivery and recording of the mortgage or deed of trust. Landlord agrees to use its best reasonable efforts to obtain a recognition and non-disturbance agreement from the present mortgagee of record in a form reasonably satisfactory to Tenant.

7.11 Estoppel Certificates. From time to time, for delivery to a prospective purchaser or mortgagee of the Leased Premises or the Site or to any assignee of any mortgage of the Leased Premises or the Site, upon not less than fifteen (15) days prior written request by Landlord, to execute, acknowledge and deliver to the Landlord a statement in writing certifying: (a) that this Lease is unamended (or, if there have been any amendments, stating the amendments); (b) that it is then in full force and effect, if that be the fact; (c) the dates to which Rent and any other payments to Landlord have been paid; (d) any defenses, offsets and counterclaims which Tenant, at the time of the execution of said statement, believes that Tenant has with respect to Tenant's obligation to pay Rent and to perform any other obligations under this Lease or that there are none, if that be the fact; and (e) such other data as may reasonably be requested. Any such statement may be relied upon by such prospective purchaser or mortgagee of the Leased Premises, or portion thereof, or any assignee of any mortgagee of the Leased Premises, or portion thereof.

7.12 Nuisance. At all times during the Lease Term and such further time as the Tenant occupies the Leased Premises, not to injure, overload, deface or otherwise harm the Leased Premises; nor commit any nuisance; nor to do or suffer any waste to the Leased Premises; nor permit the emission of any objectionable noise or odor; nor make any use of the Leased Premises which is improper, or contrary to any law or ordinance or which will invalidate any insurance policy or other applicable legal requirement covering the Leased Premises or any portion thereof, including, without limitation, the handling, storage and disposal of any hazardous material.



7.13 Changes and Alterations. Except as otherwise explicitly set forth herein, Tenant shall have no authority, without the express written consent of Landlord to alter, remodel, reconstruct, demolish, add to, improve or otherwise change the Leased Premises, except that Tenant shall have such authority, without the consent of Landlord, to make repairs to the Leased Premises and do such things as are appropriate to comply with the obligations imposed on Tenant under other provisions of this Lease.

Tenant shall not construct or permit any alterations, installations, additions or improvements including any interior or exterior signs (“Alterations”) to the Leased Premises or the Building without having first submitted to Landlord plans and specifications therefor for Landlord’s approval, which approval shall not be unreasonably withheld or delayed provided that:

(a) if the improvement involves a sign or will otherwise be visible from the exterior then the improvement must be compatible with the architectural and aesthetic qualities of the Leased Premises and the Site. The Tenant may install a sign on the Buildings and at the entrance of the Buildings subject to the Tenant complying with all the requirements of this Section 7.13 (including, without limitation, the requirement that Tenant obtain the prior written consent of the Landlord to the plans and specifications); and

(b) the improvement must be non-structural and have no effect on the plumbing, heating (and cooling), mechanical, electrical or other systems or services in the Leased Premises, and the improvement (except for signs) must be entirely within the Leased Premises; and

(c) the change, when completed will not adversely affect the value of the Leased Premises or the Site; and

(d) Tenant demonstrates to Landlord’s satisfaction that the improvement will be made in accordance with applicable legal requirements using good quality materials and good quality construction practices and will not result in any liens on the Leased Premises; and

(e) as soon as such work is completed, Tenant will have prepared and provide Landlord with “as-built” plans (in form acceptable to Landlord) showing all such work; and

(f) Tenant will comply with any rules or requirements reasonably promulgated by Landlord in connection with the doing of any work, and if requested by Landlord, Tenant will obtain and maintain Builder’s Risk insurance in connection with such work.

Tenant shall have the right to make minor alterations from time to time in the interior of the Leased Premises without obtaining Landlord’s prior written consent therefor, provided that all of such work conforms to all of the above requirements in all respects, and further provided that Tenant provides Landlord with a written description of such work (and such other data as Landlord may request) not later than 30 days after each such alteration is made, and further provided that the aggregate cost of such minor alterations may not exceed \$5,000 in any twelve month period.

7.14 Financial Statements. So long as Tenant is a corporation whose stock is traded on a public exchange, Tenant shall not be required to furnish Landlord with financial statements. Tenant's statement of net worth, as reported in its annual report to its shareholders or in any forms required to be submitted to the Securities and Exchange Commission, shall be acceptable in lieu of any financial statements otherwise required hereunder and shall be conclusive with respect to the items reported therein. In the event that Tenant's stock is not traded on a public exchange, within forty-five (45) days following the end of each of its fiscal quarters, and within ninety (90) days following the end of its fiscal year, Tenant shall furnish Landlord a statement of income and balance sheet for the immediately preceding fiscal quarter or fiscal year, as the case may be, certified by an independent certified public accountant and prepared in accordance with generally accepted accounting principles consistently applied.

#### **ARTICLE 8 – Quiet Enjoyment.**

Landlord covenants that Tenant on paying the Rent and performing Tenant's obligations under this Lease shall peacefully and quietly have, hold and enjoy the Leased Premises throughout the Lease Term or until it is terminated as in this Lease provided without hindrance by Landlord or by anyone claiming by, through or under Landlord.

#### **ARTICLE 9 – Damage and Eminent Domain**

9.1 Fire and Other Casualty. In the event that at any time during the term hereof (including any extended term) the Leased Premises are totally damaged or destroyed by fire or other casualty or substantially damaged so as to render them or a material portion thereof untenable, then there shall be a just and proportionate abatement of the Rent payable hereunder until the Leased Premises are made suitable for Tenant's occupancy, and the Lease Term shall be extended, without the necessity of further action by any party, for a period equal to the time during which Rent so abated. In the event of such substantial (or total) damage to the Leased Premises, Landlord shall proceed at its expense and with reasonable diligence to repair and restore the Leased Premises to substantially the same condition they were in immediately prior to such casualty.

Notwithstanding the foregoing, if Landlord in its sole discretion determines that timely restoration is not possible or practical or that there are or will be insufficient insurance proceeds available to Landlord to accomplish same, then Landlord shall have the right to terminate this Lease by written notice given to Tenant within ninety (90) days after the occurrence of such casualty. In the event the Leased Premises have not been restored to a condition substantially suitable for their intended purpose within two hundred seventy (270) days following said casualty, then either Landlord or Tenant may terminate this Lease by written notice given to the other within one (1) week following such two hundred seventy (270) day period.

9.2 Eminent Domain. Landlord reserves for itself all rights to any damages or awards with respect to the Leased Premises and the leasehold estate hereby created by reason of any exercise of the right of eminent domain, or by reason of anything lawfully done in pursuance of

any public or other authority; and by way of confirmation Tenant grants and assigns to Landlord all Tenant's rights to such damages so reserved, except as otherwise provided herein. Tenant covenants to execute and deliver any instruments confirming such assignment as Landlord may from time to time reasonably request. If all the Leased Premises are taken by eminent domain, this Lease shall terminate when Tenant is required to vacate the Leased Premises or such earlier date as the Tenant is required to begin the payments of rent to the taking authority. If a partial taking by eminent domain results in so much of the Leased Premises being taken as to render the Leased Premises or a material portion thereof unsuitable for Tenant's continued use and occupancy as determined by Landlord in its reasonable discretion, either Landlord or Tenant may elect to terminate this Lease as of the date when the Tenant is required to vacate the portion of the Leased Premises so taken, by written notice to the other given not more than ninety (90) days after the date on which Tenant or Landlord, as the case may be, receives notice of the taking. If a partial taking by eminent domain does not result in such portion of the Leased Premises as aforesaid being taken, then this Lease shall not be terminated or otherwise affected by any exercise of the right of eminent domain. Whenever any portion of the Lease Premises shall be taken by any exercise of the right of eminent domain, and if this Lease shall not be terminated in accordance with the provisions of this Section 9.2, Landlord shall, at its expense, proceeding with all reasonable dispatch, provided sufficient condemnation proceeds are available therefor (or, if not, provided Tenant provides additional funds needed above the amount of the condemnation proceeds available) do such work as may be required to restore the Leased Premises or what remains thereof (not including Tenant's trade fixtures, business equipment and furniture) as nearly as may be to the condition they were in immediately prior to such taking, and Tenant shall at its expense, proceeding with all reasonable dispatch, do such work to its trade fixtures, business equipment and furniture, as may be required. A just proportion of the Rent payable hereunder, according to the nature and extent of the taking shall be abated from the time Tenant is required to vacate that portion of the Leased Premises taken. If the Premises have not been restored to a condition substantially suitable for their intended purpose within two hundred seventy (270) days of said taking, Tenant may elect to terminate this Lease by written notice to Landlord sent within three (3) business days following such two hundred seventy (270) day period.

#### **ARTICLE 10 – Defaults by Tenant and Remedies.**

10.1 The Condition. This Lease is made on the condition that if any default by Tenant continues, in case of payment of Rent or other monetary payments due hereunder for more than five (5) days after notice thereof to Tenant (provided, however, that Tenant shall be entitled to only one (1) such notice during each calendar year and if any subsequent default of payment of Rent or other monetary payment continues for more than five (5) days, Landlord shall have all the rights set forth herein without the need of any notice), or in the case of a non-monetary default for more than fifteen (15) days after written notice thereof to Tenant (provided, however, that if such default is susceptible of being cured but such cure cannot be accomplished with reasonable diligence within said period of time and if Tenant commences to cure such default promptly after receipt of notice thereof from Landlord and thereafter prosecutes the curing of such default with reasonable diligence, such period of time shall be extended for such additional time as may be necessary to cure such default with reasonable diligence, but not to exceed an additional fifteen (15) days); or if Tenant becomes insolvent,

makes any assignment for the benefit of creditors, commits any act of bankruptcy or files a petition under any bankruptcy or insolvency law; or if such a petition filed against Tenant is not dismissed within ninety (90) days; or if a receiver or similar officer becomes entitled to Tenant's interest in this Lease and it is not returned to Tenant within ninety (90) days; or if Tenant's interest in this Lease is taken on execution or other process of law in any action against Tenant; then Landlord may, at its option, immediately or at any time thereafter and without demand or further notice make entry and repossess the Leased Premises as of Landlord's former estate, without prejudice to any other remedies, and thereupon this Lease shall terminate; and in case of such termination, or termination by legal proceedings for default, Landlord may remove all of Tenant's property from the Leased Premises and store the same in any public warehouse or other suitable location all at the expense and risk of Tenant, and Tenant shall indemnify Landlord during the remaining period before this Lease would otherwise expire against all loss or damage suffered by reason of the termination, the loss or damage, if any, for each lease month to be paid at the end thereof, or as otherwise herein provided.

10.2 Reimbursement of Landlord's Expenses. In the case of termination of this Lease pursuant to Section 10.1, Tenant shall reimburse Landlord for all expenses arising out of such termination, including without limitation, all costs incurred in collecting amounts due from Tenant under this Lease (including reasonable attorneys' fees, costs of litigation and the like); all expenses incurred by Landlord in attempting to relet the Leased Premises or parts thereof (including advertisements, brokerage commissions, Tenant's allowances, lease inducements, costs of preparing space, and the like); and all Landlord's other reasonable expenditures necessitated by the termination. The reimbursement from Tenant shall be due and payable immediately from time to time upon notice from Landlord that an expense has been incurred, without regard to whether the expense was incurred before or after the termination.

10.3 Damages. Notwithstanding any other provisions hereof, Landlord may elect by written notice to Tenant within four months following such termination to be indemnified for loss of rent by a lump sum payment representing the then present value of the amount of rent which would have been paid in accordance with this Lease for the remainder of the Lease Term minus the then present value of the aggregate fair market rent payable for the Leased Premises for the remainder of the Lease Term (if less than the rent payable hereunder), estimated as of the date of the termination, and taking into account reasonable projections of vacancy and time required to re - lease the Leased Premises. (For the purposes of calculating the rent which would have been paid hereunder for the lump sum payment calculation described herein, the last full year's Additional Rent under this Lease is to be deemed constant for each year thereafter. The Federal Reserve discount rate (or equivalent) shall be used in calculating present values.) Should the parties be unable to agree on a fair market rent, the matter shall be submitted, upon the demand of either party, to the Boston, Massachusetts office of the American Arbitration Association, with a request for arbitration in accordance with the rules of the Association by a single arbitrator who shall be an MAI appraiser with at least ten years experience as an appraiser of suburban commercial real estate in the Eastern Massachusetts area. The parties agree that a decision of the arbitrator shall be conclusive and binding upon them. Should Landlord fail to make the election provided for in this Section 10.3, Tenant shall indemnify Landlord for the loss of rent by a payment at the end of each month which would

have been included in the Lease Term, representing the difference between the rent which would have been paid in accordance with this Lease and the rent actually derived from the Leased Premises by Landlord for such month (the amount of rent deemed derived shall be the actual amount less any portion thereof attributable to Landlord's reletting expenses described in Section 10.2 which have not been reimbursed by Tenant thereunder).

In lieu of full recovery by Landlord of all sums payable under all the foregoing provisions of this Section 10.3, Landlord may by written notice to Tenant within one year after termination under any of the provisions contained in Section 10.1 and before such full recovery, elect to recover, and Tenant shall thereupon pay, as liquidated damages under this Section 10.3, an amount equal to the lesser of (i) the aggregate of the Basic Rent and Additional Rent for the balance of the Lease Term had it not been terminated or (ii) the aggregate thereof for the 12 months ending one year after the termination date, plus in either case the amount of Basic Rent and Additional Rent of any kind accrued and unpaid at the time of termination and less the amount of any recovery by Landlord under the foregoing provisions of this Section 10.3 up to the time of payment of such liquidated damages. Liquidated damages hereunder shall not be in lieu of any claims for reimbursement under Section 10.2.

10.4 Mitigation. Landlord shall use commercially reasonable efforts to relet the Leased Premises which efforts shall be subject to the reasonable requirements of Landlord to lease to high quality tenants and to develop the Buildings and the Site in a harmonious manner with an appropriate mix of uses, tenants, floor areas and terms of tenancies, and the like. It is agreed that hiring a reputable leasing broker to lease the premises and cooperating in good faith with such broker shall satisfy the requirement that Landlord use commercially reasonable efforts to relet.

10.5 Claims in Bankruptcy. Nothing herein shall limit or prejudice the right of Landlord to prove and obtain in a proceeding for bankruptcy, insolvency, arrangement or reorganization, by reason of the termination, an amount equal to the maximum allowed by the statute of law in effect at the time when, and governing the proceedings in which, the damages are to be proved, whether or not the amount is greater to, equal to, or less than the amount of the loss or damage which Landlord has suffered.

10.6 Late Charge. If any payment of Basic Rent, Additional Rent, or other payment due from Tenant to Landlord is not paid when due, then Landlord may, at its option, without notice and in addition to all other remedies hereunder, impose a late charge on Tenant equal to 1.5% of the amount in question for each month or partial month during which said delinquency continues, provided that no late charge will be imposed for Basic Rent payments less than five days late, up to one time in any calendar year. Such late charge shall constitute Additional Rent hereunder payable upon demand.

10.7 Landlord's Right to Cure Defaults. Landlord may, but shall not be obligated to cure, at any time any default by Tenant under this Lease. In curing such defaults, Landlord may enter upon the Leased Premises and take such action thereon as may be necessary to effect such cure. In the case of an emergency threatening serious injury to persons or property, Landlord may cure such default without notice. All costs and expenses incurred by Landlord in curing a

default, including reasonable attorneys' fees, together with interest thereon at the rate of eighteen (18%) percent per annum from the day of payment by Landlord, shall be paid by Tenant to Landlord on demand. Landlord may use the Security Deposit to effectuate any such cure.

In the event of an emergency threatening serious injury to persons or property and Tenant has made reasonable efforts to notify Landlord, Tenant may cure such emergency on behalf of and at the expense of the Landlord (provided such actions are Landlord's responsibilities hereunder) and do all necessary work and make all necessary payments in connection therewith. Landlord agrees to pay Tenant any reasonable amount so paid on Landlord's behalf.

10.8 Effect of Waivers of Default. No consent or waiver, express or implied, by Landlord to or of any covenant, condition or duty of Tenant shall be construed as a consent or waiver by Landlord to or of any other breach of the same or any other covenant, condition or duty.

#### **ARTICLE 11 – Assignment and Subletting.**

11.1 Assignment of Lease by Tenant. Tenant shall not assign all or any portion of or interest in the Lease without the prior written consent of Landlord. It is agreed that in requesting such consent, Tenant shall provide such information regarding the proposed assignee and the proposed assignment as Landlord may reasonably request. Provided that such assignment is not to an affiliate or related party of Tenant, then Landlord shall have the right to terminate this Lease by written notice to Tenant sent within fourteen (14) days after Landlord's receipt of all information requested from Tenant, if any, as set forth above. It is agreed that if Landlord does not so elect to terminate this Lease, then Landlord's consent to Tenant's request for such assignment shall not be unreasonably withheld or delayed, in each instance, except under circumstances where Tenant is in default, beyond applicable grace periods of any covenant in this Lease, in which event such consent may be withheld in Landlord's absolute discretion. [Option: Add tenant's right to assign for affiliates or if there is a merger or acquisition of tenant]

11.2. Subletting by Tenant. Tenant shall not sublet the Leased Premises or any portion thereof without Landlord's prior written consent. It is agreed that in requesting such consent Tenant shall provide such information regarding the proposed sublease and the proposed sublease arrangement as Landlord may reasonably request. Provided that such sublease is not to an affiliate or related party of Tenant, then Landlord shall have the right to terminate this Lease as to the space which Tenant proposes to sublease, but only as to such space, by written notice to Tenant sent within fourteen (14) days after Landlord's receipt of all information requested from Tenant, if any, as set forth above. It is agreed that if Landlord does not so elect to terminate this Lease as to such space, then Landlord's consent to Tenant's request for such sublease shall not be unreasonably withheld or delayed, in each instance, except under circumstances where Tenant is in default, beyond applicable grace periods of any covenant in this Lease, in which event such consent may be withheld in Landlord's absolute discretion. In the event that such sublease is approved or in the event that this Lease is terminated as to such proposed sublease space, as set forth above, Tenant shall be responsible for constructing a new

demising wall separating such space from the remainder of the Leased Premises. [Option to sublease to affiliates]

11.3 If Landlord consents to such assignment or subletting, it is understood and agreed that one-half of all amounts paid to Tenant by such assignee or subtenant in excess of the Basic Rent and Additional Rent with respect to any such space due hereunder shall be paid to Landlord by Tenant.

The consent by Landlord to any assignment, subletting or occupancy shall not be construed as a waiver or release of Tenant from any and all liability for the performance of all covenants and obligations to be performed by Tenant under this Lease, nor shall the collection or acceptance of rent from any assignee, transferee or subtenant constitute a waiver or release of Tenant from any of its liabilities or obligations under this Lease. Landlord's consent to any assignment, subletting or occupancy shall not be construed as a consent with respect to any subsequent assignment, subletting or occupancy. For any period during which Tenant is in default with respect to the payment of Rent or Additional Rent, Tenant hereby assigns to Landlord the rent due from any subtenant of Tenant and hereby authorizes each subtenant to pay said rent directly to Landlord.

Notwithstanding the foregoing, Tenant shall have the right on the following terms and conditions to assign this Lease or sublet all or a portion of the Leased Premises to an Affiliate, as hereinafter defined, without the consent of the Landlord. For the purposes of this provision, an Affiliate shall mean (i) an entity which is wholly owned by Tenant, (ii) an entity to which Tenant sells all or substantially all of its assets or stock, (iii) Tenant's parent corporation, or (iv) an entity controlling or under common control with Tenant.

**ARTICLE 12 – Notices.** All notices, consents, approvals, or other communication required by the provisions of this Lease to be given to Landlord or Tenant shall be in writing and shall be hand delivered or given by registered or certified mail or by Federal Express or other recognized overnight courier, addressed to the Original Address of the party or to such other address as the party shall have last designated by notice. The customary receipt shall be conclusive evidence of compliance with this Article 12. Notice shall be deemed given when deposited in the U.S. mail or with such courier, postage paid.

**ARTICLE 13 – Notice of Lease.** Tenant agrees that it will not record this Lease. Landlord and Tenant shall, upon the request of either, execute, acknowledge, and deliver a recordable notice of this Lease. If this Lease is terminated before the expiration of the Lease Term, Landlord and Tenant shall execute and deliver an instrument in form suitable for recording acknowledging the date of termination of this Lease.

**ARTICLE 14 – Applicable Law, Severability and Construction.** This Lease shall be governed by and construed in accordance with the laws of [STATE] and, if any provisions of this Lease shall to any extent be invalid, the remainder of this Lease, and the application of such provisions in other circumstances, shall not be affected thereby. This Lease may be amended only by an instrument in writing executed by Landlord and Tenant. The titles of the

several Articles and Sections contained herein are for convenience only and shall not be considered in construing this Lease.

**ARTICLE 15 – Successors and Assigns.**

15.1 It is understood and agreed that the covenants and agreements of the parties hereto shall run with the land and that no covenant or agreement of Landlord, expressed or implied, shall be binding upon Landlord except in respect of any breach or breaches thereof committed during Landlord's seisin and ownership of the Leased Premises. If Landlord acts as a Trustee or Trustees of a trust in making this Lease only the estate for which Landlord acts shall be bound hereby, neither any such Trustee executing this Lease as Landlord nor any shareholder or beneficiary of such trust shall be personally liable for any of the covenants or agreements of Landlord expressed herein or implied hereunder or otherwise because of anything arising from or connected with the use and occupation of the Leased Premises by Tenant. Reference in this Lease to "Landlord" or to "Tenant" and all expressions referring thereto, shall mean the person or persons, natural or corporate, named herein as Landlord or as Tenant, as the case may be, and the heirs, executors, administrators, successors and assigns of such person or persons, and those claiming by, through or under them or any of them, unless repugnant to the context. If Tenant is a partnership or a firm of several persons, natural or corporate, the obligations of each person executing this Lease as Tenant shall be joint and several. Any person who signs this Lease for Tenant or for Landlord in a representative capacity personally warrants and represents that he or she is duly authorized to do so.

15.2 It is further understood and agreed that Tenant shall look solely to the estate and property of the Landlord in the Leased Premises for the satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money by the Landlord in the event of any default or breach by Landlord with respect to any of the terms, covenants and conditions of this Lease to be observed or performed by the Landlord and any other obligations of Landlord created by or under this Lease, and no other property or assets of the Landlord or of its partners, beneficiaries, co-tenants, shareholders or principals (as the case may be) shall be subject to levy, execution or other enforcement procedures for the satisfaction of Tenant's remedies.

**ARTICLE 16 – Landlord's Access.** Landlord and its authorized agents, employees, subcontractors and representatives shall have the right to enter the Leased Premises at any time during emergencies (Landlord agrees to use reasonable efforts to notify Tenant of any such emergency) and at all reasonable times with prior notice for any of the following purposes: (a) to determine whether the Leased Premises are in good condition and whether Tenant is complying with its obligations under this Lease; (b) to do any necessary maintenance and to make such repairs, alterations, improvements or additions in or to the Leased Premises as Landlord has the right or obligation to perform under this Lease, as Landlord may be required to do or make by law, or as Landlord may from time to time deem necessary or desirable; (c) to exhibit the Leased Premises to prospective tenants during the last nine (9) months of the term of this Lease or during any period while Tenant is in default under this Lease; and (d) to show the Leased Premises to prospective lenders, brokers, agents, buyers or persons interested in an exchange, at any time during the term of this Lease.



If, at any time during the last month of the Term of this Lease, Tenant shall have removed all of Tenant's property from all or any portion(s) of the Leased Premises, Landlord may immediately enter and alter, renovate and decorate the same, and such acts shall have no effect upon Tenant's remaining obligations and covenants under this Lease.

#### **ARTICLE 17 – Condition of Premises.**

17.1 Landlord is delivering the Leased Premises and the Site to Tenant in “as is” condition. Any improvements which Tenant desires to make to the Leased Premises shall be done at Tenant's sole cost and expenses, shall require the express prior written consent of the Landlord pursuant to Section 7.13 above and shall be done in accordance with Section 7.13.

[Alternative 17.1] Landlord is delivering the Leased Premises and the Site to Tenant in “as is” condition except as set forth in this Article.

17.2 The Landlord shall perform the work described in Exhibit D (the “**Landlord Improvements**”). The Landlord's Improvements shall be substantially complete on or before [DATE] subject to force majeure and delays by the Tenant. Landlord covenants and represents that the foregoing work shall be completed in a good and workmanlike manner and in compliance with all applicable laws. Prior to the Landlord commencing the construction of the Landlord Improvements, the Landlord shall provide the Tenant with reasonably detailed plans and specifications for the Landlord Improvements for the Tenant's approval, which approval by Tenant shall not be unreasonably withheld or delayed. The Landlord shall pay all the costs incurred by the Landlord in connection with the Landlord Improvements.

17.3 The Tenant shall perform certain tenant improvement work strictly in accordance with the plans and specifications described on Exhibit E attached hereto (the “**Tenant Improvements**”). The Tenant may not change the Tenant Improvements without submitting a written change order to the Landlord and obtaining the Landlord's prior written consent to such change order, which consent shall not be unreasonably withheld or delayed.

The Tenant may begin occupying the Leased Premises for the purpose of constructing the Tenant Improvements when the Tenant has delivered to the Landlord and the Landlord's Mortgagee, at Tenant's cost, a builder's risk insurance policy naming Landlord and Landlord's Mortgagee as additional insureds, as their interests may appear, with the amount and type of coverage being required by Landlord and Landlord's Mortgagee and otherwise in compliance with the requirements for insurance set forth in Article 6 above, together with evidence that the premium for said insurance has been paid in full by the Tenant for a period of no less than one year. The Tenant Improvements shall be substantially complete on or before [DATE] subject to *force majeure* and delays by the Landlord. Tenant covenants and represents that the foregoing work shall be completed in a good and workmanlike manner and in compliance with all applicable laws.

The Landlord shall reimburse the Tenant for the costs actually incurred by the Tenant in connection with the Tenant Improvements (which costs shall include, without limitation,

costs in connection with engineering and design, as well as construction-related costs and expenses) up to a maximum aggregate amount of [AMOUNT] (the “**Landlord’s Contribution**”) of which at least [AMOUNT] shall be for hard costs actually incurred by the Tenant in connection with improvements to the base building and the systems servicing the Building (such as the electrical, mechanical, and plumbing systems of the Building). The Tenant may deliver to the Landlord a requisition to receive an installment of the Landlord’s Contribution on a monthly or less frequent basis by submitting invoices for completed Tenant Improvement Work and such other documentation and information as Landlord and Landlord’s Mortgagee shall require consistent with the procedures used by Landlord’s Mortgagee for construction loans. The Tenant acknowledges that the Tenant is primarily liable for the cost of the Tenant Improvements and, in the event that the cost of the Tenant Improvements exceeds the Landlord’s Contribution, the Tenant agrees to promptly pay all such excess costs when due. In the event that, when the Tenant Improvements are completed and a permanent certificate of occupancy has been issued for the Leased Premises, the actual cost of the Tenant Improvements is less than the Landlord’s Contribution, then the Landlord shall give the Tenant a credit towards the payment of Basic Rent in the amount calculated using the formula set forth on Exhibit F attached hereto.]

**ARTICLE 18 – Warranty Regarding Broker.** Tenant warrants that it was introduced to the Leased Premises by the party or parties named in the Definitions section of this Lease as the “Broker,” and knows of no other Broker which was involved in this transaction in any way or is entitled to any brokerage commission or similar fee or charge in connection with this Lease. Tenant agrees to indemnify Landlord and the Broker (if any) against any costs incurred by either (including attorneys’ fees) if the foregoing warranty is untrue.

**ARTICLE 19 – Hazardous Materials.** Tenant shall not (either with or without negligence) cause or permit the escape, disposal, release or threat of release of any biologically or chemically active or other Hazardous Materials (as said term is hereafter defined) on, in, upon or under the Leased Premises of the Site. Tenant shall not allow the generation, storage, use or disposal of such Hazardous Materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the generation, storage, use and disposal of such Hazardous Materials, nor allow to be brought into the Leased Premises or the Site any such Hazardous Materials except for use in the ordinary course of Tenant’s business, and then only after written notice is given to Landlord of the identity of such Hazardous Materials. Hazardous Materials shall include, without limitation, any material or substance which is (i) petroleum, (ii) asbestos, (iii) designated as a “hazardous substance” pursuant to Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq. (33 U.S.C. §1321) or listed pursuant to §307 of the Federal Water Pollution Control Act (33 U.S.C. §1317), (iv) defined as a “hazardous waste” pursuant to Section 1004 of the Resource Conservation and Recover Act, 42 U.S.C. 6901 et seq. (42 U.S.C. §6903), (v) defined as a “hazardous substance” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 et seq. (42 U.S.C. §9601), as amended, or (vi) defined as “oil” or a “hazardous waste”, a “hazardous substance”, a “hazardous material” or a “toxic material” under any other law, rule or regulation applicable to the Property, including, without limitation, Chapter 21E of the Massachusetts General Laws, as amended. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of

Hazardous Materials, then the reasonable costs thereof shall be reimbursed by Tenant to Landlord upon demand as additional charges but only if such requirement applies to the Leased Premises or may be the result of the acts or omissions of Tenant. In addition, Tenant shall execute affidavits, representations and the like, from time to time, at Landlord's request concerning Tenant's best knowledge and belief regarding the presence of Hazardous Materials in the Leased Premises or the Site. In all events, Tenant shall indemnify and save Landlord harmless from any release on threat of release on the presence or existence of Hazardous Materials in the Leased Premises occurring while Tenant is in possession, or elsewhere on the Site if caused by Tenant or persons acting under Tenant. The within covenants and indemnity shall survive the expiration or earlier termination of the Term of this Lease. Landlord expressly reserves the right to enter the Leased Premises to perform regular inspections. [OPTION: The Landlord agrees to save Tenant harmless and to indemnify Tenant from and against any liability, injury loss, claim, damage, settlement, attorneys' fees, fines, penalties, interest or expense which may be incurred by Tenant (including, without, limitation, any cost which Landlord may incur for testing and remediation) arising from any release, presence or existence of Hazardous Materials which existed on the Site prior to the Tenant's occupation of the Leased Premises.]

**ARTICLE 20 – Extension of Term.** Provided the Lease is then in full force and effect and further provided that Tenant is not then in default, beyond the expiration of any applicable grace periods, under any of the terms, covenants or conditions of the Lease on Tenant's part to be observed or performed, Tenant shall have the option to extend this Lease and the Lease Term for an extended term (the "**Extension Term**") of [NUMBER] years commencing on the date next following the last day of the Original Lease Term and ending, unless sooner terminated pursuant to the terms, covenants or conditions of the Lease or pursuant to law, on the day immediately preceding the [NUMBER] anniversary of the commencement date of the Extension Term, such option to be exercisable only by written notice given by Tenant to Landlord at least twelve (12) months prior to the expiration of the Original Lease Term. If Tenant exercises such option in accordance with the provisions and limitations of this Article, this Lease and the Lease Term shall be extended for such term upon all of the then applicable terms, covenants and conditions contained in this Lease, except that the Basic Rent for the entire Extension Term shall be at an annual rate determined as set forth below, it being understood that such Basic Rent shall be payable in equal monthly installments, in advance, just as in the case of the Original Lease Term. The Basic Rent for the Extension Term shall be at the greater of (i) the Basic Rent at the end of the Original Lease Term or (ii) ninety-five percent (95%) of the then fair rental value for the Leased Premises for the Extension Term, to be determined as follows: Landlord shall provide Tenant with Landlord's written designation of what it believes ninety-five percent (95%) of the fair rental value to be, indicating the Basic Rent to be charged for the Extension Term, such written designation to be sent to Tenant within thirty (30) days after receipt by Landlord of notice of Tenant's exercise of its option with respect to the Extension Term. If Tenant disagrees with Landlord's designation and if the parties are otherwise unable to agree upon the fair rental value of the Leased Premises for the Extension Term, then Tenant may initiate the following arbitration process to determine ninety-five percent (95%) of fair rental value ("**Market Rent**") by sending written notice thereof to Landlord within fourteen (14) days after receipt of Landlord's written designation as to Market Rent. If Tenant fails to initiate this arbitration process as aforesaid, time being of the

essence, then Landlord's designation of Market Rent (as set forth in Landlord's notice) shall be conclusive. In order to be effective Tenant's notice to Landlord initiating the arbitration process shall specify the name and address of the person designated to act as an arbitrator on its behalf. Within fourteen (14) days after the designation of Tenant's arbitrator, Landlord shall give notice to Tenant specifying the name and address of the person designated to act as an arbitrator on its behalf. If Landlord fails to notify Tenant of the appointment of its arbitrator within the time above specified, then the appointment of the second arbitrator shall be made in the same manner as hereinafter provided for the appointment of a third arbitrator in a case where two arbitrators are appointed hereunder and the parties are unable to agree upon such appointment. The two arbitrators so chosen shall meet within ten (10) days after the second arbitrator is appointed, and if, within fifteen (15) days after the second arbitrator is appointed, the two arbitrators shall not agree upon a determination, they shall together appoint a third arbitrator. In the event of their being unable to agree upon such appointment within fifteen (15) days after the appointment of the second arbitrator, the third arbitrator shall be selected by the parties themselves if they can agree thereon with a further period of fifteen (15) days. If the parties do not so agree, then either party, on behalf of both and on notice to the other, may request such appointment by the American Arbitration Association (or any organization successor thereto) in accordance with its rules then prevailing.

Each party shall pay the fees and expenses of the one of the two original arbitrators appointed by or for such party, and the fees and expenses of the third arbitrator and all other expenses (not including the attorneys fees, witness fees and similar expenses of the parties which shall be borne separately by each of the parties) of the arbitration shall be borne by the parties equally.

If a third arbitrator is chosen as provided above, then such the three arbitrators shall collectively determine the Market Rent and render a written certified report of their determination to both Landlord and Tenant within fifteen (15) days after appointment of the third arbitrator if such third arbitrator is appointed pursuant to this Section.

Each of the arbitrators selected as herein provided shall have at least ten (10) years experience in the leasing and renting of office space in first class office buildings in [COUNTY]. In addition, the third arbitrator (if any) shall be an independent party not affiliated in any way with either Landlord or Tenant.

Each of the three arbitrators shall indicate his view of ninety-five percent (95%) of the fair rental value. The number furthest from the middle number shall be disregarded and the remaining two numbers shall be averaged. The resulting average shall be deemed to be ninety-five percent (95%) of the fair rental value for purposes of this paragraph. Tenant may cancel its exercise of this option to extend the term of this Lease, if Tenant is dissatisfied with the determination of Market Rent through the foregoing arbitration process. In order to cancel its exercise of this option as aforesaid, Tenant must send written notice to Landlord within seven (7) days after the determination by the appraisers of Market Rent, and in such notice Tenant must state that it is so canceling its exercise of this extension option.

Time is of the essence with respect to the exercise of the option contained herein. Tenant shall not have the right to give any notice exercising such option after the expiration of the applicable time limitation set forth herein, and any notice given after such time limitation purporting to exercise such option shall be void and of no force or effect.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be duly executed, under seal, by persons hereunto duly authorized, as of the date first set forth above.

LANDLORD:

[NAME OF LANDLORD]

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

Its: \_\_\_\_\_

TENANT:

[NAME OF TENANT]

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

Its: \_\_\_\_\_

EXHIBIT A

**PLAN OF THE LEASED PREMISES**

EXHIBIT B

**SITE PLAN SHOWING THE BUILDING**

**LEGAL DESCRIPTION OF THE SITE**



**PARKING PLAN**