

EXHIBIT "A"

LEGAL DESCRIPTION AND MAP OF PARCEL

EXHIBIT "B"

**LEGAL DESCRIPTION AND MAP OF
PROPERTY**

EXHIBIT "C"

GRANT OF EASEMENT

PARTIES:

("Landlord") and Illinois PCS, L.L.C., an Illinois limited liability company
("Tenant").

DATE: As of _____, 199_

This Easement is granted on the basis of the following facts, understandings, and intentions.

RECITALS

A. Tenant leases certain premises ("Parcel") for the transmission and receipt of wireless communication signals on real property situated in the County of _____, State of Illinois, which real property is more particularly described in Exhibit B ("Property").

B. For so long as the Parcel is operated by Tenant, its successors and assigns, the parties wish to confirm and establish a utility easement and a right of way easement for ingress to and egress from _____ over, across, and through the Property to serve the Parcel as referenced in the map set forth in Exhibit A.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and promises set forth herein, the parties hereby agree as follows.

AGREEMENT

1. Grant of Easement. Landlord hereby grants to Tenant an easement in fee appurtenant to, and for the benefit of, the Parcel to use the property more particularly described in Exhibit C-1 (the "Easement") for (i) a twelve (12) foot wide right of way for vehicular and pedestrian ingress to and egress from the Property from and to the Parcel, to construct and maintain an improved road and related appurtenances and improvements in and upon the Property, and to travel over and upon and use, operate, maintain, and repair such road and related appurtenances and improvements, including without limitation to remove, replace, and substitute any such appurtenances and improvements in and upon the Easement, and (ii) a twelve (12) foot wide "dynamic" utility easement to and from the Parcel over, across, and through the Property to construct, maintain, operate, inspect, repair, upgrade, and use communications and electrical facilities and equipment to connect Tenant's equipment to the nearest public utility facility for purposes of interconnecting, securing, replacing, and upgrading commercial power and/or

telephone interconnect facilities for the facilities and equipment located on the Parcel provided Landlord agrees to the location and nature of such "dynamic" easement

2. Covenants Running with the Land. The burden and benefit of all covenants contained in this Easement shall run with the land and inure to the benefit of, and be binding upon, the parties and their respective heirs, successors, assigns, and legal representatives, including without limitation all subsequent owners of any portion of either Estate and all persons and parties claiming under them.

3. Reversion. The easements granted pursuant to this Easement shall revert to Landlord, its successors, and assigns automatically and without further notice when and only when the Parcel is no longer used by Tenant, its successors, or assigns.

IN WITNESS WHEREOF, the parties have executed this Easement as of the date first above written.

LANDLORD:

Town of Normal

By: Kenton Kammiller

Title: President, Board of Trustees

TENANT:

Illinois PCS, L.L.C., an
Illinois limited liability company

By: L. Y.

Title: President + CEO

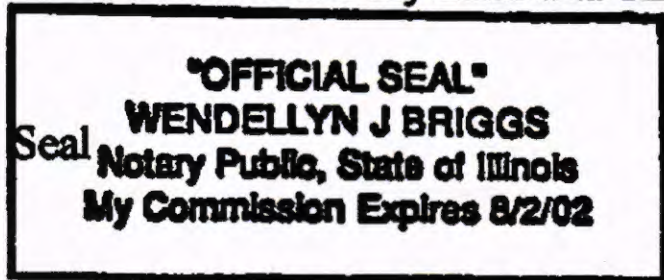
Prepared by and upon
recording return to:

ACKNOWLEDGMENT

State of Illinois)
) ss.
County of McLean)

On October 26, 1999, before me, Wendellyn J. Briggs a Notary Public for the State of Illinois, personally appeared, Kent M. Kurtz, personally known to me or proved to me on the basis of satisfactory evidence to be the person/s whose name/s is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacities, and that by his/her/their signature/s on the instrument the person/s, or the entity upon behalf of which the person/s acted, executed the instrument.

WITNESS my hand and official seal.



Wendellyn J. Briggs
Notary Public

ACKNOWLEDGMENT

State of Illinois)
) ss.
County of Henry)

On Oct 6, 1999, before me, Barbara J. Davis, a Notary Public for the State of Illinois, personally appeared, Jim Yager, personally known to me or proved to me on the basis of satisfactory evidence to be the person/s whose name/s is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacities, and that by his/her/their signature/s on the instrument the person/s, or the entity upon behalf of which the person/s acted, executed the instrument.

WITNESS my hand and official seal.



Barbara J. Davis
Notary Public

EXHIBIT C-1

LEGAL DESCRIPTION AND MAP OF EASEMENT

EXHIBIT "D"

Recording requested by
and when recorded, mail to:

Illinois PCS, L.L.C.
111 East First Street
Geneseo, IL 61254

MEMORANDUM OF OPTION AGREEMENT

This MEMORANDUM OF OPTION AGREEMENT ("Memorandum") is made as of _____, 199__, between _____ ("Optionor") and Illinois PCS, L.L.C., an Illinois limited liability company ("Optionee").

WITNESSETH THAT:

Optionor, on the terms and conditions set forth in an unrecorded document dated _____, 199__, and entitled "Option and Lease Agreement", which terms and conditions are incorporated herein by reference, granted to Optionee an exclusive option to lease certain real property, together with all easements, rights and appurtenances attached thereto, more particularly described as Exhibits "A", "B" and "C" attached to this Memorandum (collectively, the "Property").

The term of the Option Agreement begins on _____, and ends on _____ ("Option Term"), unless terminated sooner or extended in accordance with the Option and Lease Agreement. The option is exercisable by Optionee on written notice from Optionee to Optionor before expiration of the Option term.

In the event of any inconsistency between this Memorandum and the Option and Lease Agreement, the Option and Lease Agreement shall control.

This Memorandum and the Option and Lease Agreement shall bind and inure to the benefit of the parties and their respective heirs, successors and assigns.

IN WITNESS WHEREOF, the parties have executed or caused their authorized representative for and on its behalf to execute this Agreement as of the date first written above.

Optionor

Optionee

Town of Normal

Illinois PCS, L.L.C., an
Illinois limited liability company

By: Kenton Karater

By: L. Yu

Title: President, Board of Trustees

Title: President + CEO

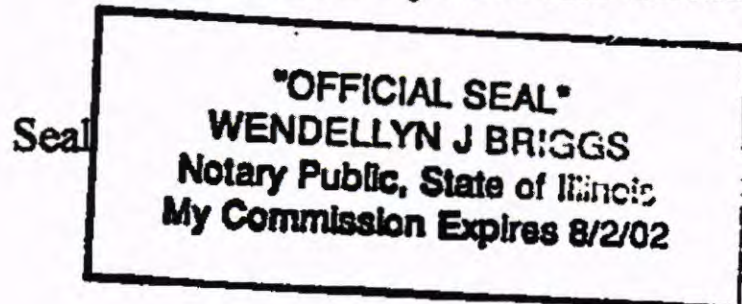
Prepared by and upon
recording return to:

ACKNOWLEDGMENT

State of Illinois)
) ss.
County of McLean)

On October 26, 1999, before me, Wendell J. Briggs Notary Public for the State of Illinois, personally appeared, Kent M. Karstner, personally known to me or proved to me on the basis of satisfactory evidence to be the person/s whose name/s is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacities, and that by his/her/their signature/s on the instrument the person/s, or the entity upon behalf of which the person/s acted, executed the instrument.

WITNESS my hand and official seal.



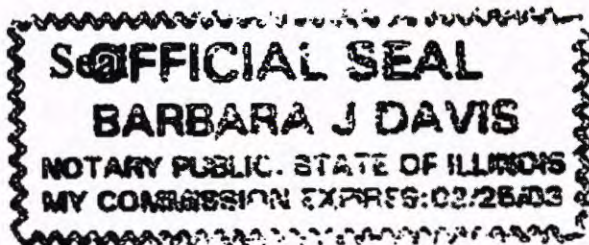
Wendell J. Briggs
Notary Public

ACKNOWLEDGMENT

State of Illinois)
) ss.
County of Henry)

On Oct. 6, 1999, before me, Barbara J. Davis, a Notary Public for the State of Illinois, personally appeared, Jim Yager, personally known to me or proved to me on the basis of satisfactory evidence to be the person/s whose name/e is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacities, and that by his/her/their signature/s on the instrument the person/s, or the entity upon behalf of which the person/s acted, executed the instrument.

WITNESS my hand and official seal.



Barbara J. Davis
Notary Public

EXHIBIT "E"

Recording requested by
and when recorded, mail to:

**Illinois PCS, L.L.C.
111 East First Street
Geneseo, IL 61254**

MEMORANDUM OF LEASE AGREEMENT

This MEMORANDUM OF LEASE AGREEMENT ("Memorandum") is made as of _____, 199_, between _____, ("Landlord") and Illinois PCS, L.L.C., an Illinois limited liability company ("Tenant").

WITNESSETH THAT:

Landlord, on the terms and conditions set forth in an unrecorded document dated _____, 199_, and entitled "Option and Lease Agreement", which terms and conditions are incorporated herein by reference, has leased to Tenant an exclusive lease to certain real property, together with all easements, rights and appurtenances attached thereto, more particularly described as Exhibits "A", "B" and "C" attached to this Memorandum (collectively, the "Property").

The term of the Lease Agreement begins on _____, and ends on _____ ("Lease Term"), unless terminated sooner or extended in accordance with the Option and Lease Agreement. The Lease contains automatic renewal provisions to be extended by Tenant unless Landlord receives written notice from Tenant before expiration of the Lease Term or any Extended Term indicating their intent not to extend the Agreement.

In the event of any inconsistency between this Memorandum and the Option and Lease Agreement, the Option and Lease Agreement shall control.

This Memorandum and the Option and Lease Agreement shall bind and inure to the benefit of the parties and their respective heirs, successors and assigns.

IN WITNESS WHEREOF, the parties have executed or caused their authorized representative for and on its behalf to execute this Agreement as of the date first written above.

Landlord

Town of Normal

Tenant

Illinois PCS, L.L.C., an
Illinois limited liability company

By: Kenton Kanaster

By: L.Y.

Title: President, Board of Trustees

Title: President & CEO

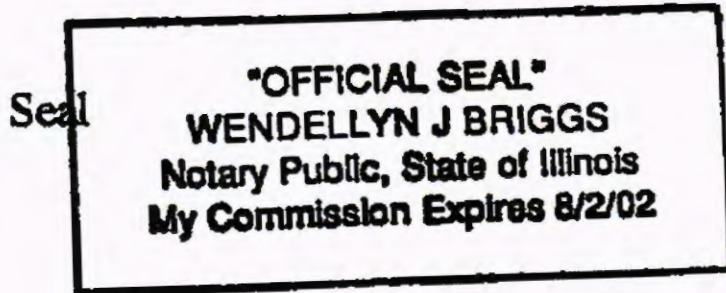
Prepared by and upon
recording return to:

ACKNOWLEDGMENT

State of Illinois)
) ss.
County of McLean)

On October 26, 1999, before me, Wendellyn J. Briggs a Notary Public for the State of Illinois, personally appeared, Kent M. Karaker, personally known to me or proved to me on the basis of satisfactory evidence to be the person/s whose name/s is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacities, and that by his/her/their signature/s on the instrument the person/s, or the entity upon behalf of which the person/s acted, executed the instrument.

WITNESS my hand and official seal.



Wendellyn J. Briggs
Notary Public

ACKNOWLEDGMENT

State of Illinois)
) ss.
County of Henry)

On Oct. 6, 1999, before me, Barbara J. Davis, a Notary Public for the State of Illinois, personally appeared, Jim Yager, personally known to me or proved to me on the basis of satisfactory evidence to be the person/s whose name/s is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacities, and that by his/her/their signature/s on the instrument the person/s, or the entity upon behalf of which the person/s acted, executed the instrument.

WITNESS my hand and official seal.



Barbara J. Davis
Notary Public

First Amendment to the Option and Lease Agreement

This **First Amendment to the Option and Lease Agreement** ("First Amendment") is made and entered into as of the 22nd day of October, 2002 by and between the Town of Normal, ("Lessor") and iPCS Wireless, Inc., (f/k/a Illinois PCS, LLC) a Delaware corporation (collectively, "iPCS").

WHEREAS, on the 20th day of September, 1999, Lessor and iPCS entered into that certain Option and Lease Agreement ("Agreement"); and

WHEREAS, pursuant to such Agreement, iPCS leases from Lessor a parcel of ground for a tower and related equipment located at 107 East College Ave., Normal, IL 61761; and

WHEREAS, pursuant to Section 32(p), Lessor's current inventory on the tower consists of: (i) one 23' whip antenna located at height 101'-124', (ii) one 6' whip antenna located at height 86'-92'; and

WHEREAS, Lessor and iPCS desire to amend the provisions of the Agreement in order to allow iPCS to sublease tower space from 118' to 122' currently utilized by Lessor to a third subtenant.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to be legally bound to this Amendment as follows:

1. **REMOVAL OF EQUIPMENT.** Lessor agrees that iPCS or iPCS' third subtenant shall remove Lessor's one 23' whip antenna located at height 101'-124' no later than November 1, 2002 at no cost to Lessor.
2. **REVENUE SHARING.** iPCS will pay Lessor ten percent (10%) of all rent revenue received from third subtenant. iPCS agrees to provide Lessor a copy of said sublease for records and rent audit purposes.
3. **CONSENT TO COLLOCATION:** Lessor consents to iPCS' written request for the proposed third subtenant. Lessor consents and acknowledges that this Amendment will be added to the sublease between iPCS and third subtenant as an exhibit.
4. **RESERVATION OF SPACE.** iPCS agrees to retain and reserve space for Lessor's remaining 6' whip antenna located at height 86'-92'.
5. **EFFECT OF ADDENDUM.** Except as specifically amended in this Addendum, the Agreement has not been otherwise amended, and remains in full force and effect as the entire agreement of the Parties with respect to the subject matter.

First Amendment to the Option and Lease Agreement

IN WITNESS WHEREOF, Lessor and iPCS have executed this First Amendment to the Option and Lease Agreement effective as the day and year first above written.

LESSOR:

WITNESS:

Wendell J. Briggs
Name: Wendell J. Briggs
Date: 10/22/02

By: Kent M. Karraker
Name: Kent M. Karraker
Title: President Board of Trustees

iPCS: iPCS Wireless, Inc.

WITNESS:

Nathan Olson
Name: Nathan Olson
Date: 11-15-02

By: Craig Kinley
Name: Craig Kinley
Date: 11/15/02

ACKNOWLEDGEMENT

State of Illinois)
County of McLean) ss.

On 22 day of October, 2002, before me, Christine Leese, a Notary Public for the State of Illinois, personally appeared, Rent M. Karraker, personally known to me or proved to me on the basis of satisfactory evidence to be the person/s whose name/s is/are subscribed to the instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacities, and that by his/her/their signature/s on the instrument the person/s, or the entity upon behalf of which the person/s acted, executed the instrument.

WITNESS my hand and official seal.



Christine Leese
Notary Public

State of Michigan)
County of Kent) ss.

On 15 day of November, 2002, before me, Nathan M. Olson, a Notary Public for the State of Michigan, personally appeared, Craig Kistey, personally known to me or proved to me on the basis of satisfactory evidence to be the person/s whose name/s is/are subscribed to the instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacities, and that by his/her/their signature/s on the instrument the person/s, or the entity upon behalf of which the person/s acted, executed the instrument.

WITNESS my hand and official seal.

NATHAN M. OLSON
Notary Public, Kent County
State of Michigan
My Commission Expires 01/18/2007

Nathan M. Olson
Notary Public

SECOND AMENDMENT TO THE OPTION AND LEASE AGREEMENT

This Second Amendment to the Option and Lease Agreement ("Second Amendment") is made and entered into as of the 1st day of March, 2004, by and between the Town of Normal, ("Lessor") and iPCS Wireless, Inc., (f/k/a Illinois PCS, LLC) a Delaware corporation (collectively, "iPCS").

WHEREAS, on the 20th day of September, 1999, Lessor and iPCS entered into that certain Option and Lease Agreement ("Agreement"); and

WHEREAS, pursuant to such Agreement, iPCS leases from Lessor a parcel of ground for a tower and related equipment located at 107 East College Avenue, Normal, IL 61761; and

WHEREAS, pursuant to Section 11 Lessee shall obtain Lessor's consent to sublease or allow other uses on the parcel; and

WHEREAS, Lessor and iPCS desire to amend the provisions of the Agreement in order to allow iPCS to sublease tower space to a fourth subtenant.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to be legally bound to this Second Amendment as follows:

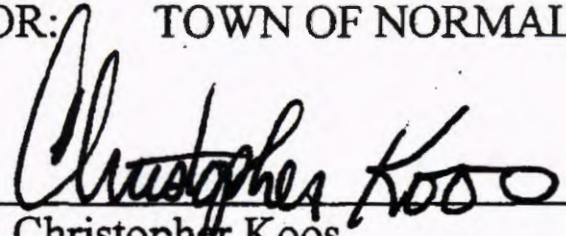
1. REVENUE SHARING. iPCS will pay Lessor ten percent (10%) of all rent revenue received from fourth subtenant. iPCS agrees to provide Lessor a copy of said sublease for records and rent audit purposes.
2. CONSENT TO COLLOCATION. Lessor consents to iPCS's written request for the proposed fourth subtenant. Lessor consents and acknowledges that this Amendment will be added to the sublease between iPCS and fourth subtenant as an exhibit.
3. RESERVATION OF SPACE. iPCS agrees to retain and reserve space for Lessor's remaining 6' whip antenna located at height 86'-92'.
4. EFFECT OF ADDENDUM. Except as specifically amended in this Addendum, the Agreement and the First Amendment to the Option and Lease Agreement, have not been otherwise amended, and remain in full

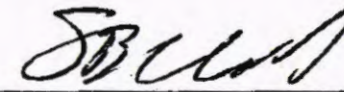
force and effect as the entire agreement of the Parties with respect to the subject matter.

IN WITNESS WHEREOF, Lessor and iPCS have executed this Second Amendment to the Option and Lease Agreement effective as the day and year first above written.

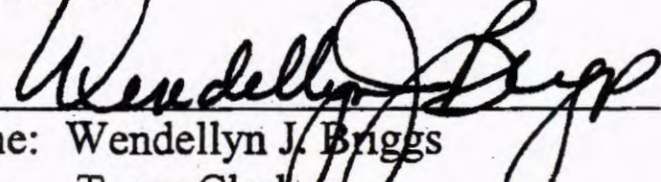
LESSOR: TOWN OF NORMAL

iPCS: iPCS WIRELESS, INC.

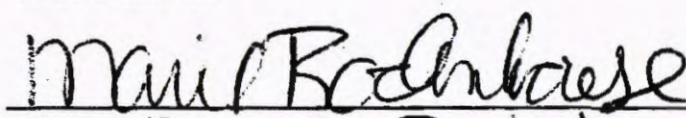
By 
Name: Christopher Koos
Title: President Board of Trustees

By 
Name: Schard
Title: CEO

WITNESS:


Name: Wendellyn J. Briggs
Title: Town Clerk

WITNESS:


Name: Marie Rodenhouse

Date: 3/1, 2004.

Date: 5-5, 2004

ACKNOWLEDGMENT

STATE OF ILLINOIS)
)ss.
COUNTY OF MCLEAN)

On 1st day of March, 2004, before me, Christine Leese, a Notary Public for the State of Illinois, personally appeared, Christopher Koos, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the instrument, and acknowledged to me that he executed the same in his authorized capacities, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Christine Leese
Notary Public

STATE OF Michigan)
)
COUNTY OF Kent)

On 5th day of May, 2004, before me, Nathan M. Olson, a Notary Public for the State of Michigan, personally appeared, Steb Chandor, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the instrument, and acknowledged to me that he executed the same in his authorized capacities, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

NATHAN M. OLSON
Notary Public, Kent County
State of Michigan
My Commission Expires 01/18/2007

Nathan M. Olson
Notary Public

RESOLUTION NO. 3696

A RESOLUTION AUTHORIZING CONSENT TO ASSIGNMENT OF A LEASE AGREEMENT WITH iPCS WIRELESS, INC.

WHEREAS, the Town of Normal is a home rule unit of local government with authority to legislate in matters concerning its local government and affairs; and

WHEREAS, an Option and Lease Agreement dated September 20, 1999, was entered into between the Town of Normal and iPCS Wireless, Inc. for land for the use of a telecommunications tower near the Water Treatment Plant; and

WHEREAS, the Lease is for a five-year term with automatic renewal and rent increases; and

WHEREAS, iPCS is willing to assign all of its right, title and interest in said contract to Global Tower, LLC; and

WHEREAS, Global Tower, LLC is willing to accept the assignment and perform the contract as agreed between the Town of Normal and iPCS; and

WHEREAS, it is in the best interests of the health, safety and welfare of the citizens of Normal to consent to the assignment of the iPCS Lease Agreement to Global Tower, LLC.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES FOR THE TOWN OF NORMAL, ILLINOIS:

SECTION ONE: That the Town of Normal hereby consents to the assignment of the Lease Agreement with iPCS to Global Tower, LLC. and the City Manager is hereby authorized to note the Town's consent on the Assignment.

SECTION TWO: That the Town Clerk be and she is hereby authorized and directed to retain an original Assignment of Contract in her office for public inspection.

ADOPTED this 20th day of June, 2005.

APPROVED:



President of the Board of Trustees of the Town of
Normal, Illinois

ATTEST:

Wendellyn J. Buss
Town Clerk
(seal) by Hank Fuchs,
Deputy Clerk

June 29, 2005

VIA FEDERAL EXPRESS

Town of Normal
100 E. Phoenix
Normal, IL 61761

Attention: City Clerk

Re: Option and Lease Agreement ("Ground Lease") dated September 20, 1999 between the Town of Normal, hereinafter referred to as ("Landlord") and IPCS Wireless, Inc., a Delaware corporation, successor by merger to Illinois PCS, L.L.C. ("Tenant") with respect to that certain portion of real property situated in Normal, McLean County, Illinois ("Property")

Dear City Clerk:

Global Tower, LLC ("GTP") and Tenant have signed an agreement under which GTP may take assignment of the Ground Lease from Tenant and purchase certain of Tenant's assets located on the Property including the wireless communications tower. As such, Tenant wishes to assign its interests and obligations in the Ground Lease to GTP and be relieved of its obligations to Landlord.

With respect to the Ground Lease and the above-referenced transaction, we would ask that you confirm the following:

1. You consent to the proposed assignment of the Tenant's rights and interests under the Ground Lease to GTP with the understanding that this consent will be effective only if the proposed transaction closes and an assignment agreement is entered into between GTP and Tenant. Notwithstanding the foregoing, this consent is conditioned upon Tenant not being in breach of the Ground Lease at the effective date of the assignment of the Ground Lease to GTP such that if, on such effective date of the assignment, Tenant is in breach of the Ground Lease and Landlord has provided written notice of such breach to Tenant on or before such date, this consent shall be null and void.
2. The Ground Lease is valid and in full force and effect between the Landlord and Tenant. Except for certain landscaping and sidewalk replacement obligations which remain outstanding on the part of Tenant pursuant to the terms of the Ground Lease, neither you nor Tenant is in default under the Ground Lease as of the date hereof.
3. Except as provided in paragraph 2 the Town of Normal knows of no claim or defense of any nature whatsoever against Tenant with respect to the Ground Lease, and the Town of Normal

IL 055 040 GROUND ESTOPPEL
LV1 278776v2 03/04/05

knows of no event which, with the giving of notice and/or the passage of time, would constitute the basis of such a claim or defense, and you hereby forever release Tenant from any further obligations arising under the Ground Lease.

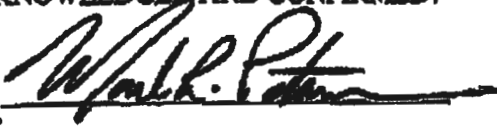
4. You acknowledge that the representations contained herein may be relied upon by Tenant and GTP.

We would appreciate you reviewing and signing this letter at your earliest possible convenience as we would like to conclude this transaction by June 30, 2005. Please return an executed copy of this letter to Harold N. Adams in the preaddressed overnight envelope provided herein. If you have any questions or comments, please do not hesitate to contact me at 616-633-9730, or Harold N. Adams at 217-352-1800.

Sincerely,

iPCS Wireless, Inc.
By: /s/ Nathan Olson

ACKNOWLEDGED AND CONFIRMED:

BY: 
ITS: _____

FEIN: _____

cc: Mayor
City Manager
Corporation Counsel

AGREEMENT REGARDING GROUND LEASE

THIS AGREEMENT REGARDING GROUND LEASE (this "Agreement") is made as of _____, 2005, between the party identified as "Landlord" on the signature page hereof ("Landlord") and Global Tower, LLC ("Global Tower").

RECITALS:

A. Landlord and PCS Wireless, Inc. ("Existing Tenant") are parties to the Lease dated September 20, 1999 a copy of which is annexed hereto as Exhibit A (the "Lease"), covering certain real property more particularly described on Exhibit A attached hereto (the "Property");

B. Pursuant to a Agreement of Purchase dated May 25, 2005, by and between iPCS Wireless, Inc. and Global Tower (in its capacity as tenant under the Lease, "Global Tower Tenant"), Global Tower has acquired or intends to acquire the Existing Tenant's interest in the Lease, and Global Tower requests that Landlord consent to (if required) and acknowledge the acquisition by Global Tower) of Tenant's interest in the Lease;

C. Following completion of, or in connection with, the acquisition of Existing Tenant's interest in the Lease, Global Tower is obtaining loans (the "Loan") pursuant to a credit facility provided by Morgan Stanley Asset Funding, Inc. (together with its successors and assigns, "Lender"), secured by a mortgage or other security instrument, encumbering all of Global Tower Tenant's interest in the Lease.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged the parties hereto hereby agrees as follows:

1. To the extent any such consent is required by the Lease, Landlord hereby consents to the acquisition by Global Tower, directly or indirectly, of Tenant's interest in the Lease.

2. Estoppel Certificate. Landlord certifies to Global Tower (and Leasehold Lender (as defined below) may rely on such representations) that the following statements are true as of the date hereof:

(a) Existing Tenant or Global Tower Tenant is the current tenant under the Lease (a full copy of which, including all amendments thereto, is annexed as Exhibit A) (such current tenant, being the "Current Tenant"), and the Lease is in full force and effect and contains the entire agreement between Landlord and the Current Tenant with respect to the Property.

(b) Landlord is aware of a default in the lease in that the area has a sidewalk which needs replacing, gravel which needs removal and reseeded, and replacing several trees. Otherwise no other default is known to Landlord to exists under the Lease on the part of the Current Tenant, and to Landlord's knowledge, no event or condition has occurred which would constitute a

different default by the Current Tenant under the Lease. Global Tower Tenant agrees to make the repairs to the premises by October 1, 2005.

3. Agreement with respect to the Lease.

(a) The Lender (a "Leasehold Lender") under any loan secured by a mortgage (or deed of trust) lien on Current Tenant's (or any successor to Current Tenant by foreclosure or otherwise) interest in the Lease (each, as amended or modified from time to time, a "Leasehold Mortgage") shall have all of the rights pursuant to the terms of the Lease.

(b) Landlord shall deliver to the Leasehold Lender (as provided in paragraph 5 below at the address specified herein, or at such other address as shall be designated in writing to Landlord) a copy of any default notice given by Landlord to Current Tenant or Global Tower Tenant under the Lease. No default notice from Landlord to Current Tenant or Global Tower Tenant shall be deemed effective as against Leasehold Lender unless sent to Lender pursuant to the terms herein.

(c) If Current Tenant or Global Tower Tenant defaults on any monetary obligations under the Lease, Landlord shall accept a cure thereof by the Leasehold Lender within thirty (30) days after Leasehold Lender's receipt of notice of such default. For non-monetary defaults, Landlord shall not terminate the Lease for so long as the Leasehold Lender is diligently pursuing a cure of the default, and if curing such non-monetary default requires possession of the Property, then Landlord agrees to give the Leasehold Lender a reasonable time to obtain possession of the Property and to cure such default.

(d) The Lease may not be amended in any respect which would be reasonably likely to have a material adverse effect on Leasehold Lender's interest therein or surrendered, terminated or cancelled, without the prior written consent of Leasehold Lender.

(e) Except for Landlord's buy-out provisions contained in the Lease, if the Lease is terminated for any reason, or otherwise rejected in bankruptcy, Landlord will enter into a new lease with Leasehold Lender on the same terms as the Lease, if the Leasehold Lender pays all past due amounts under the Lease within 30 days of notice of such termination.

4. Memorandum of Lease. To the extent the Lease or a memorandum thereof has not previously been recorded, this Agreement shall constitute a "memorandum of lease" under applicable State law and may be recorded in the applicable public records, the provisions of the Lease (with certain financial terms redacted therefrom) being as set forth on Exhibit A annexed hereto and made a part hereof.

5. Notices. All notices sent to Leasehold Lender shall be in writing and sent by United States mail postage prepaid or other reputable courier service at the following address (or at such other address notified in writing by Leasehold Lender to Landlord) and receipt shall be deemed 3 business days after said notice is postmarked in the mail or received by a courier service:

Morgan Stanley Asset Funding Inc,
1221 Avenue of the Americas, 27th Floor
New York, NY 10020
Attention: Christian B. Malone
Fax: (212) 507-4123

6. Miscellaneous

(a) If this Agreement is inconsistent with the Lease, the Lease shall control.

(b) This Agreement shall be binding upon Landlord and its successors and assigns and shall inure to the benefit of Global Tower, Global Tower Tenant and Leasehold Lender.

(c) This Agreement may not be amended or modified except by a written agreement executed by Landlord and the Leasehold Lender. This Agreement may be executed in any number of separate counterparts and all signatures need not be on the same counterpart.

7. Representations of Global Tower Tenant

(a) Global Tower Tenant agrees to be bound by the terms and conditions of the Lease.

(b) Global Tower Tenant agrees that is permitted one "array" on the Tower with no additional compensation to Landlord.

(c) Global Tower Tenant shall provide Landlord upon request copies of all tenant leases, records of payment and, subject to (b) above provide, Landlord 10% of the net revenue as provided in the Lease.

(d) Global Tower Tenant shall provide the name, address, telephone number of the maintenance personnel.

(e) Global Tower Tenant shall provide the name address and telephone number of the person who is responsible for payments to the Town of Normal and the name address and phone number of the person who is responsible for the enforcement of this lease. The name and address is as follows:

Global Tower Partners
1801 Clint Moore Road, Suite 215
Boca Raton, FL 33487
561-995-0320
Attn: Ryan Miller, Asset Manager

[SIGNATURE PAGES FOLLOW]

TENANT

IN WITNESS WHEREOF, the undersigned by its duly elected officer(s) and pursuant to proper authority has duly executed, acknowledged and delivered this instrument as its true act and deed.

GLOBAL TOWER, LLC

By: _____

Marc C. Ganz, CEO

LANDLORD

IN WITNESS WHEREOF, the undersigned by its duly elected officer(s) and pursuant to proper authority has duly executed, acknowledged and delivered this instrument as its true act and deed.

TOWN OF NORMAL

By: 

LICENSE AGREEMENT
104 E. BEAUFORT STREET

TOWN OF NORMAL, ILLINOIS

THE POD I, INC.

JUNE 27, 2016

Date: 27 June 2016

Parties

1. The TOWN OF NORMAL, ILLINOIS is an Illinois home rule municipal corporation, located at 11 Uptown Circle, Normal, IL 61761 ("Town").
2. The Pod I, Inc. is an Illinois corporation located at 1505 Ironwood Country Club Drive, Normal, IL 61761 ("Pod").

Recitals

1. The Town owns property located at 104 E. Beaufort Street in Normal.
2. In May of 2011, the Town and the Pod entered into a license agreement that allowed the Pod to use a portion of that property as a retail boutique.
3. In October of 2014, the parties renewed the license agreement with an amendment to extend the term of the agreement for a 37-month period, beginning November 1, 2014.
4. The Pod has partially breached the license agreement concerning the payment of property taxes.
5. The parties have agreed on a mechanism to cure the partial default.
6. The parties desire to consolidate the original license agreement and the amendments into a single document, which will supersede all prior agreements, but this agreement does not change any of the terms agreed upon in the original agreements.

The Parties agree as follows:

1. License and Term

1-1. Description of the Property. For the purposes of this agreement, the Property is the building located at 104 E. Beaufort Street in Normal, Illinois ("Property").

1-2. License to operate retail sales office on the Property. Subject to the terms and conditions set forth in this agreement, the Town grants to the Pod the right to operate a retail boutique at the Property for the retail sale of specialty art, gifts, clothing and

Date: 27 June 2016

similar merchandise. The Pod shall restrict its use and occupancy to the Property for that purpose.

1-3. Term.

(a) This agreement begins on June 21, 2016 and continues through December 31, 2017.

(b) The Town may terminate this agreement at any time during its term by providing 60 days' written notice of the termination to the Pod.

(c) The Pod may terminate this agreement at any time upon 30 days' written notice of the termination to the Town.

2. License Fee and Other Costs

2-1. Monthly payment. The Pod agrees to pay the Town a monthly payment of \$875, which includes the payment for (i) the license fee under Section 2-2 and (ii) the property-tax reimbursement under Section 2-4. The payment is due on or before the first day of the month.

2-2. License fee. In exchange for the privileges granted in this agreement, Pod shall pay to the Town a minimum fixed license fee of \$150 for each month of occupancy. The fee under this Section is paid in accordance with Section 2-1 and is in addition to any other payment that is required to be made under this agreement.

2-3. Utilities. The Pod is responsible for the payment of all charges for water, heat, gas, electricity, sewers, and any and all other utilities used at the Property throughout the term of this agreement, including any connection fees.

2-4. Real estate taxes. The Pod agrees to reimburse the Town for the payment of all property taxes incurred while the Pod has been or will be in possession of the Property. To accomplish this reimbursement, the Pod is required to pay the Town a monthly payment of \$725, which is in addition to the license fee and is paid in accordance with Section 2-1. This monthly property-tax payment is equal to 1/12 of the amount of (i) the property taxes levied on the property in 2013, which the Town paid in 2014, (ii) the property taxes levied on the property in 2014, which the Town paid in 2015, and (iii) the estimated property-tax liability that is not yet payable and that is attributable to the period of the Pod's license of the property.

3. Use of the Property

3-1. Use of the Property.

(a) Pod shall operate and conduct the Property in conformity with the high standards of a retail boutique. Pod may not allow the Property or any part thereof, to become vacant or to be used for any purpose other than as provided in this agreement, or permit the Property to be used in whole or in part by any other firm, person, or corporation outside of the use of the Property as a retail boutique.

(b) Pod agrees to operate the retail boutique for a minimum operation of 33 hours per week.

(c) All signs or advertisements exhibited by Pod on the exterior of the Property must first be approved by the Town in writing.

(d) The Town has the right to inspect the Property for compliance with this agreement.

3-2. Improvements and Fixtures.

(a) Pod shall not make any alterations, improvements, or physical changes in the Property without the prior written consent of the Town.

(b) Prior to the commencement of any improvements to the Property, Pod shall deliver to The Town plans and specifications describing in reasonable detail Pod's new fixture plan and overall design ("Plans"). The Town shall approve or reject the Plans in writing within 30 days after their receipt and, if rejected, Pod shall make the changes requested by The Town.

(c) The cost of the improvements, furniture, fixtures, and equipment indicated on the approved plans shall be borne by Pod. All such furniture, fixtures, and equipment shall be paid for in cash, and no chattel mortgage, conditional sales agreement, security agreements, financing statements, or other encumbrance shall be imposed or filed, and no hypothecation or assignment shall be made by Pod in connection therewith.

(d) All improvements shall be constructed in compliance with the approved Plans and all laws, regulations, statutes, codes, ordinances, and other governmental requirements. During construction, Pod shall obtain and maintain such insurance as the Town shall request. All construction must be completed within 60 days after the Plans are approved.

3-3. Maintenance of the Property.

(a) At all times during the term of this agreement, Pod shall maintain the furniture, floor coverings, other furnishings, fixtures, and equipment on the Property in good operating condition and in a clean, neat condition and appearance and shall make all necessary repairs thereto unless the damage requiring repair was caused by the willful misconduct of the Town or its employees.

(b) If Pod fails to maintain the Property under subsection (a), then the Town may serve a written demand upon Pod to correct the defective condition within the number

Date: 27 June 2016

of days set forth in the written demand. If Pod fails to correct the defective condition within that period of time, then the Town may, at its option, remedy the condition and charge the cost to Pod's account, which Pod must pay in accordance with Section 5-2.

3-4. Condition of Property at termination; disposition of improvements.

(a) At the expiration or termination of this agreement, Pod must remove all its personal property from the Property at its own cost and expense and deliver the Property to the Town "broom clean" and in good order and condition, reasonable wear and tear excepted.

(b) Any fixture installed on the Property, whether or not furnished by the Town, becomes the Town's property at the expiration or termination of this agreement. Any other property furnished by the Town without cost to Pod remains the property of the Town and must be returned to the Town at the expiration or termination of this agreement. The fixtures and property must be returned in the same condition as they were when installed or furnished, reasonable wear and tear excepted.

3-5. Licenses. Pod must obtain all necessary governmental approvals to operate the retail boutique.

3-6. Name of office. The retail boutique shall be operated only in the name of "The Pod" or any other name that is acceptable to the Town.

3-7. Liens. Pod may not, directly or indirectly, by action or omission cause any lien to be placed upon the Property or any personal property located in the Property. Pod must pay or discharge any such lien within 10 days after receiving notice of the lien.

4. Indemnification and Insurance

4-1. Indemnification of the Town.

(a) Pod agrees to indemnify the Town harmless, except in the event the loss or injury was caused by the negligence of the Town, from any claim or loss (i) arising out of this agreement, (ii) as a result of any breach or default by Pod under this agreement, or (iii) arising out of or related to Pod's business operations in the Property. For the purpose of this Section "claim or loss" mean any expense, loss, liability, damage, cost, claim, tax or demand, including, but not limited to, claims from any injury or death to any person, or damage to any property, claims for infringement of patent, copyrights, trademarks, violations of laws or governmental regulations, or any right of others. The indemnification under this Section also includes the costs of reasonable attorneys' fees and other related expenses.

(b) If requested by the Town, Pod shall defend any action brought against the Town arising out of the activities of Pod, its employees, or agents, or of any person employed in the Property, and Pod shall employ an attorney, at its own expense, to conduct this

Date: 27 June 2016

defense. The Town may, but shall not be required to, engage its own attorney in connection with the action. If the Town employs its own attorney in connection with any defense under this Section, then Pod shall reimburse the Town for the payment to the attorney.

(c) Pod shall indemnify and hold the Town harmless from any claims of damages arising out of any loss or injury to Pod's property wherever located, except in the event that the loss or injury was caused by negligence of the Town, its employees, or any persons for whom it is legally responsible.

(d) In addition to other remedies to which the Town may be entitled, the Town has the right to charge Pod for all costs paid and incurred by the Town under this agreement, but only if the Town first gives written notice to Pod to correct the breaches and defaults.

(e) The failure or inability of Pod to obtain or maintain the contractual liability insurance required under Section 4-4 does not limit or affect Pod's obligations under this Section.

(f) The rights and obligations under this Section shall be exercised and performed subject to the Town's sole discretion and judgment.

4-2. No liability of the Town.

(a) The Town is not liable to Pod for any shortage, loss, theft, damage, disappearance, or injury of or to any of the merchandise, supplies, equipment, or other property of any nature of Pod, regardless of whether the loss or damage or injury is due to the negligence of the Town or its employees or agents.

(b) The Town is not liable for any loss or damage to Pod or interference with or suspension of Pod's business operations due to causes beyond the reasonable control of The Town and is not liable or responsible in any way for any debts contracted by Pod.

4-3. Casualty. This agreement is terminated and Pod must vacate the Property if the Property becomes unsuitable for use due to fire, flood, or other casualty.

4-4. Insurance.

(a) Pod agrees at all times to carry, at its sole cost and expense, all of the following:

(1) Workers' compensation insurance for Pod's employees in accordance with the requirements of the State of Illinois.

(2) General Comprehensive Liability insurance, including products liability, covering all operations in limits of not less than \$1,000,000 for each occurrence for personal injury or death, \$1,000,000 for each occurrence for property damage in or about the Property, and \$2,000,000 in the aggregate. The Town must be named as an additional insured on any liability policy.

(3) Fire insurance with extended coverage covering the Property and the fixtures for the full replacement value thereof, on which the Town is named as an additional insured, as to the Property and fixtures.

(4) Any other or additional insurance coverage that the Town may reasonably request from time to time.

Date: 27 June 2016

(b) All insurance policies under this Section must be issued in the name of Pod and Town, as their interests may appear, and must be issued by companies and in a form and manner reasonably satisfactory to the Town. Each policy must provide that it may not be canceled or materially changed except upon 10 days' prior written notice to the Town. Pod must deliver to the Town the certificates of insurance on or before August 1, 2015, and at least 10 days prior to the expiration date of any policy. Upon request, Pod must make the originals of all insurance policies available to the Town for inspection.

(c) If, at any time, Pod fails, to maintain any insurance required under this Section, then the Town, at its option, may do so, and Pod must pay the cost of that insurance in accordance with Section 5-2.

(d) All insurance must contain a waiver of subrogation in favor of the Town, if obtainable, and the Town's fire insurance policy with respect to the Property shall contain a waiver of subrogation in favor of Pod, if obtainable.

4-5. No immunity waiver. Nothing in this agreement may be construed to deprive either party of any tort immunity or other available defense.

5. Default and Termination

Section 5-1. Bankruptcy, etc. This agreement is deemed to be materially breached by Pod and the Town may terminate the agreement in accordance with Section 5-2 if any of the following occurs:

(1) A petition in bankruptcy (including a petition for arrangement under the Bankruptcy Law) is filed by or against Pod or any guarantor of Pod's obligations under this agreement;

(2) Pod or any guarantor becomes insolvent within the meaning of any state or federal insolvency laws or makes an assignment for the benefit of creditors;

(3) A receiver for all or any part of Pod's business or the business of any guarantor is appointed by any state or federal court, and the petition for the appointment of the receiver is not vacated within 30 days after the appointment; or

(4) Any property or assets of Pod or any guarantor is attached or becomes subject to a lien or encumbrance that is not vacated within 30 days.

Section 5-2. Termination on default.

(a) This agreement is deemed to be materially breached by Pod if any of the following occurs:

(1) Pod makes any material misrepresentation to the Town in connection with this agreement;

(2) Pod violates any term or condition of this agreement and does not remedy the violation within the time limit under subsection (b).

Date: 27 June 2016

(b) Unless specifically provided elsewhere in this agreement, if Pod violates a term or condition of this agreement, then it must remedy the violation within the following time period:

(1) In the case of nonmonetary defaults that are curable within 30 days, Pod must (i) notify the Town of its intent to remedy the default within 5 days after receiving notice of the violation from the Town and (ii) remedy the default within 30 days after receiving notice of the violation from the Town.

(2) In the case of all other defaults, Pod must remedy the default within 5 days after the receipt of notice of the violation from the Town.

(c) If the agreement is breached under subsection (a), then the Town, at its sole discretion, may either: (i) cure Pod's default and charge the cost and expense thereof to Pod; or (ii) terminate and end the privileges granted under this agreement. Upon any such termination, the Town may immediately and summarily remove Pod or any other person from the Property without resorting to any court proceeding.

(d) Pod agrees to reimburse the Town for reasonable attorneys' fees and other related costs as a result of Pod's violation of any term of this agreement.

(e) If Pod fails to make any payments due under this agreement, then from and after the day that the amount is due (and whether or not notice of the failure of the payment has been given), interest shall accrue on the amount so due at a rate equal to 10% per annum.

(f) The rights and remedies under this Section are in addition to any other rights and remedies of the Town under this agreement.

Section 5-3. Remedies. The enumeration of remedies expressly conferred upon a party by this agreement are cumulative with and not exclusive of any other remedy conferred by this agreement or by law on that party, and the exercise of any one remedy does not preclude the exercise of any other. Pod waives the right to trial by jury in any action brought by the Town against Pod.

6. General provisions

6-1. Choice of law; jurisdiction. This agreement is to be governed by and construed in accordance with the laws of the State of Illinois. This agreement shall be construed without the aid of any rule of law requiring or permitting construction against the drafter of the contract.

6-2. Rights and remedies cumulative. The enumeration of remedies expressly conferred upon a party by this agreement are cumulative with and not exclusive of any other remedy conferred by this agreement or by law on that party, and the exercise of any one remedy does not preclude the exercise of any other.

Date: 27 June 2016

6-3. Assignment, sublicense, and transfer.

(a) Without the prior written consent of the Town, Pod may not:

(1) sell, assign, mortgage, or transfer, by operation of law or otherwise, this agreement;

(2) sublicense all or any of the space allotted to Pod, except as provided in subsection (b) or

(3) permit the said space to be occupied by anyone other than Pod and Pod's employees.

(b) The decision to consent to an assignment, sublicense, or transfer is in the sole discretion of the Town. If the Town so consents, Pod remains liable for all of Pod's obligations under this agreement.

6-4. Waivers.

(a) The parties may waive any provision in this agreement only by a writing executed by the party against whom the waiver is sought to be enforced.

(b) No failure or delay in exercising any right or remedy or in requiring the satisfaction of any condition under this agreement, and no act, omission, or course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition.

(c) A waiver made in writing on one occasion is effective only in that instance and only for the purpose stated. A waiver, once given, is not to be construed as a waiver on any future occasion or against any other person.

6-5. Notice. Unless otherwise provided under this agreement, all written notice required under this agreement may be delivered by personal delivery or mail, email, or facsimile. Notice shall be sent to the recipient designated by each party.

6-6. Captions. Captions of the Articles and Sections of this agreement are for convenience or reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction, or meaning of the provisions of this agreement.

6-7. Amendments. This agreement may be amended only by a written agreement of the parties that identifies itself as an amendment to this agreement.

6-8. Assignment; beneficiaries. This agreement may not be assigned without the written consent of the parties. This agreement is intended for the benefit of each party and no other person or entity has rights under this contract, whether as a third-party beneficiary or otherwise.

6-9. Merger. This agreement constitutes the final agreement between the parties. It is the complete and exclusive expression of the parties' agreement on the matters contained in this agreement. All prior and contemporaneous negotiations and

Date: 27 June 2016

agreements between the parties on the matters contained in this agreement are expressly merged into and superseded by this agreement.

6-10. Surviving provisions. Any term of this agreement that, by its nature, extends after the end of the agreement, whether by expiration or termination, remains in effect until fulfilled.

Date: 27 June 2016

Execution page.

The parties are signing this agreement on the date stated in the introductory clause.

<p>The Pod I, Inc.</p> <p>By: <u>Matalie Wetzel</u></p>	<p>Town of Normal</p> <p>By: <u>Mark R. Peterson</u> Mark R. Peterson City Manager</p> <p>Attest:</p> <p><u>Wendellyn J. Briggs</u> Wendellyn J. Briggs Town Clerk</p>
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LICENSE AGREEMENT
102 W. NORTH STREET

TOWN OF NORMAL, ILLINOIS

OHMFIT ACTIVEWEAR LLC

AUGUST 1, 2016

Date: 1 August 2016

Parties

1. The TOWN OF NORMAL, ILLINOIS is an Illinois home rule municipal corporation, located at 11 Uptown Circle, Normal, IL 61761 ("Town").
2. OHMFIT ACTIVEWEAR LLC, is an Illinois limited liability company located at 1504 Killarney Court, Normal, IL 61761 ("OhmFit").

Recitals

1. The Town owns property located at 102 W. North Street in Normal.
2. OhmFit desires to use a portion of that property as a retail boutique.
3. The use of the property as a retail boutique would benefit the community.

The Parties agree as follows:

1. License and Term

1-1. Description of the Property. For the purposes of this agreement, the Property is (i) the first floor of the building located at 102 W. North Street in Normal, Illinois and (ii) access to 1 parking space located directly behind the property and shared with other tenants of 102-104 North Street ("Property").

1-2. License to operate retail sales office on the Property. Subject to the terms and conditions set forth in this agreement, the Town grants to OhmFit the right to operate a retail boutique at the Property for the retail sale of clothing and similar merchandise. OhmFit shall restrict its use and occupancy to the Property for that purpose. The Town reserves the right to access and occupancy of the balance of the premises located at 102 W. North Street.

1-3. Term.

- (a) This agreement begins on August 1, 2016 and continues through July 31, 2017.
- (b) The Town may terminate this agreement at any time during its term by providing 60 days' written notice of the termination to OhmFit.

2. License Fee and Other Costs

2-1. License fee. In exchange for the privileges granted in this agreement, OhmFit shall pay to the Town a minimum fixed license fee of \$180 for each month of occupancy. The fee for the first month of occupancy to be paid upon execution of this agreement and the fee for each subsequent month to be paid on or before the first day of that month. The fee under this Section is in addition to any other payment that is required to be made under this agreement.

2-2. Utilities.

(a) The Town shall pay all charges for water, heat, gas, electricity, and sewers, used at the Property throughout the term of this agreement, including any connection fee.

(b) OhmFit is responsible for the payment of all charges for telephone, internet, cable television, or similar charges used at the Property.

(c) OhmFit acknowledges that there is no thermostat in the Property and agrees to cooperate with the other tenant of 102 W. North to manage climate control.

2-3. Real estate taxes. The Town is responsible for any real estate taxes assessed on the Property from the commencement of this agreement until termination of occupancy by OhmFit and any person claiming a right of occupancy.

3. Use of the Property

3-1. Use of the Property.

(a) OhmFit shall operate and conduct the Property in conformity with the high standards of a retail boutique. OhmFit may not allow the Property or any part thereof, to become vacant or to be used for any purpose other than as provided in this agreement, or permit the Property to be used in whole or in part by any other firm, person, or corporation outside of the use of the Property as a retail boutique.

(b) OhmFit agrees to operate the retail boutique for a minimum operation of 33 hours per week.

(c) All signs or advertisements exhibited by OhmFit on the exterior of the Property must first be approved by the Town in writing.

(d) The Town has the right to inspect the Property for compliance with this agreement.

3-2. Initial improvements and fixtures.

(a) The Town agrees to make initial improvements to the Property:

- (1) Removal of the sink in the main room;
- (2) Removal of paper-towel holder in the main room;

Date: 1 August 2016

- (3) Repair of door to fitting room; and
- (4) Repair of light in closet.

(b) OhmFit shall at all times present the Property and utilize all fixtures, furniture, and equipment in an attractive manner consistent with the image of a quality retail use.

3-3. Subsequent Improvements and Fixtures.

(a) OhmFit shall not make any alterations, improvements, or physical changes in the Property without the prior written consent of the Town.

(b) Prior to the commencement of any improvements to the Property, OhmFit shall deliver to The Town plans and specifications describing in reasonable detail OhmFit's new fixture plan and overall design ("Plans"). The Town shall approve or reject the Plans in writing within 30 days after their receipt and, if rejected, OhmFit shall make the changes requested by The Town.

(c) The cost of the improvements, furniture, fixtures, and equipment indicated on the approved plans shall be borne by OhmFit. All such furniture, fixtures, and equipment shall be paid for in cash, and no chattel mortgage, conditional sales agreement, security agreements, financing statements, or other encumbrance shall be imposed or filed, and no hypothecation or assignment shall be made by OhmFit in connection therewith.

(d) All improvements shall be constructed in compliance with the approved Plans and all laws, regulations, statutes, codes, ordinances, and other governmental requirements. During construction, OhmFit shall obtain and maintain such insurance as the Town shall request. All construction must be completed within 60 days after the Plans are approved.

3-2. Maintenance of the Property.

(a) At all times during the term of this agreement, OhmFit shall maintain the furniture, floor coverings, other furnishings, fixtures, and equipment on the Property in good operating condition and in a clean, neat condition and appearance and shall make all necessary repairs thereto unless the damage requiring repair was caused by the willful misconduct of the Town or its employees.

(b) If OhmFit fails to maintain the Property under subsection (a), then the Town may serve a written demand upon OhmFit to correct the defective condition within the number of days set forth in the written demand. If OhmFit fails to correct the defective condition within that period of time, then the Town may, at its option, remedy the condition and charge the cost to OhmFit's account, which OhmFit must pay in accordance with Section 5-2.

3-3. Condition of Property at termination; disposition of improvements.

(a) At the expiration or termination of this agreement, OhmFit must remove all its personal property from the Property at its own cost and expense and deliver the Property to the Town "broom clean" and in good order and condition, reasonable wear and tear excepted.

Date: 1 August 2016

(b) Any fixture installed on the Property, whether or not furnished by the Town, becomes the Town's property at the expiration or termination of this agreement. Any other property furnished by the Town without cost to OhmFit remains the property of the Town and must be returned to the Town at the expiration or termination of this agreement. The fixtures and property must be returned in the same condition as they were when installed or furnished, reasonable wear and tear excepted.

3-4. Licenses. OhmFit must obtain all necessary governmental approvals to operate the retail boutique.

3-5. Name of office. The retail boutique shall be operated only in the name of "OhmFit Activewear" or any other name that is acceptable to the Town.

3-6. Liens. OhmFit may not, directly or indirectly, by action or omission cause any lien to be placed upon the Property or any personal property located in the Property. OhmFit must pay or discharge any such lien within 10 days after receiving notice of the lien.

4. Indemnification and Insurance

4-1. Indemnification of the Town.

(a) OhmFit agrees to indemnify the Town harmless, except in the event the loss or injury was caused by the negligence of the Town, from any claim or loss (i) arising out of this agreement, (ii) as a result of any breach or default by OhmFit under this agreement, or (iii) arising out of or related to OhmFit's business operations in the Property. For the purpose of this Section "claim or loss" mean any expense, loss, liability, damage, cost, claim, tax or demand, including, but not limited to, claims from any injury or death to any person, or damage to any property, claims for infringement of patent, copyrights, trademarks, violations of laws or governmental regulations, or any right of others. The indemnification under this Section also includes the costs of reasonable attorneys' fees and other related expenses.

(b) If requested by the Town, OhmFit shall defend any action brought against the Town arising out of the activities of OhmFit, its employees, or agents, or of any person employed in the Property, and OhmFit shall employ an attorney, at its own expense, to conduct this defense. The Town may, but shall not be required to, engage its own attorney in connection with the action. If the Town employs its own attorney in connection with any defense under this Section, then OhmFit shall reimburse the Town for the payment to the attorney.

(c) OhmFit shall indemnify and hold the Town harmless from any claims of damages arising out of any loss or injury to OhmFit's property wherever located, except in the event that the loss or injury was caused by negligence of the Town, its employees, or any persons for whom it is legally responsible.

Date: 1 August 2016

(d) In addition to other remedies to which the Town may be entitled, the Town has the right to charge OhmFit for all costs paid and incurred by the Town under this agreement, but only if the Town first gives written notice to OhmFit to correct the breaches and defaults.

(e) The failure or inability of OhmFit to obtain or maintain the contractual liability insurance required under Section 4-4 does not limit or affect OhmFit's obligations under this Section.

(f) The rights and obligations under this Section shall be exercised and performed subject to the Town's sole discretion and judgment.

4-2. No liability of the Town.

(a) The Town is not liable to OhmFit for any shortage, loss, theft, damage, disappearance, or injury of or to any of the merchandise, supplies, equipment, or other property of any nature of OhmFit, regardless of whether the loss or damage or injury is due to the negligence of the Town or its employees or agents.

(b) The Town is not liable for any loss or damage to OhmFit or interference with or suspension of OhmFit's business operations due to causes beyond the reasonable control of The Town and is not liable or responsible in any way for any debts contracted by OhmFit.

4-3. Casualty. This agreement is terminated and OhmFit must vacate the Property if the Property becomes unsuitable for use due to fire, flood, or other casualty.

4-4. Insurance.

(a) OhmFit agrees at all times to carry, at its sole cost and expense, all of the following:

(1) Workers' compensation insurance for OhmFit's employees in accordance with the requirements of the State of Illinois.

(2) General Comprehensive Liability insurance, including products liability, covering all operations in limits of not less than \$1,000,000 for each occurrence for personal injury or death, \$1,000,000 for each occurrence for property damage in or about the Property, and \$2,000,000 in the aggregate. The Town must be named as an additional insured on any liability policy.

(3) Fire insurance with extended coverage covering the Property and the fixtures for the full replacement value thereof, on which the Town is named as an additional insured, as to the Property and fixtures.

(4) Any other or additional insurance coverage that the Town may reasonably request from time to time.

(b) All insurance policies under this Section must be issued in the name of OhmFit and Town, as their interests may appear, and must be issued by companies and in a form and manner reasonably satisfactory to the Town. Each policy must provide that it may not be canceled or materially changed except upon 10 days' prior written notice to the Town. OhmFit must deliver to the Town the certificates of insurance on or before August 1, 2016, and at least 10 days prior to the expiration date of any policy. Upon

Date: 1 August 2016

request, OhmFit must make the originals of all insurance policies available to the Town for inspection.

(c) If, at any time, OhmFit fails, to maintain any insurance required under this Section, then the Town, at its option, may do so, and OhmFit must pay the cost of that insurance in accordance with Section 5-2.

(d) All insurance must contain a waiver of subrogation in favor of the Town, if obtainable, and the Town's fire insurance policy with respect to the Property shall contain a waiver of subrogation in favor of OhmFit, if obtainable.

4-5. No immunity waiver. Nothing in this agreement may be construed to deprive either party of any tort immunity or other available defense.

5. Default and Termination

Section 5-1. Bankruptcy, etc. This agreement is deemed to be materially breached by OhmFit and the Town may terminate the agreement in accordance with Section 20 if any of the following occurs:

(1) A petition in bankruptcy (including a petition for arrangement under the Bankruptcy Law) is filed by or against OhmFit or any guarantor of OhmFit's obligations under this agreement;

(2) OhmFit or any guarantor becomes insolvent within the meaning of any state or federal insolvency laws or makes an assignment for the benefit of creditors;

(3) A receiver for all or any part of OhmFit's business or the business of any guarantor is appointed by any state or federal court, and the petition for the appointment of the receiver is not vacated within 30 days after the appointment; or

(4) Any property or assets of OhmFit or any guarantor is attached or becomes subject to a lien or encumbrance that is not vacated within 30 days.

Section 5-2. Termination on default.

(a) This agreement is deemed to be materially breached by OhmFit if any of the following occurs:

(1) OhmFit makes any material misrepresentation to the Town in connection with this agreement;

(2) OhmFit violates any term or condition of this agreement and does not remedy the violation within the time limit under subsection (b).

(b) Unless specifically provided elsewhere in this agreement, if OhmFit violates a term or condition of this agreement, then it must remedy the violation within the following time period:

(1) In the case of nonmonetary defaults that are curable within 30 days, OhmFit must (i) notify the Town of its intent to remedy the default within 5 days after receiving notice of the violation from the Town and (ii) remedy the default within 30 days after receiving notice of the violation from the Town.

Date: 1 August 2016

(2) In the case of all other defaults, OhmFit must remedy the default within 5 days after the receipt of notice of the violation from the Town.

(c) If the agreement is breached under subsection (a), then the Town, at its sole discretion, may either: (i) cure OhmFit's default and charge the cost and expense thereof to OhmFit; or (ii) terminate and end the privileges granted under this agreement. Upon any such termination, the Town may immediately and summarily remove OhmFit or any other person from the Property without resorting to any court proceeding.

(d) OhmFit agrees to reimburse the Town for reasonable attorneys' fees and other related costs as a result of OhmFit's violation of any term of this agreement.

(e) If OhmFit fails to make any payments due under this agreement, then from and after the day that the amount is due (and whether or not notice of the failure of the payment has been given), interest shall accrue on the amount so due at a rate equal to 10% per annum.

(f) The rights and remedies under this Section are in addition to any other rights and remedies of the Town under this agreement.

Section 5-3. Remedies. The enumeration of remedies expressly conferred upon a party by this agreement are cumulative with and not exclusive of any other remedy conferred by this agreement or by law on that party, and the exercise of any one remedy does not preclude the exercise of any other. OhmFit waives the right to trial by jury in any action brought by the Town against OhmFit.

6. General provisions

6-1. Choice of law; jurisdiction. This agreement is to be governed by and construed in accordance with the laws of the State of Illinois. This agreement shall be construed without the aid of any rule of law requiring or permitting construction against the drafter of the contract.

6-2. Rights and remedies cumulative. The enumeration of remedies expressly conferred upon a party by this agreement are cumulative with and not exclusive of any other remedy conferred by this agreement or by law on that party, and the exercise of any one remedy does not preclude the exercise of any other.

6-3. Assignment, sublicense, and transfer.

(a) Without the prior written consent of the Town, OhmFit may not:

(1) sell, assign, mortgage, or transfer, by operation of law or otherwise, this agreement;

(2) sublicense all or any of the space allotted to OhmFit, except as provided in subsection (b) or

Date: 1 August 2016

(3) permit the said space to be occupied by anyone other than OhmFit and OhmFit's employees.

(b) The decision to consent to an assignment, sublicense, or transfer is in the sole discretion of the Town. If the Town so consents, OhmFit remains liable for all of OhmFit's obligations under this agreement.

6-4. Waivers.

(a) The parties may waive any provision in this agreement only by a writing executed by the party against whom the waiver is sought to be enforced.

(b) No failure or delay in exercising any right or remedy or in requiring the satisfaction of any condition under this agreement, and no act, omission, or course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition.

(c) A waiver made in writing on one occasion is effective only in that instance and only for the purpose stated. A waiver, once given, is not to be construed as a waiver on any future occasion or against any other person.

6-5. Notice. Unless otherwise provided under this agreement, all written notice required under this agreement may be delivered by personal delivery or mail, email, or facsimile. Notice shall be sent to the recipient designated by each party.

6-6. Captions. Captions of the Articles and Sections of this agreement are for convenience or reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction, or meaning of the provisions of this agreement.

6-7. Amendments. This agreement may be amended only by a written agreement of the parties that identifies itself as an amendment to this agreement.

6-8. Assignment; beneficiaries. This agreement may not be assigned without the written consent of the parties. This agreement is intended for the benefit of each party and no other person or entity has rights under this contract, whether as a third-party beneficiary or otherwise.

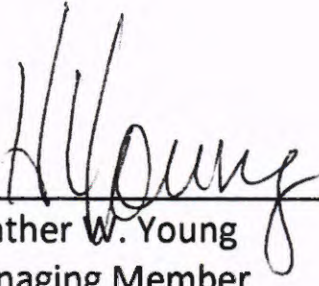
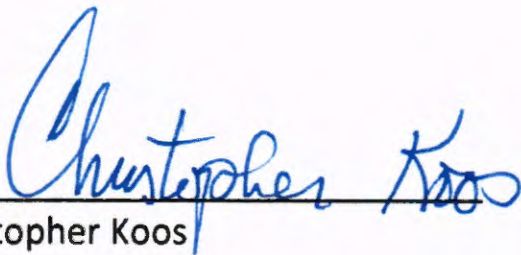
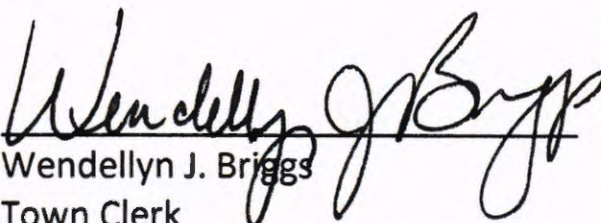
6-9. Merger. This agreement constitutes the final agreement between the parties. It is the complete and exclusive expression of the parties' agreement on the matters contained in this agreement. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this agreement are expressly merged into and superseded by this agreement.

6-10. Surviving provisions. Any term of this agreement that, by its nature, extends after the end of the agreement, whether by expiration or termination, remains in effect until fulfilled.

Date: 1 August 2016

Execution page.

The parties are signing this agreement on the date stated in the introductory clause.

<p>OhmFit Activewear LLC</p> <p>By:  _____ Heather W. Young Managing Member</p>	<p>Town of Normal</p> <p>By:  _____ Christopher Koos Mayor</p> <p>Attest:</p> <p> _____ Wendelyn J. Briggs Town Clerk</p>
--	---

RESOLUTION NO. 5360

A RESOLUTION AUTHORIZING EXECUTION OF A LEASE AGREEMENT WITH THE ILLINOIS HOUSE OF REPRESENTATIVES BY ITS AGENT, ILLINOIS STATE REPRESENTATIVE 105TH DISTRICT, DAN BRADY AND WITH THE U. S. HOUSE OF REPRESENTATIVES BY ITS AGENT, U. S. REPRESENTATIVE, RODNEY DAVIS

WHEREAS, the Town of Normal is a home rule unit of local government with authority to legislate in matters concerning its local government and affairs; and

WHEREAS, the Town owns property at 104 West North Street, Normal, Illinois; and

WHEREAS, U. S. Representative Rodney Davis and State Representative Dan Brady desires to operate an office at 104 West North Street in the Town of Normal; and

WHEREAS, it is in the best interests of the health, safety and welfare of the citizens of Normal to authorize execution of lease agreements with the Congressman and State Representative.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES FOR THE TOWN OF NORMAL, ILLINOIS:

SECTION ONE: That the President is authorized to execute, for and on behalf of the Town of Normal, Illinois, a lease agreement with the Illinois House of Representatives, by its Agent, Illinois State Representative 105th District, Dan Brady, to operate an office at 104 West North Street, Normal, Illinois. The lease must substantially conform to the attached Exhibit 1.

SECTION TWO: That the President is authorized to execute, for and on behalf of the Town of Normal, Illinois, a District Office Lease with the U. S. House of Representatives by its Agent, U. S. Representative, Rodney Davis, to operate an office at 104 West North Street, Normal, Illinois. The lease must substantially conform to the attached Exhibit 2.

SECTION THREE: That the Town Clerk is authorized and directed to attest the signature of the President on the document and retain a fully executed original of the lease agreements in her office for public inspection.

ADOPTED this 3rd day of January, 2017.

APPROVED:

Cheryl A. Smith
Pro tem President of the Board of Trustees of the Town of
Normal, Illinois

ATTEST:

Wendell J. Briggs
Town Clerk

(seal)

Exhibit 1

**LEASE AGREEMENT WITH THE ILLINOIS HOUSE OF
REPRESENTATIVES BY ITS AGENT, ILLINOIS STATE
REPRESENTATIVE 105TH DISTRICT, DAN BRADY**

[Next Page]

**LEASE AGREEMENT WITH THE ILLINOIS HOUSE OF
REPRESENTATIVES BY ITS AGENT, ILLINOIS STATE
REPRESENTATIVE 105TH DISTRICT, DAN BRADY**

This Lease by and between the Town of Normal, Illinois an Illinois municipal corporation having an office at 11 Uptown Circle, Normal, Illinois 61761 ("Lessor") and the Illinois House of Representatives ("Lessee") by its agent, Illinois State Representative Dan Brady ("Representative"), not individually but in his official capacity, pursuant to the General Assembly Compensation Act (25 ILCS 115/)

WITNESSETH:

WHEREAS, Lessor owns the property described in Exhibit A attached hereto and made a part hereof (the "Property"); and

WHEREAS, Lessee desires to operate an office on the Property.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto mutually agree as follows:

Section 1. Property Rental. Subject to the terms and conditions specified herein, Lessor hereby leases to Lessee the premises described in Exhibit A, for use as a state legislative district office only.

Section 2. Term and Holding Over. The term of this Lease shall commence on January 11, 2017, ("Commencement Date") and continue until January 13, 2019 unless otherwise terminated as provided under this Lease. If, after the expiration of the term of this Lease, as provided in Section 2 of this Lease, Lessee retains possession of the premises, this Lease shall continue in full force and effect on the same terms and conditions, except the Lease shall be on a month-to-month basis until terminated.

Section 3 Rent.

(a) Lessee shall pay Lessor as rent One Dollar (\$1.00) for the term.

(b) Payment for obligations by Lessee pursuant to this Lease shall be solely from sums appropriated to the Illinois General Assembly for such purposes pursuant to the General Assembly Compensation Act (25 ILCS 115/). Obligations of the State shall cease immediately without penalty or further payment being required if, in any fiscal year, the General Assembly fails to appropriate or otherwise make available funds for this Lease.

Section 4. Utilities. Lessee shall pay or cause to be paid all charges for water, heat, gas, electricity, sewers, and any and all other utilities used at the Property throughout the term of this Lease, including any connection fees.

Section 5. Possession and Right of Entry.

- (a) Lessee shall be entitled to possession on the first day of the term of this Lease. Should Lessor be unable to give possession on the first day of the term of this Lease, Lessee shall not be liable for rent unless and until possession is delivered and rent shall be prorated from the date of occupancy.
- (b) Lessor, its employees and agents shall have the right to enter upon the Property at any time for any purpose. Lessor shall endeavor to give Lessee 24-hour notice of each entry.

Section 6. Insurance.

- (a) Lessee agrees at all times to carry at its sole cost and expense the following insurance coverages:
 - 1. Liability insurance in an amount of \$100,000 per occurrence.
 - 2. Personal property casualty insurance.
- (b) Lessee may satisfy the above obligation through a self-insurance program. If Lessee shall fail at any time to effect or maintain any of such insurance, Lessor, at its option, may do so, and the cost thereof shall be paid by Lessee in accordance with Section 20 hereof. Lessee shall not carry on any activity, other than that permitted by this Lease, which will increase the premium on any policy of insurance carried or to be carried by Lessor, and, in the event of any such increase, Lessee shall pay the amount by which such premiums may be increased by such activity, in accordance with Section 20 hereof. All insurance shall contain a waiver of subrogation in favor of Lessor, if obtainable, and Lessor's fire insurance policy with respect to the Property shall contain a waiver of subrogation in favor of, Lessee if obtainable.

Section 7. Initial Improvements and Fixtures. Lessee hereby represents and warrants that it has inspected the Property and is willing to take it "as is", and agrees that neither party has any obligation to make any repairs or renovations in addition thereto. Lessee shall at all times present the Property and utilize all fixtures, furniture, and equipment in a manner consistent with the image of a professional office use.

Section 8. Subsequent Improvements and Fixtures. Lessee shall not at any time subsequent to the Commencement Date make any alterations, improvements, or physical changes in the Property without the prior written consent of Lessor. Prior to the commencement of any improvements to the Property, Lessee shall deliver to Lessor plans and specifications describing in reasonable detail Lessee's new fixture plan and overall design (the "Plans"). Lessor shall approve or reject the Plans in writing within thirty (30) days of their receipt. The cost of the improvements, furniture, fixtures, and equipment indicated on the approved plans shall be borne by the Lessee. All such furniture, fixtures, and equipment shall be paid for in cash, and no chattel mortgage, conditional sales agreement, security agreements, financing statements, or other encumbrance shall be imposed or filed, and no hypothecation or assignment shall be made by Lessee in connection therewith. All improvements shall be constructed in compliance with the approved Plans and all laws, regulations, statutes, codes, ordinances, and other governmental requirements. During construction, Lessee shall obtain and maintain such insurance as Lessor shall reasonably request.

Section 9. Maintenance by Lessee. Lessee shall at all times during the term of this Lease, at its own cost and expense, maintain the furniture, floor coverings, other furnishings, fixtures, and equipment on the Property in a clean, neat condition and appearance. Notwithstanding the provisions of this Section, Lessee has no obligation to make any repairs or renovations to the furniture, floor coverings, other furnishings, fixtures, and equipment on the Property.

Section 10. Condition of Property at Termination; Disposition of Improvements.

- (a) At the expiration or termination of this Lease, Lessee shall remove all its trade fixtures, furnishings, and equipment from the Property at its own cost and expense and deliver the Property to Lessor "broom clean".
- (b) Any fixtures or any other property furnished by Lessor without cost to Lessee shall remain the property of Lessor and shall be returned to Lessor at the expiration or termination of this Lease in the same condition as they were at the beginning of the term, reasonable wear and tear excepted. In addition, any fixtures or other property, whether or not furnished by Lessor, which cannot be removed without damage to the property of Lessor, shall become Lessor's property at the expiration or termination of this Lease.

Section 11. Real Estate Taxes. Lessor shall be responsible for any and all real estate taxes assessed on the Property from commencement of this Lease until termination of occupancy by Lessee and any person claiming a right of occupancy for Lessee. Lessee is not liable for the payment of any taxes or assessments, including, without limitation, property taxes, which may be levied or assessed upon or extended to the Property during the term of this Lease.

Section 12. Prohibition on Political Use. Lessee agrees to not conduct any partisan political activities or campaigning from the property. This prohibition shall not prohibit official state activities.

Section 13. Indemnification. Lessee shall reimburse, indemnify, and hold Lessor harmless from all expenses, losses, liabilities, damages, costs, claims, and demands arising out of or related to Lessee's business operations in the Property or arising out of any act, neglect, fault, or omission by or of the Lessee, its agents, servants or employees, including, but not limited to, any injury or death to any person, or damage to any property, claims for infringement of patent, copyrights, trademarks, violations of laws or governmental regulations, or any right of others. In addition, Lessee shall indemnify and hold Lessor harmless from any claims of damages arising out of any loss or injury to Lessee's property wherever located, unless such loss or injury was caused by negligence, gross negligence, or willful misconduct of Lessor, its employees, or any persons for whom it is legally responsible. The liabilities of Lessee provided in this paragraph shall continue after and shall survive this Lease with respect to matters that occur during the term. The failure or inability of Lessee to obtain or maintain the contractual liability insurance required under Section 7 shall not limit or affect Lessee's obligation hereunder. Nothing in this Section shall exempt the Lessor from all expenses, losses, liabilities, damages, costs and claims for injuries or death to any person or damage to any property not owned by Lessee that is caused by or arises from any actual or alleged act, neglect, fault, or omission by or of the Lessor, its agents, servants or employees, in the operation or maintenance of the premises or the real property containing the premises.

Lessor shall reimburse, indemnify, and hold Lessee harmless from all expenses, losses, liabilities, damages, costs, claims, and demands arising out of or related to Lessor's operation of the Property or arising out of any act, neglect, fault, or omission by or of the Lessor, its agents,

servants or employees, including, but not limited to, any injury or death to any person, or damage to any property, claims for infringement of patent, copyrights, trademarks, violations of laws or governmental regulations, or any right of others, together with reasonable counsel fees and other related expenses. The liabilities of Lessor provided in this paragraph shall continue after and shall survive this Lease with respect to matters that occur during the term,

Section 14. No Liability of Lessor. Lessor shall not be liable to Lessee for any shortage, loss, theft, damage, disappearance, or injury of or to any of the merchandise, supplies, equipment, or other property of any nature of Lessee, whether such loss or damage or injury may occur by reason of the negligence of Lessor, its servants, agents, or employees or contractors or by reason of any other cause. Lessor shall not be liable for any loss or damage to Lessee or interference with or suspension of Lessee's business operations due to causes beyond the reasonable control of Lessor and shall not be liable or responsible in any way for any debts contracted by Lessee.

Section 15. Casualty. In the event that on account of fire, flood or other casualty, in whole or in part and the property becomes unsuitable for use, or should become totally destroyed by fire, flood or other casualty, this Lease shall be terminated and Lessee shall vacate the Property.

Section 16. Liens. Lessee shall not directly or indirectly by action or omission cause any lien to be placed upon the Property or any personal property located in the Property. Any such lien shall be paid or discharged by Lessee within ten (10) days after notice thereof.

Section 17. Termination. Either party may terminate this Lease upon thirty (30) days written notice of the intention to terminate this Lease. If, for any reason, the Representative is no longer a member of the Illinois House of Representatives for any reason, this Lease shall terminate.

Section 18. Remedies. The remedies specified in this Lease are cumulative and are not intended to limit or exclude either party's right to seek and obtain any available remedy at law or in equity, including injunctive relief in case of any threatened breach by the other of any provision of this Lease. The parties consent to the exclusive jurisdiction of the Illinois Court of Claims.

Section 19. Assignment, Sublease, and Transfer. Lessee shall not, without the prior written consent of Lessor, which Lessor in its sole discretion may withhold, either sell, assign, mortgage, or transfer, by operation of law or otherwise, this Lease, or

- (a) Sublease all or any of the space allotted to Lessee, or any part thereof, or
- (b) Permit any of the foregoing to occur, or permit the said space to be occupied by anyone other than Lessee and Lessee's employees.

In the event Lessor so consents, Lessee shall continue to remain liable for all of Lessee's obligations hereunder until the end of the term hereof.

Section 20. Waiver. Failure of Lessor to charge any item to Lessee's account at the correct time shall not operate as a waiver of the right to charge such item, nor of Lessee's obligation therefore, nor shall Lessor's receipt of any payment from Lessee operate as a waiver of any rights of Lessor to enforce any other payment previously due or which may hereafter become due, or of any rights of Lessor to terminate this Lease or to exercise any right which may otherwise be available to Lessor. No waiver by Lessor or Lessee of any breach of any provision of this Lease shall operate as a waiver of any other prior or subsequent breach thereof, or of the provision itself, or of any other provision.

Section 21. Amendments. This Lease cannot be altered, modified, or discharged except by an agreement in writing signed by the party against whom enforcement of the alteration, modification, or discharge is sought.

Section 22. Notices. All notices and demands made pursuant to this Lease shall be mailed or delivered to Lessor at the following address:

Town Clerk (with a copy to the Director of Downtown Development)
11 Uptown Circle
P.O. Box 589
Normal, Illinois 61761

and to Lessee at the following address:

Representative Dan Brady
202 N. Prospect Rd., Suite 203
Bloomington, IL 61704

Notices and demands must be in writing and may be given by registered or certified mail or in person, subject to receipt therefore. Either party may notify the other in writing of a change of address to which all notices and demands shall thereafter be directed, provided that such new address shall be in the State of Illinois.

Section 23. Legal Effect of Agreement. It is expressly understood and agreed that Lessor and Lessee shall not be construed to be partners or joint venturers, nor shall the relationship of the parties be construed as a principal-agent or employer-employee relationship for any purpose whatsoever. The relationship of the parties established pursuant to this Lease shall be construed as landlord-tenant.

Section 24. Jurisdiction. The laws of the State of Illinois shall govern the interpretation and enforcement of this Lease.

Section 25. Captions or Headings. The section captions or headings throughout this Lease are for convenience and reference only, and the words contained therein shall not in any way be held to explain, modify, amplify, or add to the interpretation, construction, or meaning of the provisions of this Lease.

Section 26. Successor and Assigns. The terms of this Lease shall be binding upon Lessor and its successors and assigns, and upon Lessee and its successors, heirs, executors, and administrators, as the case may be, and if Lessor has consented in writing to an assignment of this Lease by Lessee, the terms of this Lease shall be binding upon such assignee of Lessee.

Section 27. Certifications. The Certifications attached hereto as Exhibit B are incorporated herein.

Section 28. Disclosure Statement. Lessor agrees to execute the Real Estate Disclosure Statement attached as Exhibit C.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease to be executed by the undersigned.

LESSOR: TOWN OF NORMAL

LESSEE: ILLINOIS HOUSE OF REPRESENTATIVES

By: _____
Its Mayor

By: _____
Print Name: _____

Attest: _____
Its City Clerk

Title: State Representative, Lessee's
Authorized Agent

Dated: _____

Dated: _____

Exhibit A
Brady Lease 2017
Property Description

Parcel 14-28-430-014

104 West North Street, Normal, IL 61761

All of Lot 2 and part of Lot 8 described as follows: Commencing at the Northwest corner of said Lot 2, thence North to the North line of said Lot 8, thence East to a point 8.77 feet West of the Northeast corner of said Lot 8, thence South to a point 11.67 feet West of the Southeast corner of said Lot 8, thence West to the point of beginning, all in Sill's Subdivision of Block 2 in the Original Town of Normal and Block 44 in the First Addition to the Town of Normal, in McLean County, Illinois

Exhibit B
Brady Lease 2017
Certifications.

(Next Page)

CERTIFICATIONS

1. Drug Free Workplace. LESSOR certifies that it will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of this Lease. See 30 ILCS 580/1, et seq.
2. Americans with Disabilities Act (ADA). The Americans with Disabilities Act and the regulations promulgated thereunder prohibit discrimination against persons with disabilities by the State, whether directly or through contractual agreements, in the provision of any aid, benefit, or service. As a condition of receiving this lease, LESSOR certifies that the premises and services provided under this lease are and will continue to be in compliance with the American with Disabilities Act. See 42 U.S.C. 12101; 28 CFR 35.130.
3. Forced Labor. LESSOR certifies that in accordance with the State Prohibition of Goods from Forced Labor Act that no foreign made equipment, materials, or supplies furnished to the State under the lease have been or will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction. See 30 ILCS 583/1, et seq.
4. Child Labor. LESSOR certifies that in accordance with the State Prohibition of Goods from Child Labor Act that no foreign made equipment, materials, or supplies furnished to the State under the lease have been or will be produced in whole or in part by the labor of any child under the age of 12. See 30 ILCS 584/1, et seq.
5. Environmental Barriers Act. This Lease is subject to the Environmental Barriers Act. See 410 ILCS 25/5(e).
6. Educational Loans. LESSOR certifies that neither it, nor any of its principals, is in default on an educational loan as provided in the Educational Loan Default Act. See 5 ILCS 385/3.
7. International Anti-Boycott Certification Act. LESSOR certifies that neither it, nor any of its principals or substantially-owned affiliated company is participating in or shall participate in an international boycott in violation of the provisions of the U.S. Export Administration Act of 1979 or the regulations of the U.S. Department of Commerce promulgated under that Act. See 30 ILCS 582/5.
8. Illinois Human Rights Act. LESSOR certifies that it is in compliance with all applicable provisions of the Illinois Human Rights Act and any rules adopted thereunder. See 775 ILCS 5/1-101, et seq.
9. Bribery. LESSOR certifies that neither it nor any of its principals has been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois, nor have the LESSOR or its principals made an admission of guilt of such conduct which is a matter of record. See 30 ILCS 500/50-5.
10. Bid Rigging/Bid Rotating. LESSOR certifies that neither it, nor any of its principals, has been barred from contracting the State or a unit of local government as a result of a violation of Sections 5/33E-3 and 33E-4 of the Criminal Code of 1961. See 720 ILCS 5/33E-11.
11. Delinquent Payments. LESSOR certifies that it is not delinquent in the payment of any debt to the State. See 30 ILCS 500/50-11.
12. Taxpayer Identification. Under penalties of perjury, LESSOR certifies that its correct Federal Taxpayer Identification Number (Social Security Number or Employer Identification Number) is _____.
13. Real Estate Disclosure Statement. LESSOR certifies that the following persons or entities have an interest or distributive income share in LESSOR that is greater than either (i) 5% of the total interest or distributive income of LESSOR or its parent, or (ii) 60% of the Governor's annual salary, and LESSOR further certifies that notice has been given to LESSEE or REPRESENTATIVE of any known potential conflict of interest that may arise under the Procurement Code, 30 ILCS 500/50-35. Include name, address, and proportionate or dollar amount of share, as applicable.

14. Legal Status Disclosure. LESSOR is doing business as (please check one):

- | | |
|--|---|
| <input type="checkbox"/> Individual | <input type="checkbox"/> Tax-Exempt Hospital or Extended Care Facility |
| <input type="checkbox"/> Sole Proprietor | <input type="checkbox"/> Corporation Providing or Billing Medical and/or Health Care Services |
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Corporation NOT Providing or Billing Medical and/or Health Care Services |
| <input type="checkbox"/> Governmental Entity | <input type="checkbox"/> Nonresident Alien Individual |
| <input type="checkbox"/> Estate or Legal Trust | <input type="checkbox"/> Foreign Corporation, Partnership, Estate or Trust |
| <input type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Disregarded Entity, Corporation, or Partnership (circle one) |
| <input type="checkbox"/> Other: _____ | |

Exhibit C
Brady Lease 2017
Real Estate Lease Form Disclosure Statement

(Next Page)

Lease No. _____

Page 1 of 2

**REAL ESTATE LEASE FORM
DISCLOSURE STATEMENT**

**THIS STATEMENT MUST BE COMPLETED BY THE LESSOR AND SIGNED BY
AN OWNER, AUTHORIZED TRUSTEE, CORPORATE OFFICIAL, OR MANAGING AGENT**

You are required by Illinois Law to complete this form (50 ILCS 105/3.1). The purpose of this form is to determine all of the name(s) of the owner(s) and beneficiary having any interest in the property real or personal of the leased premises. Furthermore, you must disclose the names of any shareholders entitled to receive more than 7.1/2% of the total distributable income of any corporation with an interest in the lease. **FAILURE TO ACCURATELY PROVIDE ALL INFORMATION REQUESTED ON THIS FORM AND TO PROVIDE UPDATED INFORMATION WITHIN 30 DAYS OF ANY CHANGE OF OWNERSHIP MAY RESULT IN A MATERIAL BREACH OF THE LEASE AND/OR CRIMINAL SANCTIONS.**

- I A. Address of Premises _____
 B. Real Estate Tax Index Number _____

II INDICATE LESSOR'S INTEREST IN PROPERTY BY CHECKING ALL APPLICABLE BOXES AND COMPLETING PARAGRAPH(S) AS INSTRUCTED. IF ADDITIONAL SPACE IS NEEDED TO PROVIDE THIS INFORMATION, PLEASE ATTACH A SEPARATE SHEET TO THIS FORM.

FEE SIMPLE (SOLE OWNER, JOINT TENANTS, TENANTS BY THE ENTIRETY, TENANTS IN COMMON)

INSTRUCTIONS: PLEASE LIST NAMES OF ALL OWNERS.

LEASE HOLDER OR SUBLESSEE

INSTRUCTIONS: PLEASE LIST THE NAMES OF THE LESSOR (AND LESSEE IF YOU ARE A SUBLESSEE). PLEASE INDICATE THE BEGINNING AND ENDING DATES OF TERM OF LEASE OR THE SUB-LEASE.

LAND TRUST OR OTHER TRUST

INSTRUCTIONS: PLEASE LIST THE COMPLETE NAME AND NUMBER OF TRUST AND TRUSTEE'S ADDRESS AND NAMES OF ALL BENEFICIARIES. IF THE PROPERTY IS HELD IN A LAND TRUST, YOU MUST ALSO COMPLETE A LAND TRUST BENEFICIAL INTEREST DISCLOSURE APPLICATION.

OPTION TO PURCHASE, CONTRACT TO PURCHASE OR SIMILAR INTEREST

INSTRUCTIONS: DESCRIBE YOUR INTEREST IN THE PROPERTY FULLY. PLEASE LIST THE PARTIES WHO CURRENTLY OWN THE REAL ESTATE.

OTHER (PLEASE DESCRIBE)

INSTRUCTIONS: LIST THE NAME OF ALL PARTIES WHO HAVE AN OWNERSHIP INTEREST IN THE PROPERTY.

REAL ESTATE LEASE FORM - DISCLOSURE STATEMENT

III IF CORPORATION OR PARTNERSHIP HAS AN INTEREST IN THE LEASE, PLEASE COMPLETE THE APPROPRIATE PARAGRAPH

CORPORATION - INSTRUCTIONS: PLEASE LIST

- The names of the president and secretary: _____
- The name and address of the registered agent: _____
- The names of all shareholders entitled to receive more than 7 1/2% of the total distributable income of the corporation: _____
- The name of the person (s) authorized to execute the contracts on behalf of the corporation: _____

NOTE: IN COMPLETING THIS SECTION, IF THERE IS NO READILY KNOWN INDIVIDUAL HAVING GREATER THAN 7 1/2% INTEREST IN THE CORPORATION AND THE CORPORATION IS PUBLICLY TRADED THEN THE REQUIREMENTS OF THE DISCLOSURE MAY BE MET BY SO STATING.

PARTNERSHIP - INSTRUCTIONS: PLEASE LIST

- The names of all partners (include limited partners if applicable): _____
- If limited partnership, the names and addresses of all general partners: _____

IV THIS PARAGRAPH MUST BE COMPLETED BY ALL PARTIES

ARE ANY OF THE PERSONS LISTED ABOVE ELECTED OR APPOINTED OFFICIALS, EMPLOYEES OF THE STATE OR THE SPOUSE OR MINOR CHILD OF SAME?

NO YES. If "YES", explain employment and/or relationship.

V THIS PARAGRAPH MUST BE COMPLETED BY ALL PARTIES

I, _____, state on oath or affirm that I am (title) _____ of (firm/name) _____ and that the disclosure made above is true and correct. I will provide any additional documentation requested by the State of Illinois. I further certify that Lessor has not bribed or attempted to bribe an officer or employee of the State of Illinois.

Signature _____ Date _____

Title _____

NOTARY:

STATE OF ILLINOIS
COUNTY OF _____

I, _____, certify
on _____, 20____, _____
personally appeared before me and swore or affirmed that _____ be _____ signed this
document as _____ of _____
and that the information provided was true and correct.

Notary Public

Commission Expires

Exhibit 2

**LEASE AGREEMENT WITH THE U. S. HOUSE OF
REPRESENTATIVES BY ITS AGENT,
U. S. REPRESENTATIVE, RODNEY DAVIS**

[Next Page]

District Office Lease – Instructions

NO LEASE OR ATTACHMENT CAN BE SIGNED BEFORE THEY HAVE BEEN APPROVED BY THE ADMINISTRATIVE COUNSEL.

The term for a District Office Lease for the 115th Congress may not commence prior to January 3, 2017.

Members should endeavor to lease space through the last day of a congressional term rather than the last day of a calendar year. For the 115th Congress, leases should end on January 2, 2019, not December 31, 2018.

- A. The preamble has three blank lines to be filled in: (1) Landlord's name; (2) Landlord's address; and (3) Member/Member-Elect's name.
- B. Section 1 has three blank lines to be filled in: (1) square footage of the leased office (optional); (2) street address of the leased office; and (3) city, state and ZIP code of the leased office.
- C. Section 2 confirms that all amenities identified in the District Office Lease Attachment accompanying the Lease are to be provided by Lessor.
- D. Section 3 has two blank lines to be filled in: (1) date lease begins (must be on or after January 3, 2017); and (2) date lease ends (must be on or before January 2, 2019).
- E. Section 4 has one blank line for the monthly rent amount (write "zero" if no rent is to be paid).
- F. Section 5 has one blank line – the number of days' notice required for either party to terminate the lease before the end of the term. A standard period is 30 days, but any figure is acceptable. If the lease may not be terminated early, enter "N/A" in this blank.
- G. Sections 1–9, other than filling in the blanks, may not be altered or deleted.
- H. Section 11 has space provided to list any additional lease provisions.
- I. Prior to either party signing a lease, the Member/Member-Elect must submit the proposed lease, accompanied by a copy of the District Office Lease Attachment for the 115th Congress, to the Administrative Counsel for review and approval. If the proposed terms and conditions of the lease are determined to be in compliance with applicable law and House Rules and Regulations, the Administrative Counsel will notify the Member/Member-Elect that (s)he may proceed with the signing of the lease. Please submit the proposed lease and District Office Lease Attachment either by e-mail in PDF form (leases@mail.house.gov) or fax (202-225-6999).
- J. **The Member/Member-Elect is required to personally sign the documents. A signed and dated District Office Lease Attachment must accompany this lease.** Once signed by both parties, the Lease and the District Office Lease Attachment must be submitted to the Administrative Counsel for final approval. They may be sent by email in PDF form or faxed to 202-225-6999.
- K. If approved, Administrative Counsel will send the forms to Finance so that payment can begin. If there are errors on the form, the Member office will be contacted and required to correct them.

U.S. House of Representatives

Washington, D.C. 20515

District Office Lease

(Page 1 of 3 – 115th Congress)

Pursuant to 2 U.S.C.A. § 4313, and the Regulations of the Committee on House Administration (as modified from time to time by Committee Order) relating to office space in home districts, _____

Town of Normal

11 Uptown Circle, Normal, IL 61781

(Landlord's name)

(Landlord's street address, city, state, ZIP code)

("Lessor"), and Rodney Davis, a Member/Member-Elect of the U.S. House of Representatives ("Lessee"), agree as follows:

- 1. Location.** Lessor shall lease to Lessee _____ square feet of office space located at
104 West North Street
(Office street address)
in the city, state and ZIP code of Normal, IL 61781.
(Office city, state and ZIP)
- 2. Lease Amenities.** Lessee shall be entitled to receive and Lessor shall be required to provide the amenities selected in Section A of the District Office Lease Attachment ("Attachment") accompanying this Lease.
- 3. Term.** Lessee shall have and hold the leased premises for the period beginning January 3, 20____ and ending January 2, 2019. The term of this District Office Lease ("Lease") may not exceed two (2) years and may not extend beyond January 2, 2019, which is the end of the constitutional term of the Congress to which the Member is elected.
- 4. Rent.** The monthly rent shall be \$ 0.00, and is payable in arrears on or before the last day of each calendar month. Rent payable under this Lease shall be prorated on a daily basis for any fraction of a month of occupancy.
- 5. Early Termination.** This Lease may be terminated by either party giving 30 days' prior written notice to the other party. The commencement date of such termination notice shall be the date such notice is delivered or, if mailed, the date such notice is postmarked.
- 6. Payments.** During the term of this Lease, rent payments under Section 4 of this Lease shall be remitted to the Lessor by the Chief Administrative Officer of the U.S. House of Representatives (the "CAO") on behalf of the Lessee.
- 7. District Office Lease Attachment for 115th Congress.** The District Office Lease Attachment attached hereto is incorporated herein by reference, and this Lease shall have no force or effect unless and until accompanied by an executed District Office Lease Attachment for the 115th Congress.
- 8. Counterparts.** This Lease may be executed in any number of counterparts and by facsimile copy, each of which shall be deemed to be an original but all of which together shall be deemed to be one and the same instrument.
- 9. Section Headings.** The section headings of this Lease are for convenience of reference only and shall not be deemed to limit or affect any of the provisions hereof.

U.S. House of Representatives
Washington, D.C. 20515

District Office Lease

(Page 2 of 3 – 115th Congress)

10. **Modifications.** Any amendments, additions or modifications to this Lease inconsistent with Sections 1 through 2 above shall have no force or effect to the extent of such inconsistency.
11. **Other.** Additionally, the Lessor and the Lessee agree to the following:

[Signature page follows.]

U.S. House of Representatives
Washington, D.C. 20515

District Office Lease

(Page 3 of 3 – 115th Congress)

IN WITNESS WHEREOF, the parties have duly executed this District Office Lease as of the later date written below by the Lessor or the Lessee.

Rodney Davis

Print Name of Lessor/Landlord/Company

Print Name of Lessee

By: _____
Lessor Signature

Lessee Signature

Name:
Title:

Date

Date

This District Office Lease must be accompanied with an executed District Office Lease Attachment.

District Office Lease Attachment- Instructions

The District Office Lease Attachment must accompany *every* Lease or District Office Lease Amendment that is submitted for a Member/Member-Elect's District Office.

NO LEASE, AMENDMENT OR ATTACHMENT CAN BE SIGNED BEFORE THEY HAVE BEEN APPROVED BY THE ADMINISTRATIVE COUNSEL.

The term of a District Office Lease or Amendment for the 115th Congress may not commence prior to January 3, 2017.

Members should endeavor to lease space through the last day of a congressional term rather than the last day of a calendar year. For the 115th Congress, leases should end on January 2, 2019, not December 31, 2018.

A few things to keep in mind:

- A. The Member/Member-Elect is required to personally sign the documents.
- B. The Member/Member-Elect must indicate in Section A ("Lease Amenities") of the Attachment whether the proposed leased space will serve as a flagship district office.
- C. The Lessor must complete the amenities checklist in Section A ("Lease Amenities"), unless the checkbox at the top of the amenities checklist is marked to indicate that amenities are listed elsewhere in the Lease.
- D. Broadband/cable availability can be confirmed by visiting www.broadbandmap.gov and entering the address of the proposed leased space.
- E. Section B ("Additional Terms and Conditions") of the Attachment **SHALL NOT** have any provisions deleted or changed.
- F. Even if rent is zero, an Attachment is still required.
- G. Prior to either party signing a Lease or Amendment, the Member/Member-Elect must submit the proposed Lease or Amendment, accompanied by a copy of the Attachment, to the Administrative Counsel for review and approval. If the Administrative Counsel determines that the proposed terms and conditions of the Lease or Amendment are in compliance with applicable law and House Rules and Regulations, the Administrative Counsel will notify the Member/Member-Elect that (s)he may proceed with the execution of the Lease or Amendment. Please submit the proposed Lease or Amendment and Attachment either by e-mail in PDF form (leases@mail.house.gov) or by fax (202-225-6999).
- H. Once signed by both parties, the Lease or Amendment and the Attachment must be submitted to the Administrative Counsel for final approval. The Attachment should be submitted at the same time the Lease or Amendment is sent to the Administrative Counsel. They may be sent by email in PDF form or faxed to (202-225-6999).
- I. Without a properly signed and submitted Attachment, the Lease or Amendment cannot be approved and payments will not be made. The parties agree that any charges for default, early termination or cancellation of the Lease or Amendment which result from actions taken by or on behalf of the Lessee shall be the sole responsibility of the Lessee, and are not reimbursable from the Member's Representational Allowance.
- J. Lessor shall provide a copy of any assignment, estoppel certificate, notice of a bankruptcy or foreclosure, or notice of a sale or transfer of the leased premises to the Administrative Counsel by e-mail in PDF form (leases@mail.house.gov).

District Office Lease Attachment
(Page 2 of 5 – 115th Congress)

SECTION B
(Additional Terms and Conditions)

1. **Incorporated District Office Lease Attachment.** Lessor (Landlord) and Lessee (Member/Member-Elect of the U.S. House of Representatives) agree that this District Office Lease Attachment ("Attachment") is incorporated into and made part of the Lease ("Lease") and, if applicable, District Office Lease Amendment ("Amendment") to which it is attached.
2. **Performance.** Lessor expressly acknowledges that neither the U.S. House of Representatives (the "House") nor its Officers are liable for the performance of the Lease. Lessor further expressly acknowledges that payments made by the Chief Administrative Officer of the House (the "CAO") to Lessor to satisfy Lessee's rent obligations under the Lease – which payments are made solely on behalf of Lessee in support of his/her official and representational duties as a Member of the House – shall create no legal obligation or liability on the part of the CAO or the House whatsoever. Lessee shall be solely responsible for the performance of the Lease and Lessor expressly agrees to look solely to Lessee for such performance.
3. **Modifications.** Any amendment to the Lease must be in writing and signed by the Lessor and Lessee. Lessor and Lessee also understand and acknowledge that the Administrative Counsel for the CAO ("Administrative Counsel") must review and give approval of any amendment to the Lease prior to its execution.
4. **Compliance with House Rules and Regulations.** Lessor and Lessee understand and acknowledge that the Lease shall not be valid, and the CAO will not authorize the disbursement of funds to the Lessor, until the Administrative Counsel has reviewed the Lease to determine that it complies with the Rules of the House and the Regulations of the Committee on House Administration, and approved the Lease by signing the last page of this Attachment.
5. **Payments.** The Lease is a fixed term lease with monthly installments for which payment is due in arrears on or before the end of each calendar month. In the event of a payment dispute, Lessor agrees to contact the Office of Finance of the House at 202-225-7474 to attempt to resolve the dispute before contacting Lessee.
6. **Void Provisions.** Any provision in the Lease purporting to require the payment of a security deposit shall have no force or effect. Furthermore, any provision in the Lease purporting to vary the dollar amount of the rent specified in the Lease by any cost of living clause, operating expense clause, pro rata expense clause, escalation clause, or any other adjustment or measure during the term of the Lease shall have no force or effect.
7. **Certain Charges.** The parties agree that any charge for default, early termination or cancellation of the Lease which results from actions taken by or on behalf of the Lessee shall be the sole responsibility of the Lessee, and shall not be paid by the CAO on behalf of the Lessee.
8. **Death, Resignation or Removal.** In the event Lessee dies, resigns or is removed from office during the term of the Lease, the Clerk of the House may, at his or her sole option, either: (a)

*Send completed forms to: Administrative Counsel, 217 Ford House Office Building, Washington, D.C. 20515.
Copies may also be faxed to 202-225-6999.*

District Office Lease Attachment
(Page 3 of 5 -- 115th Congress)

terminate the Lease by giving thirty (30) days' prior written notice to Lessor; or (b) assume the obligation of the Lease and continue to occupy the premises for a period not to exceed sixty (60) days following the certification of the election of the Lessee's successor. In the event the Clerk elects to terminate the Lease, the commencement date of such thirty (30) day termination notice shall be the date such notice is delivered to the Lessor or, if mailed, the date on which such notice is postmarked.

9. **Term.** The term of the Lease may not exceed the constitutional term of the Congress to which the Lessee has been elected. The Lease may be signed by the Member-Elect before taking office. Should the Member-Elect not take office to serve as a Member of the 115th Congress, the Lease will be considered null and void.
10. **Early Termination.** If either Lessor or Lessee terminates the Lease under the terms of the Lease, the terminating party agrees to promptly file a copy of any termination notice with the Office of Finance, U.S. House of Representatives, O'Neill Federal Building, Suite 3220, Attn: Levi Matthews, Washington, D.C. 20515, and with the Administrative Counsel by e-mail at leases@mail.house.gov.
11. **Assignments.** Lessor shall not have the right to assign (by operation of law or otherwise) any of its rights, interests and obligations under the Lease, in whole or in part, without providing thirty (30) days prior written notice to Lessee, and any such purported assignment without such notice shall be void. Lessor shall promptly file a copy of any such assignment notice with the Administrative Counsel by e-mail at leases@mail.house.gov.
12. **Sale or Transfer of Leased Premises.** Lessor shall provide thirty (30) days prior written notice to Lessee in the event (a) of any sale to a third party of any part of the leased premises, or (b) Lessor transfers or otherwise disposes of any of the leased premises, and provide documentation evidencing such sale or transfer in such notice. Lessor shall promptly file a copy of any such sale or transfer notice with the Administrative Counsel by e-mail at leases@mail.house.gov.
13. **Bankruptcy and Foreclosure.** In the event (a) Lessor is placed in bankruptcy proceedings (whether voluntarily or involuntarily), (b) the leased premises is foreclosed upon, or (c) of any similar occurrence, Lessor agrees to promptly notify Lessee in writing. Lessor shall promptly file a copy of any such notice with the Office of Finance, U.S. House of Representatives, O'Neill Federal Building, Suite 3220, Attn: Levi Matthews, Washington, D.C. 20515, and with the Administrative Counsel by e-mail at leases@mail.house.gov.
14. **Estoppel Certificates.** Lessee agrees to sign an estoppel certificate relating to the leased premises (usually used in instances when the Lessor is selling or refinancing the building) upon the request of the Lessor. Such an estoppel certificate shall require the review of the Administrative Counsel, prior to Lessee signing the estoppel certificate. Lessor shall promptly provide a copy of any such estoppel certificate to the Administrative Counsel by e-mail at leases@mail.house.gov.

District Office Lease Attachment

(Page 4 of 5 – 115th Congress)

15. **Maintenance of Common Areas.** Lessor agrees to maintain in good order, at its sole expense, all public and common areas of the building including, but not limited to, all sidewalks, parking areas, lobbies, elevators, escalators, entryways, exits, alleys and other like areas.
16. **Maintenance of Structural Components.** Lessor also agrees to maintain in good order, repair or replace as needed, at its sole expense, all structural and other components of the premises including, but not limited to, roofs, ceilings, walls (interior and exterior), floors, windows, doors, foundations, fixtures, and all mechanical, plumbing, electrical and air conditioning/heating systems or equipment (including window air conditioning units provided by the Lessor) serving the premises.
17. **Lessor Liability for Failure to Maintain.** Lessor shall be liable for any damage, either to persons or property, sustained by Lessee or any of his or her employees or guests, caused by Lessor's failure to fulfill its obligations under Sections 15 and 16.
18. **Initial Alterations.** Lessor shall make any initial alterations to the leased premises, as requested by Lessee and subject to Lessor's consent, which shall not be unreasonably withheld. The cost of such initial alterations shall be included in the annual rental rate.
19. **Federal Tort Claims Act.** Lessor agrees that the Federal Tort Claims Act, 28 U.S.C. §§ 2671-80, satisfies any and all obligations on the part of the Lessee to purchase private liability insurance. Lessee shall not be required to provide any certificates of insurance to Lessor.
20. **Limitation of Liability.** Lessor agrees that neither Lessee nor the House nor any of the House's officers or employees will indemnify or hold harmless Lessor against any liability of Lessor to any third party that may arise during or as a result of the Lease or Lessee's tenancy.
21. **Compliance with Laws.** Lessor shall be solely responsible for complying with all applicable permitting and zoning ordinances or requirements, and with all local and state building codes, safety codes and handicap accessibility codes (including the Americans with Disabilities Act), both in the common areas of the building and the leased space of the Lessee.
22. **Electronic Funds Transfer.** Lessor agrees to accept monthly rent payments by Electronic Funds Transfer and agrees to provide the Office of Finance, U.S. House of Representatives, with all banking information necessary to facilitate such payments.
23. **Refunds.** Lessor shall promptly refund to the CAO, without formal demand, any payment made to the Lessor by the CAO for any period for which rent is not owed because the Lease has ended or been terminated.
24. **Conflict.** Should any provision of this Attachment be inconsistent with any provision of the attached Lease or attached Amendment, the provisions of this Attachment shall control, and those inconsistent provisions of the Lease or the Amendment shall have no force and effect to the extent of such inconsistency.

*Send completed forms to: Administrative Counsel, 217 Ford House Office Building, Washington, D.C. 20515.
Copies may also be faxed to 202-225-6999.*

District Office Lease Attachment

(Page 5 of 5 - 115th Congress)

- 25. **Construction.** Unless the clear meaning requires otherwise, words of feminine, masculine or neuter gender include all other genders and, wherever appropriate, words in the singular include the plural and vice versa.
- 26. **Fair Market Value.** The Lease or Amendment is entered into at fair market value as the result of a bona fide, arms-length, marketplace transaction. The Lessor and Lessee certify that the parties are not relatives nor have had, or continue to have, a professional or legal relationship (except as a landlord and tenant).
- 27. **District Certification.** The Lessee certifies that the office space that is the subject of the Lease is located within the district the Lessee was elected to represent unless otherwise authorized by Regulations of the Committee on House Administration.
- 28. **Counterparts.** This Attachment may be executed in any number of counterparts and by facsimile copy, each of which shall be deemed to be an original but all of which together shall be deemed to be one and the same instrument.
- 29. **Section Headings.** The section headings of this Attachment are for convenience of reference only and shall not be deemed to limit or affect any of the provisions hereof.

IN WITNESS WHEREOF, the parties have duly executed this District Office Lease Attachment as of the later date written below by the Lessor or the Lessee.

<hr/> <i>Print Name of Lessor/Landlord</i>	<i>Rodney Davis</i> <hr/> <i>Print Name of Lessee</i>
By: _____ <i>Lessor Signature</i> Name: Title:	_____ <i>Lessee Signature</i>
_____ <i>Date</i>	_____ <i>Date</i>

From the Member's Office, who is the point of contact for questions? Name: <i>Helen Abart</i> Phone (217) <i>761-6221</i> E-mail: <i>helen.abart</i> @mail.house.gov
--

This District Office Lease Attachment and the attached Lease or Amendment have been reviewed and are approved, pursuant to Regulations of the Committee on House Administration.

Signed _____ Date _____, 20____
(Administrative Counsel)

<i>Send completed forms to: Administrative Counsel, 217 Ford House Office Building, Washington, D.C. 20515. Copies may also be faxed to 202-225-6999.</i>

District Office Lease Amendment – Instructions

NO LEASE AMENDMENT OR ATTACHMENT CAN BE SIGNED BEFORE THEY HAVE BEEN APPROVED BY THE ADMINISTRATIVE COUNSEL.

The term for a District Office Lease Amendment for the 115th Congress may not commence prior to January 3, 2017.

Members should endeavor to lease space through the last day of a congressional term rather than the last day of a calendar year. For the 115th Congress, leases should end on January 2, 2019, not December 31, 2018.

- A. Section 1 has three blank lines to be filled in:
 1. the term of the previous lease that is being amended or extended;
 2. street address of office being leased; and
 3. city, state and ZIP where office is being leased.
- B. Section 2 requires the new ending date (if the lease is going to be extended), which must be on or before January 2, 2019. If the lease is not going to be extended, write "N/A" in the space provided.
- C. Section 3 requires the monthly rent amount for the extended term, and if any other provision is changed, the blank space beneath Section 3 is provided for any changes or additions. If there are no other changes to your existing lease write "NONE" in the space provided.
- D. The Member/Member-Elect is required to personally sign the documents.
- E. A District Office Lease Attachment for the 115th Congress must accompany this District Office Lease Amendment ("Amendment").
- F. Prior to either party signing an Amendment, the Member/Member-Elect must submit the proposed Amendment, accompanied by a copy of the District Office Lease Attachment for the 115th Congress, to the Administrative Counsel for review and approval. If the proposed terms and conditions of the Amendment are determined to be in compliance with applicable law and House Rules and Regulations, the Administrative Counsel will notify the Member/Member-Elect that (s)he may proceed with the signing of the Amendment. Please submit the proposed Amendment and District Office Lease Attachment either by e-mail in PDF form (leases@mail.house.gov) or fax (202-225-6999).
- G. Once signed by both parties, the Amendment and District Office Lease Attachment must be submitted to the Administrative Counsel for final approval. They may be sent by email in PDF form or faxed to 202-225-6999.
- H. If approved, Administrative Counsel will send them to Finance so that payment can begin. If there are errors, you will be contacted and required to correct them before the Amendment is approved.
- I. If you have any additional questions about District Office Leases, please contact the Office of the Administrative Counsel by e-mail (leases@mail.house.gov).

U.S. House of Representatives
Washington, D.C. 20515

District Office Lease Amendment
(Page 2 of 2 – 115th Congress)

IN WITNESS WHEREOF, the parties have duly executed this District Office Lease Amendment as of the later date written below by the Lessor or the Lessee.

Rodney Davis

Print Name of Lessor/Landlord/Company

Print Name of Lessee

By: _____
Lessor Signature

Lessee Signature

Name:
Title:

Date

Date

*This District Office Lease Amendment must be accompanied with an executed
District Office Lease Attachment.*

**LEASE BETWEEN
TOWN OF NORMAL, ILLINOIS
AS LANDLORD,
AND
SUBWAY REAL ESTATE, LLC,
AS TENANT**

LOCATION: UPTOWN STATION, SUITE 100, NORMAL, IL

DATED

6/12/2012

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LEASE

This lease (hereinafter "Lease") made and entered on 6/12/2012, by and between the Town of Normal, hereinafter referred to as "Landlord," and Subway Real Estate, LLC, organized under the laws of the State of Delaware and having its usual place of business at 325 Bic Drive, Milford, Connecticut 06461, hereinafter referred to as "Tenant". In consideration of the mutual covenants herein contained, the parties agree as follows:

ARTICLE I: BASIC LEASE PROVISIONS AND ENUMERATION OF EXHIBITS

1.1 Basic Lease Provisions.

DATE: June 08, 2012

LANDLORD: Town of Normal, Illinois

ADDRESS OF LANDLORD: Town of Normal, 11 Uptown Circle, PO Box 589, Normal, Illinois 61761

TENANT: Subway Real Estate, LLC

ADDRESS OF TENANT: 325 Bic Drive, Milford, Connecticut 06461

TENANT'S TRADE NAME: Subway® restaurant

LEASED PREMISES: Uptown Station, 11 Uptown Circle, Suite 100, Normal, Illinois consisting of 1,652 square feet of floor area.

LEASE TERM: Five (5) years, plus a partial month, if any, at the beginning of the Lease Term.

DELIVERY DATE: The Leased Premises, with the Landlord's Work completed as set forth in Section 6.4 below, shall be delivered by the Landlord to the Tenant for the installation of the Tenant's Work no later than June 15, 2012.

COMMENCEMENT DATE: The earlier of (i) the date Tenant opens for business in the Premises, or (ii) thirty (30) days after the completion of Landlord's Work in the Demised Premises in accordance with Exhibit C and the delivery of possession of the Demised Premises to Tenant.

TERMINATION DATE: Five (5) years thereafter, plus a partial month if any, at the beginning of the term.

MINIMUM RENT: Minimum Rent shall be the greater of Ten Percent (10%) of gross profit for the lease year or the sum of \$1,000 per month beginning on the Commencement Date for the first two (2) years of this Lease and then the sum of \$1,200 per month for years 3 and 4 of this Lease and then the sum of \$1,400 per month for the remaining year of the original term of this Lease (plus the partial month referred to above, if any, at the beginning thereof).

PERMITTED USES: Subway Restaurant

TIME ALLOWED TO TENANT FOR COMPLETION OF TENANT'S WORK: The Tenant's Work as set forth in Section 6.2 below shall be completed no later than July 13th, 2012.

SECURITY DEPOSIT: None

1.2 Significance of a Basic Lease Provision. Each reference in this Lease to any of the Basic Lease Provisions contained in § 1.1 of this Article shall be deemed and construed to incorporate all of the terms provided under each such Basic Lease Provision.

1.3. Enumeration of Exhibits. The exhibits enumerated in this section and attached to this Lease are incorporated in this Lease by this reference and are to be construed as part of this Lease.

Exhibit A. Site Plan of Uptown Station in Normal, Illinois.

Exhibit B. Plan of Leased Premises (which shall establish the floor area contained therein, sometimes hereinafter referred to as "Floor Area").

Exhibit C. Description of Landlord's Work.

Exhibit D. Description of Tenant's Work.

Exhibit E. Design Criteria for Tenant's Signs.

ARTICLE II: DEFINITIONS

The following terms when used hereinafter shall be defined as follows:

"Additional Rent" means all rentals, charges and other sums of money required to be paid by Tenant under this Lease (all such rentals, charges and sums other than Minimum Annual Rental shall be referred to as "Additional Rent" in this Lease);

"Building" means the Uptown Station structure or portions of a structure constructed or to be constructed by Landlord.

"Leased Premises" means a portion of Landlord's Building leased to Tenant.

"Sublessee" means an authorized SUBWAY® licensee/franchisee of Doctor's Associates, Inc.

ARTICLE III: LEASED PREMISES AND TERM

3.1 Building. Landlord is the owner of a tract of land located at Uptown Circle in Normal, Illinois which premises are sometimes hereinafter referred to as "Landlord's Tract." Landlord's Tract, together with the buildings constructed thereon, is known as Uptown Station and is depicted on Exhibit A, and the Landlord's Tract and any improvements and appurtenances constructed thereon are sometimes hereinafter referred to as the "Building." Landlord reserves the right to change the number and location of buildings, building dimensions, the number of floors in any of the buildings, store dimensions, and the identity and type of other stores and tenancies, provided only that the size of the Leased Premises (as hereinafter defined) and reasonable access to Tenant's store premises shall not be materially impaired.

3.2 Leased Premises. Landlord hereby leases and demises to Tenant, and Tenant hereby leases from Landlord, subject to and with the benefit of the terms of this Lease, the store premises herein referred to as the "Leased Premises" and/or the "Demised Premises," and more particularly described as follows: All of the store known as Uptown Station, Suite 100, measured from the centerline of all common walls and to the outside of all exterior walls, as shown on the site plan attached hereto and made a part hereof as Exhibit B, containing approximately 1,652 square feet of Floor Area.

3.3 Commencement of the Term. The term of this Lease and the obligations of Tenant to pay rent and other charges herein and to commence retail operations in the Demised Premises shall commence and accrue, as provided in § 1.1 above on the earlier of (a) the date that Tenant is open for business in the Demised Premises; or (b) thirty (30) days after the completion of Landlord's Work in the Demised Premises in accordance with Exhibit C and the delivery of possession of the Demised Premises to Tenant. The receipt by Tenant of certification by Landlord or Landlord's architect that Landlord's Work in the Demised Premises has been completed shall determine the date of delivery by Landlord of possession of the premises to Tenant, provided however, that Landlord's Work shall be deemed completed if it is being delayed by failure of Tenant to complete its work. The date of commencement of the term of this lease, ~~determined as hereinabove provided, is herein sometimes referred to as the "Commencement Date."~~ Each of the parties hereto agrees that, upon the Commencement Date of this lease or from time to time

thereafter, upon the request of the other party, it will execute and deliver such further instruments as may be appropriate, setting forth the date of commencement and the date of expiration of the term of this Lease.

Tenant shall have the right, during the period of days set forth in (b) above, to enter the Demised Premises for the purpose of installing fixtures and otherwise preparing the Demised Premises for the conduct of Tenant's business therein. Such entry by Tenant on the Demised Premises shall be subject to all the terms, covenants, and conditions of this Lease, except, however, the covenants relating to payment of rent and other charges, which shall nevertheless accrue in accordance with the previous paragraph. During such installment of fixtures and other work performed by and/or for Tenant in or about the Demised Premises of the Building, Tenant and its agents, employees, and contractors shall work in harmony with and subject to the schedule of Landlord and its agents, employees, and contractors.

3.4 Term of Lease. The term of this Lease shall be for a period of five (5) years, plus a partial month, if any, at the beginning thereof, starting on the commencement date as hereinabove provided and ending on a date five (5) years (plus the partial month) later, unless otherwise terminated or extended as provided herein.

ARTICLE IV: RENT

4.1 Fixed Rent. The annual Fixed Rent for the Premises shall be as set forth in Section 1.1 above.

4.2 Commencement of Rent Payment. For the term of this Lease, Tenant shall pay said Fixed Rent at the rate per month set forth in Section 1.1 above in advance on the first day of each month. A Gross Profit report shall be provided to the Landlord by Tenant within twenty (20) days of the end of the month to determine if percentage rent is due. If percentage rent is due, it will accompany said report less the Fixed Rent already paid at the beginning of the month.

This Lease and all of its corresponding rights and obligations other than the payment of base rent or any additional rent provided for herein shall commence on the Commencement Date

The Fixed Rent and any additional rent shall commence thirty (30) days after the Commencement Date or when the store opens for business whichever comes first.

4.3 Gross Profit. "Gross Profit" shall be defined as all sales less sales tax and food cost. The ~~Minimum Rent shall be all inclusive and include but not be limited to any and all Common Area fees, garbage collection, heating and cooling costs charged to the space by the Landlord.~~

ARTICLE V: RENEWAL OPTIONS

5.1 Five Renewal Periods. Tenant has the option of extending this agreement for five (5) consecutive period(s) of one (1) year (the "Maximum Renewal Period"). Tenant shall provide Landlord with written notice of its intention to renew this Agreement at least one hundred twenty (120) days prior to the expiration of the then current term.

For the purpose of this section only, notification via (facsimile) fax will be deemed sufficient, provided a copy of such notice is also sent via regular mail.

5.2 Adjustment of Fixed Rent. The terms and conditions for each renewal period shall be the same as those contained herein except the annual Minimum Rent shall be the greater of Ten (10%) percent of the Gross Profit or \$14.00 per square foot during the Maximum Renewal Period and base rent payment shall be \$23,128 per year or \$1,927.33 per month to be offset against 10% of the Gross Profit.

ARTICLE VI: CONSTRUCTION BY LANDLORD AND TENANT

6.1 Condition of Premises. Tenant's taking possession of the Leased Premises shall be conclusive evidence of Tenant's acceptance thereof in good order and satisfactory condition. Tenant agrees that no representations respecting the condition of the Leased Premises, and that no promises to decorate, alter, repair, or improve the Leased Premises, either before or after the execution hereof, have been made by Landlord or its agent to Tenant unless the same are contained herein and made a part hereof. Any disagreement that may arise between Landlord and Tenant with reference to the work to be performed by either pursuant to Exhibit C or Exhibit D or whether such work has been properly completed shall be resolved by the decision of Landlord's architect.

6.2 Construction by Tenant. All work other than that to be performed by Landlord pursuant to Exhibit C is to be done by Tenant, in a good and professional manner, free of all mechanics liens, by contractors approved by Landlord, at Tenant's expense and in accordance with the outline description set forth in the schedule entitled "Tenant's Work" and attached hereto as Exhibit D, the Sign Criteria set forth in Exhibit E, and the plans and specifications hereinafter referred to in this §6.2. Tenant, at Tenant's sole cost and expense, agrees to submit to Landlord, for Landlord's reasonable approval, within twenty (20) days from the date hereof, complete plans and specifications, including engineering, mechanical, and electrical work, covering Tenant's Work as described in Exhibit D in such detail as Landlord may require and in compliance with Exhibits D and E and all applicable statutes, ordinances, regulations, and codes, certified by the Landlord's licensed registered architect.

Landlord shall review Tenant's plans and specifications and signage criteria in a timely basis and shall not unreasonably withhold its approval, which shall be granted or denied by Landlord within ten (10) days after Landlord's receipt of Tenant's complete submission. If Landlord denies approval, Tenant shall submit revised plans and specifications meeting Landlord's objection within fifteen (15) days from the date of disapproval. If such revisions are timely filed, there shall be no penalties. If either party shall be prevented or delayed from punctually performing any obligation (other than the payment of rent) or satisfying any condition contained in Exhibit C or Exhibit D, as the case may be, under this Lease by any strike, lockout, labor dispute, inability to obtain labor or materials or reasonable substitutes therefore, act of God, governmental restriction, regulation, or control, enemy or hostile governmental action, civil commotion, insurrection, sabotage, fire, or other casualty, or any other condition beyond the reasonable control of such party, then the time to perform such obligation (other than the payment of rent) or satisfy such condition shall be extended by the delay caused by such event. If either party shall, as a result of any such event, be unable to exercise any right or option within any time limit provided therefor in this Lease, such time limit shall be deemed extended for a period equal to the duration of the delay caused by such event.

6.3 Obligations of Tenant Before Lease Term Begins. Tenant shall perform diligently the Tenant's Work contained in Exhibit D and shall complete its work not later than the time as set forth in Section 1.1 above (the "Tenant's Work"). Tenant shall also observe and perform all of its obligations under this Lease (except its obligations to pay Fixed Minimum Rent) from the date on which the Leased Premises are made available to Tenant for its work until the Commencement Date of the Lease Term in the same manner as though the Lease Term began when the Leased Premises were so made available to Tenant.

6.4 Construction by Landlord. Landlord shall provide the leased premises to the Tenant with the improvements made as set forth on Exhibit C (the "Landlord's Work").

6.5 Tenant Allowance. The Landlord shall pay to the Tenant a Tenant Allowance for the installation of flooring in the Leased Premises equal to the lesser of the actual costs incurred by the Tenant for such flooring installation or the sum of thirteen (\$13.00) Dollars per square foot times the square footage of the Leased Premises. Such payment shall be made within thirty (30) days of the submission of documentation by the Tenant to the Landlord showing the actual costs incurred by the Tenant in regard to the flooring installation.

ARTICLE VII: TAXES, INSURANCE, AND COMMON AREA USE

7.1 Common Areas and Facilities. Landlord shall make available, from time to time, such areas and facilities of common benefit to the Tenants and occupants of the Landlord's Tract as Landlord shall deem appropriate. The "Common Areas," as herein referred to, shall consist of all streets, sidewalks, malls, roof, driveways, loading platforms, canopies and shelters, landscaped areas, service drives, and all other facilities available for common use, all as they may from time to time exist and be available to all the tenants in the Building and their employees, agents, customers, licensees, and invitees. Landlord may from time to time change the size, location, and nature of any Common Areas and Facilities and may make installations therein and move and remove such installations.

7.2 Use of Common Areas. Tenant and its permitted officers, employees, agents, customers, and invitees shall have the nonexclusive right, in common with Landlord and all others to whom Landlord has or may hereafter grant rights, to use the Common Areas as designated from time to time by Landlord, subject to such reasonable regulations as Landlord may from time to time impose. Tenant agrees to abide by such regulations and to use its best efforts to cause its permitted officers, employees, agents, customers, and invitees to conform thereto. Landlord may at any time close temporarily any Common Area to make repairs or changes to prevent the improper use of public rights in such and may do such other acts in and to the Common Areas as in its judgment may be desirable to improve the convenience thereof. Tenants shall not at any time interfere with the rights of Landlord and other tenants and its and their permitted officers, employees, agents, customers, and invitees to use any part of the Common Areas. Failure of Tenant to abide by Landlord's rules and regulations shall be considered to be a default by Tenant hereunder and shall entitle Landlord to exercise any of its rights and/or remedies herein set forth.

7.3 Charge for Common Area and Facilities. As used in this lease, the term "Common Area Costs" means the total of all items of expense relating to operating, managing, equipping, policing, and protecting if provided, lighting, insuring, repairing, replacing, and maintaining the utility of the Common Areas in the same condition as when originally installed. Such costs and expenses shall include, but not be limited to, the removal of snow, ice, rubbish, dirt, and debris, costs of planting, replanting, and replacing flowers and landscaping and supplies required therefor, and all costs of utilities used in connection therewith, including, but not limited to, all costs of maintaining lighting facilities and storm drainage systems, the cost for boiler and electrical apparatus insurance, the cost of a supervised fire sprinkler alarm system, and all premiums for workers' compensation insurance, wages, unemployment taxes, social security taxes, and personal property taxes, fees for required licenses and permits. Landlord shall be responsible for the payment of all costs related to the Common Area Costs.

7.4 Tenant Seating Area. The seating area within the Leased Premises as shown on Exhibit B shall during the hours of operation of the Tenant's business be maintained, cleaned and repaired by the Tenant at the Tenant's sole cost and expense. During the time that the Tenant's operation is closed for business, the Landlord and its permitted officers, employees, agents, customers, and invitees shall have the nonexclusive right, in common with Tenant and all others to whom Tenant has or may hereafter grant rights, to use the Seating Area as designated from time to time by Tenant. During the time when the Tenant's operation is closed, the Landlord shall be responsible for the maintenance of the Seating Area, but shall not be responsible for any costs of repair.

7.5 Taxes. Tenant agrees to pay the Real Estate Taxes during the term of this Lease based on the Tenant's Leasehold Interest in the leasehold created by the Lease, if any, and any renewal or extension thereof, including any period during which Tenant shall transact business in the Leased Premises prior to the commencement of the term of this Lease. For the purposes of this section, the term "Real Estate Taxes" shall include all real estate taxes and assessments, both general and special, water and sewer rents (except water meter charges and sewer rent based thereon), and other governmental impositions and charges of every kind and nature whatsoever that may be assessed against the land and buildings, extraordinary as well as ordinary, foreseen and unforeseen, and each and every installment thereof that shall or may, during the Lease Term, be levied, assessed, or imposed or become due and payable, or liens on, or arising in connection with, the use, occupancy, or possession of the Building or any part thereof, and all costs incurred by Landlord in contesting or negotiating any of these with any governmental authority.

Nothing herein contained shall be construed to include as a tax that shall be the basis of Real Estate Taxes any inheritance, estate, succession, transfer, gift, franchise, corporation, income, or profit tax or capital levy that is or may be imposed on Landlord; provided, however, 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 or as a substitute for the whole or any part of the taxes now levied, assessed, or imposed on real estate as such, there shall be levied, assessed, or imposed (a) a tax on the rents received from such real estate, (b) a license fee measured by the rents receivable by Landlord from the Building or any portion thereof, or (c) a tax or license fee imposed on Landlord that is otherwise measured by or based in whole or in part on the Building or any portion thereof, then the same shall be included in the computation of Real Estate Taxes hereunder, computed as if the amount of such tax or fee so payable were that due if the Building were the only property of Landlord subject thereto.

7.6 Insurance. Tenant shall procure and maintain in full force, at its expense, during the term of this Lease Agreement, and any extension thereof, public liability insurance which shall be adequate to protect against liability for damage claims through public use of or arising out of any accident occurring in or around the Premises, in a minimum amount of two million (\$2,000,000.00) dollars and four million (\$4,000,000.00) million aggregate. Landlord shall be an additional named insured in such policy and Tenant shall furnish Tenant with a Certificate of Insurance with reference to the same.

Tenant is responsible for its own insurance to cover its own contents located in the Premises, and all of the personal property and equipment included in the Premises. Landlord shall not be liable for any damage to the property or person of any of the Tenant's officers, employees, agents, invitees or guests from perils customarily covered by fire and extended coverage insurance, liability insurance or acts of God. It is agreed that Landlord shall be responsible for fire and extended coverage for the Premises by a responsible insurance company authorized to do extended coverage Insurance in the state in which the Building is located. Tenant shall maintain fire insurance and extended coverage on the interior of the Premises in an amount which is adequate to cover the cost of equipment and trade fixtures.

ARTICLE VIII: UTILITY SERVICE

8.1 Utilities. Tenant agrees that throughout the term of this Lease, it will pay for and provide its own water meter, and other meters for gas, if used, electricity, telephone, cable and all other utilities, and Tenant further agrees that it will pay all water and sewage charges imposed by government authority or otherwise, excluding all "tap-in", "hook-up", and connection or impact fees.

ARTICLE IX: TENANT'S ADDITIONAL COVENANTS

9.1 Affirmative Covenants. Tenant covenants, at its expense, at all times during the Lease Term and such further time as Tenant occupies the Leased Premises or any part thereof as follows:

A. To perform promptly all of the obligations of Tenant set forth in this Lease, and to pay when due the Fixed Minimum Rent and all charges, rates, and other sums that by the terms of this Lease are to be paid by Tenant, without any setoffs whatsoever.

B. To use the Leased Premises only for the Permitted Uses; to operate its business in the Leased Premises under Tenant's Trade Name provided in §1.1; and to conduct its business at all times in a high-grade and reputable manner so as to produce the maximum volume of sales and transactions and to help establish and maintain a high reputation for the Building.

C. To refer to the Building by its name in designating the location of the Leased Premises in all newspaper or other advertising, stationery, other printed material and all other references to location; to include the address and identity of its business activity in the Leased Premises in all advertisements made by Tenant in which the address and identity of any other business activity of like character conducted by Tenant within the Metropolitan Area shall be mentioned; and to use in such advertising only the Tenant's trade name provided in § 1.1.

D. Except when and to the extent that the Leased Premises are untenable by reason of damage by fire or other casualty, to use and continuously operate for retail sales purposes all of the Leased Premises other than such minor portions thereof as are reasonably required for storage and office purposes; to use such storage and office space only in connection with the business conducted by Tenant in the Leased Premises; to furnish and install all trade fixtures that shall at all times be suitable and proper for carrying on Tenant's business; to carry a full and complete stock of seasonable merchandise offered for sale at competitive prices; to maintain adequate trained personnel for efficient service to customers; and to open for business and remain open during the entire Lease Term on all business days, including such evenings and during such business hours as shall be agreed to between the Landlord and Tenant.

E. To store in the Leased Premises only such merchandise as is to be offered for sale at retail within a reasonable time after receipt; to store all trash and refuse in adequate containers within the Leased Premises, which Tenant shall maintain in a neat and clean condition and so as not to be visible to members of the public shopping in the Building and so as not to create any health or fire hazard, and to attend to the daily disposal thereof in the manner designated by Landlord; to keep all drains inside the Leased Premises clean; to receive and deliver goods and merchandise only in the manner and at such times and in such areas as may be designated by Landlord; and to conform to all rules and regulations that Landlord may make in the management and use of the Building requiring such conformance by Tenant's employees. If the Leased Premises are used for the sale of food for consumption, such as for a restaurant or snack bar, Tenant shall store all trash, refuse, and garbage in a garbage storeroom or compartment that Tenant shall install and keep in repair at its sole expense.

F. (1) Throughout the term of this Lease, at Tenant's sole cost and expense, to take good care of the Demised Premises and the pipes, plumbing, glass, store fronts, electric wiring, machinery, fixtures, appliances, and appurtenances belonging thereto installed for the use or used in connection with the Demised Premises and, ~~at Tenant's own expense, by contractors or mechanics approved by~~ Landlord, to make as and when needed all repairs in or about the Demised Premises and in and to all

such equipment, fixtures, appliances, and appurtenances necessary to keep them in good order and condition.

When used in this Lease, the term "repairs" shall include all replacements, renewals, alterations, additions, and betterments. All repairs made by Tenant shall be equal in quality and class to the original work.

(2) As used in this Article and Article X, the expression "exterior walls" shall not be deemed to include store front or store fronts, plate glass, window cases, window frames, doors, or door frames. It is understood and agreed that Landlord shall be under no obligation to make any repairs, alterations, renewals, replacements, or improvements to and on the Demised Premises or the mechanical equipment exclusively serving the Demised Premises at any time except as in this Lease expressly otherwise provided.

G. To make all repairs, alterations, additions, or replacements to the Leased Premises, whether interior or exterior or structural or non-structural, required by any law or ordinance or any order or regulation of any public authority because of Tenant's use of the Leased Premises; to keep the Leased Premises equipped with all safety appliances so required because of such use; to procure any license and permits required for any such use; and to comply with the orders and regulations of all governmental authorities.

H. If the Demised Premises are or become infested with vermin, to cause them to be exterminated from time to time at Tenant's expense to the satisfaction of Landlord..

I. To pay promptly when due the entire cost of any work in the Leased Premises undertaken by Tenant so that the Leased Premises shall at all times be free of liens for labor and materials; to procure all necessary permits before undertaking such work; to do all of such work in a good and professional manner, employing materials of good quality; to perform such work only with contractors and plans previously approved in writing by Landlord; to comply with all governmental requirements; and to save Landlord and Landlord's beneficiaries and agents harmless and indemnified from all injury, loss, claims, or damage to any person or property (including the cost for defending against the foregoing) occasioned by or growing out of such work

J. To save Landlord, Landlord's beneficiaries and agents, and their respective successors and ~~assigns harmless and indemnified from all injury, loss, claims, or damage to any person or property~~ while on the Leased Premises or any other part of the Building occasioned by an act or omission of

Tenant, or anyone claiming by, through, or under Tenant, to maintain in responsible companies approved by Landlord public liability insurance insuring Landlord and Landlord's beneficiaries and agents, as their interests may appear, against all claims, demands, or actions for injury or death in an amount of not less than \$2,000,000 and \$4,000,000 in the aggregate arising out of anyone occurrence and for damage to property in an amount of not less than \$250,000 arising out of anyone occurrence, made by or on behalf of any person, firm, or corporation arising from, related to, or connected with the conduct and operation of Tenant's business in the Leased Premises and anywhere on Landlord's Tract (and Landlord shall have the right to direct Tenant to increase said amounts whenever it considers them inadequate) and, in addition, and in like amounts, covering Tenant's contractual liability under the aforesaid hold-harmless clause. In the event Tenant installs its own boilers, machinery, and/or compressors within the Leased Premises, Tenant shall maintain at its expense, boiler, machinery, and/or compressor insurance coverage insuring against loss or damage to persons and/or property resulting from such items, in limits equal to the amounts hereinabove set forth. Tenant shall maintain plate glass insurance covering all exterior plate glass in the Leased Premises and fire, extended coverage, vandalism, and malicious mischief insurance and such other insurance as Landlord may from time to time require covering all of Tenant's stock in trade, fixtures, furniture, furnishings, floor coverings, and equipment in the Leased Premises to the extent of at least one hundred (100%) percent of their replacement cost. All of said insurance shall be in form and in responsible companies satisfactory to Landlord and shall provide that the insurance will not be subject to cancellation, termination, or change except after at least thirty (30) days prior written notice to Landlord. The policies or duly executed certificates for the insurance (which certificates shall evidence the insurance waiver of subrogation), together with satisfactory evidence of the payment of the premium thereon, shall be deposited with Landlord on the day Tenant begins Tenant's Work, and upon renewals of such policies, not less than thirty (30) days prior to the expiration of the term of such coverage; and that if Tenant fails to comply with such requirements, Landlord may obtain such insurance and keep it in effect and Tenant shall pay Landlord the premium cost thereof upon demand. Each such payment shall constitute additional rent payable by Tenant under this Lease, and Landlord shall not be limited in the proof of any damages that Landlord may claim against Tenant arising out of or by reason of Tenant's failure to provide and keep in force insurance as aforesaid, to the amount of insurance premium or premiums not paid or incurred by Tenant and that would have been payable on such insurance, but Landlord, in addition to any and all other rights and remedies provided Landlord under the terms of this Lease, shall also be entitled to recover as damages for such breach ~~the uninsured amounts of any loss, to the extent of any deficiency in the insurance required by the~~ provisions of this Lease.

K. To waive all claims for, and to hold Landlord and Landlord's agents not liable for, damage to person or property sustained by Tenant or any person claiming through Tenant resulting from any accident or occurrence in or on the Leased Premises of the Building of which they shall be a part, or any other part of the Building, including, but not limited to, claims for damage resulting from (1) any equipment or appurtenances becoming out of repair; (2) Landlord's failure to keep said Building or the Leased Premises in repair, (3) injury done or occasioned by wind, water, or other natural elements; (4) any defect in or failure of plumbing, heating, or air conditioning equipment, electric wiring or installation thereof, gas, water and steam pipes, stairs, porches, railings, or walks; (5) broken glass; (6) the backing up of any sewer pipe or downspout; (7) the bursting, leaking, or running of any tank, tub, washstand, sprinkler system, water closet, waste pipe, drain, or any other pipe or tank in, on, or about the Building or Leased Premises; (8) the escape of steam or hot water (it being agreed that all of the foregoing are under the control of Tenant); (9) water, snow, or ice being on or coming through the roof, skylight, trapdoor, stairs, walks, or any other place on or near the Building or the Leased Premises or otherwise; (10) the falling of any fixtures, plaster, or stucco; and (11) any act, omission, or negligence of cotenants or of other persons or occupants of the Building or of adjoining or contiguous buildings or of owners of adjacent or contiguous property. Nothing herein contained shall release Landlord from liability for its own negligence.

L. After 24 hours' notice, except in case of emergency, to permit Landlord, and its agents to enter the Leased Premises at reasonable times for the purposes of inspecting them, of making repairs, additions, or alterations thereto or to the Building in which the Leased Premises are located, and of showing the Leased Premises to prospective purchasers, lenders, and tenants.

M. To remove, at the termination of this Lease, provided Tenant is not in default, such of Tenant's moveable trade fixtures and other personal property as are not permanently affixed to the Leased Premises; to remove such of the alterations and additions and signs made by Tenant as Landlord may request; to repair any damage caused by such removal; and peaceably to yield up the Leased Premises and all alterations and additions thereto (except such as Landlord has requested Tenant to remove) and all fixtures, furnishings, floor coverings, and equipment that are permanently affixed to the Leased Premises, including carpet, which for the purpose of this Lease shall be deemed to be permanently affixed to the Leased Premises, which shall thereupon become the property of Landlord, in clean and good order, repair, and condition, damage by fire or other unavoidable casualty excepted. Any personal property of Tenant not removed within five (5) days following such termination shall, at Landlord's option, become the property of Landlord.

N. Except as otherwise provided herein, to remain fully obligated under this Lease notwithstanding any assignment or sublease or any indulgence granted by Landlord to Tenant or to any assignee or sublessee.

O. (1) Prior to the Commencement Date and thereafter throughout the term of this Lease, to promptly comply, at Tenant's sole cost and expense, with all present and future laws, ordinances, orders, rules, regulations, and requirements of all federal, state, municipal, and local governments, departments, commissions, boards, and officers, and all orders, rules, and regulations of the National Board of Fire Underwriters, the local Board of Fire Underwriters, or any other body or bodies exercising similar functions, foreseen or unforeseen, ordinary as well as extraordinary, that may be applicable to the Demised Premises and to all or any parts thereof and/or any and all facilities used in connection therewith and the sidewalks, areaways, passageways, curbs, and vaults, if any, adjoining the Demise Premises, or to the use or manner of use of the Demised Premises, or the owners, tenants, or occupants thereof, whether or not any such law, ordinance, order, rule, regulation, or requirement shall interfere with the use and enjoyment of the Demised Premises. Tenant shall not be required to make structural repairs or alterations unless it has by its use of the Demised Premises or method of operation therein violated any such laws, ordinances, orders, rules, regulations, or requirements.

(2) To likewise observe and comply with the requirements of all policies of public liability, fire, and other insurance at any time in force with respect to the Demised Premises or any part thereof.

(3) To pay all costs, expenses, claims, fines, penalties, and damages that may in any manner arise out of or be imposed because of the failure of Tenant to comply with the provisions of this Article VIII, and in any event to indemnify Landlord against all liability; and to promptly give notice to Landlord of any notice of violation received by Tenant and, without diminishing the obligation of Tenant, if Tenant shall at any time after five days' notice by Landlord fail or neglect to comply or commence to comply as expeditiously as is reasonably feasible with any of said laws, rules, requirements, orders, directions, ordinances, or regulations concerning or affecting the Demised Premises, or the use and occupancy thereof, as hereinbefore provided, and, if a stay is necessary, shall have failed to obtain a stay or continuance thereof, Landlord shall be at liberty to comply therewith, and all expenses consequent thereon shall be borne and paid by Tenant, and upon Tenant's failure so to pay, Landlord may pay the expenses, and any payments so made by

Landlord, together with the interest thereon, shall immediately become due and payable by Tenant as additional rent.

P. To comply with all further rules and regulations for the use and occupancy of the Building as Landlord, in its sole discretion, from time to time promulgates for the best interests of the Building and to hold Landlord harmless from liability for violation by any other tenant of the Building of any rules or regulations, and no such violation or the waiver thereof excuses Tenant from compliance.

9.2. Negative Covenants. Tenant covenants at all times during the Lease Term and such further time as Tenant occupies the Leased Premises or any part thereof as follows:

A. Not to injure, overload, deface, or otherwise harm the Leased Premises; commit any nuisance; unreasonably annoy owners or occupants of neighboring property, use the Leased Premises for any extra-hazardous purpose or in any manner that will suspend, void, or make inoperative any policy or policies of insurance of the kind generally in use in the State of Illinois at any time carried on any improvement within the Building, or in any manner that will increase the cost of any of Landlord's insurance; burn any trash or refuse within the Building; sell, display, distribute, or give away any product that tends to create a nuisance in the common areas; make any use of the Leased Premises that is improper, offensive, or contrary to any law or ordinance or any regulation of any governmental authority, conduct or permit any going-out-of-business, bankruptcy, fire, or auction sales on the Leased Premises; use any system for the reception of music that has not been approved by Landlord; use any advertising such as handbills, flashing lights, searchlights, loudspeakers, phonographs, sound amplifiers, or radio or television receiving equipment in a manner to be seen or heard outside the Leased Premises; load, unload, or park any truck or other delivery vehicle in any area of the Building other than the area or areas designated therefor by Landlord; use any sidewalks, walkways, malls, or common areas in the Building for the storage or disposal of trash or refuse or the keeping or displaying of any merchandise or other object, including, but not limited to, the use of any of the foregoing for any newsstand, cigar or cigarette stand, sidewalk shop, or business occupation or undertaking (such uses of such areas being reserved for Landlord and its designees); place any fence, structure, barricade, building, improvement, division rail, or obstruction of any type or kind on any part of the Common Areas; use the malls, courts, and walks for any purpose other than pedestrian traffic; install or use any sign or other advertising device on the exterior of the Leased Premises, other than a store identity sign approved by Landlord for use on the exterior of the Leased Premises; nor do any act tending to injure the reputation of the Building.

B. Not to make any alterations or additions, nor permit the making of any holes in the walls, partitions, ceilings, or floors or the painting or placing of any exterior signs, placards, or other advertising media, awnings, aerials, antenna, or the like, without on each occasion obtaining the prior written consent of Landlord, and not to attach temporary interior signs, placards, or other advertising media to the windows or locate such items in such manner as to materially obstruct the view of Tenant's store from the outside. Subject to the Landlord's approval, Tenant may display permanent signs with the Subway name or logo in the windows. Notwithstanding anything to the contrary, Tenant may use the Franchisor's Metro Design interior decor.

C. Not to operate any coin- or token-operated vending machine or similar device for the sale of any goods, wares, merchandise, food, beverages, or services to the general public, including, but not limited to, pay telephones, pay lockers, pay toilets, scales, amusement devices, and machines for the sale of beverages, food, candy, cigarettes, or other commodities.

D. Except as otherwise provided herein, not to assign, sell, mortgage, pledge, or in any manner transfer this Lease or any interest therein, by operation of law or otherwise, or sublet the Leased Premises or any part or parts thereof, or permit occupancy by anyone with, through, or under it. If Tenant requests Landlord's consent to an assignment of the Lease or to a sublease of the Leased Premises, Landlord may, in lieu of granting such consent or reasonably withholding it, require that Tenant cause the proposed assignee or sublessee to enter into a direct lease with Landlord on the proposed terms of the assignment or sublease. If a subtenant of the Leased Premises pays rent to Tenant in excess of the amount due hereunder, the entire excess shall be paid to Landlord as additional rent.

E. Not to operate or use, or permit or suffer to be operated or used, all or any part of the Leased Premises as or for a discount house, Army-Navy store, surplus store, bargain store, or any similar use; or to use, or permit any subtenant of Tenant to use, any sidewalks in the Building for any newsstand, cigar stand, sidewalk shop, taxi stand, or other business, occupation, or undertaking without the prior written consent of Landlord.

F. Not to permit the sale, distribution, display, or offer for sale of any roach clip, water pipe, bong, cocaine spoon, cigarette papers, hypodermic syringe, or other paraphernalia commonly used with the consumption of illegal drugs.

G. Not to suffer any mechanics lien to be filed against the Leased Premises or the Building by reason of any work, labor, services, or materials performed at or furnished to the Leased

Premises, to Tenant, or to anyone holding the Leased Premises through or under Tenant. If any such mechanics lien shall at any time be filed, Tenant shall forthwith cause it to be discharged of record by payment, bond, order of a court of competent jurisdiction, or otherwise, but Tenant shall have the right to contest any and all such liens, provided security satisfactory to Landlord is deposited with it. If Tenant shall fail to cause such a lien to be discharged or bonded over or protected against by other procedure deemed reasonably appropriate by Landlord within sixty (60) days after being notified of the filing thereof and before judgment or sale thereunder, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to, discharge the lien by paying the amount claimed to be due or by bonding or other proceeding deemed appropriate by Landlord, and the amount so paid by Landlord and/or all costs and expenses, including reasonable attorneys' fees, incurred by Landlord in procuring the discharge of such lien shall be deemed to be additional rent and together with interest thereon as provided in § 13.14 shall be due and payable by Tenant to Landlord on the first day of the next following month. Nothing contained in this Lease shall be construed as consent on the part of Landlord to subject Landlord's estate in the Leased Premises to any lien or liability under the Mechanics Lien Act of the State of Illinois.

ARTICLE X: LANDLORD'S ADDITIONAL COVENANTS

10.1 Repairs by Landlord. Landlord covenants at its expense to keep the foundations of the Leased Premises and the structural soundness of the concrete floors and exterior walls (as defined in § 9.1 F.(2)) thereof in good order, repair, and condition, unless any necessary work is required because of damage not fully covered by insurance caused by any act, omission, or negligence of Tenant, any permitted concessionaire, or their respective employees, agents, invitees, licensees, or contractors. Landlord shall not be required to commence any such repair until a reasonable time after written notice from Tenant that the repair is necessary. The provisions of this paragraph shall not apply in the case of damage or destruction by fire or other casualty or a taking under the power of eminent domain, in which events the obligations of Landlord shall be controlled by Article XI. Except as provided in this §10.1, all other repairs, replacements, or improvements to the Leased Premises shall be the responsibility of Tenant.

10.2 Quiet Enjoyment. Landlord covenants that Tenant, upon paying the rent and performing Tenant's obligations in 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.

10.3 Hold Harmless. Landlord shall save Tenant and Tenant's successors and permitted assigns harmless and indemnified from all injury, loss, claims, or damage to any person or property while in any

part of the Building other than the Leased Premises occasioned by an act or omission of Landlord or anyone claiming by, through, or under Landlord.

ARTICLE XI: DAMAGE OR TAKING AND RESTORATION

11.1 Fire, Explosion, or Other Casualty. In the event the Leased Premises are damaged by fire, explosion, or any other insured casualty to an extent that is less than fifty (50%) percent of the cost of replacement of the Leased Premises, the damage shall be repaired by Landlord at Landlord's expense within a reasonable time period thereafter, provided that Landlord shall not be obligated to expend for such repair an amount in excess of the insurance proceeds recoverable as a result of such damage and that in no event shall Landlord be required to repair or replace Tenant's stock in trade, fixtures, furniture, furnishings, floor coverings, and equipment. If there is any such damage and (a) Landlord is not required to repair as hereinafter provided, (b) the Leased Premises shall be damaged to the extent of fifty (50%) percent or more of the cost of replacement, (c) the building of which the Leased Premises are a part is damaged to the extent of twenty-five (25%) percent or more of the cost of replacement notwithstanding the extent of damage to the Leased Premises, or (d) the buildings (taken in the aggregate) in the Building shall be damaged to the extent of more than twenty-five (25%) percent of the aggregate cost of replacement, Landlord may elect either to repair or to rebuild the Leased Premises or the building or buildings or to terminate this Lease upon giving notice of such election in writing to Tenant within sixty (60) days after the occurrence of the event causing the damage. Landlord shall give Tenant an estimate of the time required to complete such repairs within sixty (60) days of the date of the casualty. If such estimate exceeds one hundred eighty (180) days, Tenant shall have the right by written notice given within ten (10) days of the date of receipt of the estimate to terminate this Lease. If the casualty, repairing, or rebuilding shall render the Leased Premises untenable, in whole or in part, and the damage shall not have been due to the default or neglect of Tenant, a proportionate abatement of the Fixed Minimum Rent shall be allowed from the date when the damage occurred until the date Landlord completes its work, said proration to be computed on the basis of the relation that the gross square foot area of the space rendered untenable bears to the floor space of the Leased Premises. If Landlord is required or elects to repair the Leased Premises as herein provided, Tenant shall repair or replace its stock in trade, fixtures, furniture, furnishings, floor coverings, and equipment and, if Tenant has closed, Tenant shall promptly reopen for business.

11.2 Eminent Domain. If the whole of the Leased Premises shall be taken by any public authority under the power of eminent domain, ~~the Lease Term shall cease as of the day of possession shall be taken~~ by such public authority, and Tenant shall pay rent up to that date with an appropriate refund by Landlord

of such rent as may have been paid in advance for any period subsequent to the date possession is taken. If less than all of the floor area of the Leased Premises shall be so taken, the Lease Term shall cease only on the parts so taken as of the day possession shall be taken by such public authority, and Tenant shall pay rent up to that day with appropriate refund by Landlord of such rent as may have been paid in advance for any period subsequent to the date possession is taken, and thereafter the Fixed Minimum Rent shall be equitably adjusted. Landlord shall at its expense make all necessary repairs or alterations to the basic building and exterior work so as to constitute the remaining premises a complete architectural unit, provided that Landlord shall not be obligated to undertake any such repairs and alterations if the cost thereof exceeds the award. If the floor area of the Leased Premises so taken leaves space no longer suitable for the purposes set forth in this Lease, then the Lease Term shall cease and Tenant shall pay rent up to the day possession is taken, with an appropriate refund by Landlord of such rent as may have been paid in advance for any period subsequent to the date of the taking of possession. If more than twenty-five (25%) percent of the floor area of the building in which the Leased Premises are located, or more than twenty-five (25%) percent of the aggregate floor area of all the buildings in the Landlord's Tract shall be taken under the power of eminent domain, Landlord may, by notice in writing to Tenant delivered on or before the day of surrendering possession to the public authority, terminate this Lease, and rent shall be paid or refunded as of the date of termination. All compensation awarded for any taking under the power of eminent domain, whether for the whole or a part of the Leased Premises, shall be the property of Landlord, whether such damages shall be awarded as compensation for diminution in the value of the leasehold or to the fee of the Leased Premises (if otherwise, and Tenant hereby assigns to Landlord all of the Tenant's rights, title, and interest in and to any and all such compensation; provided, however, that Landlord shall not be entitled to any award specifically made to Tenant for the taking of Tenant's trade fixtures, furniture, or leasehold improvements to the extent of the cost to Tenant of said improvements (exclusive of Landlord's contribution), less depreciation computed from the date of said improvements to the expiration of the original term of this Lease.

ARTICLE XII: DEFAULTS BY TENANT REMEDIES

12.1 Events of Default. Default shall take place if anyone or more of the following events (here sometimes called "events of default") shall happen:

A. If default shall be made in the due and punctual payment of any rent or additional rent payable under this lease or any part thereof, when and as it shall become due and payable, and such ~~default shall continue for a period of ten (10) days after written notice from Landlord to Tenant~~ specifying the items in default.

B. If default shall be made by Tenant in the performance of or compliance with any of the agreements, terms, covenants, or conditions in this Lease provided other than those referred to in the foregoing paragraph A of this section for a period of thirty (30) days after written notice from Landlord to Tenant specifying the items in default, or in the case of a default or a contingency that cannot with due diligence be cured within the thirty (30) day period, Tenant fails to proceed within the thirty (30) day period to cure the default and thereafter to prosecute the curing of such default with due diligence (it being intended in connection with a default not susceptible of being cured with due diligence within the thirty (30) day period that the time of Tenant within which to cure it shall be extended for such period as may be necessary to complete the curing of the default with all due diligence).

C. If Tenant shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future federal Bankruptcy Code or any other present or future federal, state, or other bankruptcy or insolvency statute or law, or shall seek or consent to or acquiesce in the appointment of any bankruptcy or insolvency trustee, receiver, or liquidator of Tenant or of all or any substantial part of its properties or of the Demised Premises, and if such condition shall continue for a period of twenty (20) days after notice from Landlord specifying the matter involved.

D. If within thirty (30) days after the commencement of any proceeding against Tenant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future federal Bankruptcy Code or any other present or future federal, state, or other bankruptcy or insolvency statute or law, such proceeding shall not have been dismissed within twenty (20) days after notice (to be given not before the expiration of said thirty (30) day period) from Landlord to Tenant of an intention to terminate this Lease for failure to remove the condition in question or if, within ninety (90) days after the appointment, without the consent or acquiescence of Tenant, of any trustee, receiver, or liquidator of Tenant or of all or substantially all of its properties or of the Demised Premises, such appointment shall not have been vacated or stayed on appeal or otherwise, or if, within 90 days after the expiration of any such stay, such appointment shall not have been vacated within twenty (20) days after notice (to be given not before the expiration of said ninety (90) day period) from Landlord to Tenant of an intention to terminate this lease for failure to remove the condition in question.

In any such event Landlord at any time thereafter may give written notice to Tenant specifying such event of default or events of default and stating that this Lease and the term hereby demised shall expire and terminate on the date specified in such notice, which shall be at least ten days after the giving of such notice, and upon the date specified in such notice this Lease and the term hereby demised and all rights of Tenant under this Lease, including any renewal privileges whether or not exercised, shall expire and terminate, and Tenant shall remain liable as hereinafter provided.

12.2 Limitation on Termination for Bankruptcy. Any such proceeding or action involving bankruptcy, insolvency, reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future federal Bankruptcy Code or any other present or future applicable federal, state, or other statute or law set forth in paragraphs C and D of §11.1 hereof shall be grounds for the termination of this Lease pursuant to the terms of this Article only when such proceeding, action, or remedy shall be taken or brought by or against the then holder of the leasehold estate under this Lease.

12.3 Surrender of Premises. Upon any such expiration or termination of this Lease, Tenant shall quit and peacefully surrender the Demised Premises to Landlord, and Landlord, upon or at any such expiration or termination, may, without further notice, enter on and reenter the Demised Premises and possess and repossess itself thereof by force, summary proceedings, ejectment, or otherwise and may dispossess Tenant and remove Tenant and all other persons and property from the Demised Premises and may have, hold, and enjoy the Demised Premises and the right to receive all rental income of and from them.

12.4 Reletting the Premises. If this Lease shall be terminated pursuant to this Article XI, or by summary proceedings or otherwise, or if the Demised Premises or any part thereof shall be abandoned by Tenant or shall become vacant during the term hereof, Landlord may in its own name, or as agent for Tenant if this Lease is not terminated, or if this Lease is terminated, in its own behalf, relet the Demised Premises or any part thereof, or said premises with additional premises, for such term or terms (which may be greater or less than the period that would otherwise have constituted the balance of the term of this Lease) and on such conditions (which may include concessions or free rent and alterations of the Demised Premises) as Landlord, in its uncontrolled discretion, may determine and may collect and receive the rents therefor. Landlord shall in no way be responsible or liable for any failure to relet the Demised Premises or any part thereof, or for any failure to collect any rent due upon such reletting, ~~provided Landlord uses commercially reasonable efforts to mitigate damages under this Lease. Landlord~~

acknowledges that Tenant shall have the right to close the business temporarily, for not more than One Hundred Twenty (120) Days, in order to retake the premises from the Franchisee.

12.5 Obligations of Tenant. No such expiration or termination of this Lease, or summary proceedings, abandonment or vacancy, shall relieve Tenant of its liability and obligation under this Lease, whether or not the Demised Premises shall be relet. In any such event, Tenant shall pay Landlord the rent and all other charges required to be paid by Tenant up to the time of such event. Thereafter:

A. (1) Tenant, until the end of the term of this Lease, or what would have been such term in the absence of any such event, shall be liable to Landlord, as damages for Tenant's default, for the equivalent of the amount of the rent and the other rent and charges that would be payable under this Lease by Tenant if this Lease were still in effect, less the net proceeds of any reletting effected pursuant to the provisions of § 11.4, after deducting all of Landlord's expenses in connection with such reletting, including, without limitation, all repossession costs, brokerage and management commissions, operating expenses, legal expenses, reasonable attorneys' fees, alteration costs, and expenses of preparation for such reletting.

(2) Tenant shall pay such current damages (herein called "deficiency") to Landlord monthly on the days on which the rent would have been payable under this Lease if this Lease were still in effect, and Landlord shall be entitled to recover from Tenant each monthly deficiency as it shall arise.

B. (1) At Landlord's option, Landlord may terminate the Lease and become entitled to recover from Tenant as damages an amount equal to the difference between the rent and additional rent reserved in this Lease from the date of such breach to the date of the expiration of the original term demised and the then fair and reasonable rental value of the premises for the same period. Said damages shall become due and payable to Landlord immediately upon such breach of this Lease and without regard to whether this Lease is terminated or not, and if this Lease is terminated, without regard to the manner in which it is terminated. In the computation of such damages, the difference between any installment of rent thereafter becoming due and the fair and reasonable rental value of the premises for the period for which such installment was payable shall be discounted to the date of such breach at the rate of not more than four percent per annum.

(2) If and as long as the term of this Lease shall continue, the rent reserved herein for the unexpired term of the Lease shall be reduced by the amount of such damages as may be paid to Landlord, such reduction being applied proportionately to each installment of rent thereafter becoming due. During the continuance of the Lease after such a breach and until such damages are

paid to Landlord, the whole amount of each installment of rent herein reserved shall be due and payable at the time herein specified, and if, by reason of the subsequent payment of liquidated damages, and the resulting reduction in rental, Landlord shall have received a sum in excess of all installments, as so reduced, becoming due after the breach and before the collection of such damages, such excess shall be refunded upon the receipt of such liquidated damages.

If the Demised Premises or any part thereof is relet by Landlord for the unexpired term of this Lease, or any part thereof, before presentation of proof of such liquidated damages to any court, commission, or tribunal, the amount of rent reserved upon such reletting shall prima facie be the fair and reasonable rental value for the part or the whole of the premises so relet during the term of the reletting. Nothing herein contained shall limit or prejudice the right of Landlord to prove and obtain, as liquidated damages by reason of such termination, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, such damages are to be proved, whether such amount is greater than, equal to, or less than the amount of the difference referred to above.

If this Lease is terminated by summary proceedings or otherwise, or if the premises are abandoned or become vacant, and whether or not the premises are relet, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord, in addition to any damages becoming due under this Article 11, the following: an amount equal to all expenses, if any, including reasonable attorneys' fees, incurred by Landlord in recovering possession of the Demised Premises and all reasonable costs and charges for the care of said premises while vacant, which damages shall be due and payable by Tenant to Landlord at such time or times as such expenses are incurred by Landlord.

If this Lease is terminated in any manner whatsoever, or if there is any breach of this Lease specified in paragraphs C and D of §12.1, then and in either of such events Tenant covenants and agrees, any other covenant in this lease notwithstanding,

- a. that the premises shall be in the same condition as that in which Tenant has agreed to surrender them to Landlord at the expiration of the term hereof,
- b. that Tenant, on or before the occurrence of any such event, shall perform any covenant contained in this Lease for the making of any improvements, alterations, or betterment to the premises, or for restoring or rebuilding any part thereof, and
- c. ~~that, for the breach of any covenant above stated, Landlord shall be entitled to recover and~~ Tenant shall pay, ipso facto, without notice or other action by Landlord, the then cost of

performing such covenant, less interest thereon at the rate of four percent per annum for the period between the occurrence of any such event and the time when any such work or act, the cost of which is computed, should have been performed under the other provisions of this Lease had such event not occurred.

12.6 Tenant's Waiver of Notice and Right of Reentry. Tenant hereby expressly waives, as far as permitted by law, the service of any notice of intention to reenter provided for in any statute, and except as is herein otherwise provided, Tenant, for and on behalf of itself and all persons claiming *through* or under Tenant (including any leasehold mortgagee or other creditor), also waives any and all right of redemption or reentry or repossession in case Tenant shall be dispossessed by a judgment or by warrant of any court or judge, in case of reentry or repossession by Landlord, or in case of any expiration or termination of this Lease. The terms "enter," "reenter" or "reentry" as used in this Lease are not restricted to their technical legal meanings.

12.7 Waiver by Landlord. No failure by Landlord to insist on the strict performance of any agreement, term, covenant, or condition hereof or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent during the continuance of any such breach, shall constitute a waiver of any such breach or of such agreement, term, covenant, or condition. No agreement, term, covenant, or condition hereof to be performed or complied with by Tenant, and no breach thereof, shall be waived, altered, or modified except by a written instrument executed by Landlord. No waiver of any breach shall affect or alter this lease, but each and every agreement, term, covenant, and condition hereof shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

12.8 Landlord's Right To Involve Other Remedies. In the event of any breach or threatened breach by Tenant of any of the agreements, terms, covenants, or conditions contained in this Lease, Landlord shall be entitled to enjoin such breach or threatened breach and shall have the right to invoke any right and remedy allowed at law, in equity, by statute or otherwise as *though* reentry, summary proceedings, and other remedies were not provided for in this Lease.

For good and valuable consideration, Landlord agrees to the following provision: In the event of a default by the Tenant, Landlord acknowledges an affirmative duty to mitigate damages and shall in no event accelerate rent due to the remainder of the term. Notwithstanding any provision in this Lease to the contrary, Landlord and Tenant agree that Tenant's liability upon default shall not exceed: (a) twelve (12) months base rent; (b) base rent for the remainder of the term; or (c) forty thousand dollars

(\$40,000.00), whichever is less. Upon the termination of this Lease, whether in accordance with this section or otherwise, Tenant shall be permitted access to the Premises to remove any and all logo or trademark items. Such items shall include, but shall not be limited to, signage and murals.

12.9 Cumulative Nature of Rights and Remedies. Each right and remedy provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Landlord or Tenant of anyone or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the party in question of any or all other rights or remedies provided for in this Lease or now hereafter existing at law or in equity or by statute or otherwise.

12.10 Holdover by Tenant. In the event Tenant remains in possession of the Leased Premises after the expiration of the tenancy created hereunder, and without the execution of a new lease, Tenant, at the option of Landlord, shall be deemed to be occupying the Leased Premises as a tenant from month to month, at - one and a half times the Fixed Minimum Rent, subject to all the other conditions, provisions, and obligations of this Lease insofar as they are applicable to a month-to-month tenancy.

12.11 Landlord's Right To Cure Defaults. Landlord may, but shall not be obligated to, cure, at any time, without notice, any default by Tenant under this Lease, and whenever Landlord so elects, all costs and expenses incurred by Landlord, including, without limitation, reasonable attorneys' fees together with interest on the amount of costs and expenses so incurred, shall be paid by Tenant to Landlord on demand. If not paid forthwith, Landlord may (in addition to all other remedies otherwise available to Landlord, including the right of termination) deduct such costs and expenses from Landlord's Contribution to Tenant's Work as set forth in § 1.1

ARTICLE XIII: MISCELLANEOUS PROVISIONS

13.1 Mutual Waiver of Subrogation Right. Whenever (a) any loss, cost, damage, or expense resulting from fire, explosion, or any other casualty or occurrence is incurred by either of the parties to this Lease in connection with the Leased Premises, and (b) such party is then covered in whole or in part by insurance with respect to such loss, cost, damage, or expense, then the party so insured hereby releases the other party from any liability it may have on account of such loss, cost, damage, or expense to the

extent of any amount recovered by reason of such insurance and waives any right of subrogation, but this provision shall not be operative in any case in which the effect thereof is to invalidate such insurance coverage or increase the cost thereof.

13.2 Passageways, etc. No permanent or temporary revocations or modifications of any license, permit, or privilege to occupy, use, or maintain any passageway or structure in, over, or under any street or sidewalk, nor any permanent or temporary deprivation of any existing right, privilege, or easement appurtenant to the Demised Premises, shall operate as or be deemed an eviction of Tenant or in any way terminate, modify, diminish, or abate the obligation of Tenant to pay the full rent and additional rent as in this Lease provided and to perform each and every covenant thereof.

13.3 Adjacent Excavation-Shoring. If an excavation shall be made on land adjacent to the Demised Premises, or shall be authorized to be made, Tenant shall afford to the person causing or authorized to cause such excavation license to enter on the Demised Premises for the purpose of doing such work as that person shall deem necessary to preserve the wall or the building of which the Demised Premises form a part from injury or damages and to support the structure by proper foundations without any claim for damages or indemnity against Landlord or diminution or abatement of rent.

13.4 Tenant's Conflicts. Tenant hereby covenants, warrants, and represents that by executing this Lease and by the operation of the Demised Premises under this Lease, it is not violating, has not violated, and will not be violating any restrictive covenant or agreement contained in any other Lease or contract affecting Tenant or any affiliate, associate, or any other person or entity with whom or with which Tenant is related or connected financially or otherwise. Tenant hereby covenants and agrees to indemnify and save harmless Landlord, any future owner of the fee or any part thereof, and any mortgagee thereof against and from all liabilities, obligations, damages, penalties, claims, costs, and expenses, including attorneys' fees, paid, suffered, or incurred by them or any of them as a result of any breach of the foregoing covenant. Tenant's liability under this covenant extends to the acts and omissions of any subtenant and any agent, servant, employee, or licensee of any subtenant of Tenant.

Landlord agrees not to sell, lease, let, use or permit to be used, any property owned or controlled by it within the Premises now or at any time during the initial term of this Lease or any renewal thereof to any entity which sells or serves sandwiches. Further, current tenants shall be prohibited from adding items to their menus which conflict with this exclusive right.

13.5 Notices from One Party to the Other. Any notice or demand from Landlord to Tenant or from Tenant to Landlord shall be mailed by registered or certified mail, return receipt requested, addressed, if to Tenant, at the address of Tenant or such other address as Tenant shall have last designated by notice in writing to Landlord, and if to Landlord, to the place then established for the payment of rent, or such other address as Landlord shall have last designated by notice in writing to Tenant. Depositing any notice required hereunder, postage prepaid, in the U.S. mail shall be conclusive evidence of such service. Landlord and Tenant acknowledge that it is extremely important that rent be paid in a timely manner as required by this Lease. Since Tenant may sublet the Premises to a licensee/franchisee of Doctor's Associates Inc. and the licensee/franchisee may pay rent directly to Landlord, Tenant does not receive rental income and will not know if rent has not been paid. Since the parties recognize that time is of the essence in this matter, Landlord agrees to give written notice to Tenant within sixty (60) days of any failure to perform any of the terms or conditions of this Lease by Tenant, its sublessee, or assignee. Failure of Landlord to give such notice will constitute a waiver of monetary and non-monetary claims against Tenant.

Tenant:

- (1) Subway Real Estate, LLC
325 Bic Drive
Milford, CT 06461,
- (2) To the Development Agent at:
206 North Williamsburg Drive
Bloomington, IL 61704
- (3) And the demised premises.

Landlord address for notice is: 100 E Phoenix St, Normal, IL 61761

13.6 Brokerage. Tenant warrants that it has had no dealings with any broker or agent in connection with this Lease other than Landlord's broker and covenants to pay, hold harmless, and indemnify Landlord from and against any and all cost, expense, or liability for any compensation, commissions, and charges claimed by any other broker or other agent with respect to this Lease or the negotiation thereof.

13.7 Gross Profit Reports. Nothing herein shall be construed as to require the Tenant to submit Tenant's financial statement(s) to the Landlord; provided, however, Tenant or Tenant's Franchisee, Assignee and/or Sublessee shall submit to the Landlord a monthly Gross Profit Report for the operation at the Leased Premises no later than twenty (20) days following the end of the previous month which shows

gross sales for the previous month less sales tax and cost of good sold as required by Section 4.2 above. In addition, when requested by the Landlord, Tenant shall submit copies of the Sales Tax Report for the Leased Premises filed with the State of Illinois for the period in question.

13.8 Relationship of the Parties. Nothing contained herein shall be deemed or construed by the parties hereto nor by any third party as creating the relationship of principal and agent, of partnership, of joint venture between the parties hereto, or any other relationship than Landlord and Tenant. Whenever herein the singular number is used, it shall include the plural, and the masculine gender shall include the feminine and neuter genders.

13.9 Estoppel Certificates. At any time and from time to time Tenant agrees, upon request in writing from Landlord, to execute, acknowledge, and deliver to Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications) and the dates to which the Fixed Minimum Rent and other charges have been paid. Notwithstanding the foregoing to the contrary, in no event shall Tenant be required to submit Tenant's financial statement(s). Within fifteen (15) days of written notice from Tenant, Landlord agrees to execute and deliver to Tenant similar documents at no cost to Tenant.

13.10 Short Form Lease. Tenant agrees not to record this Lease, and both Landlord and Tenant agree to execute, acknowledge, and deliver at any time after the date of this Lease, at the request of the other, a "short form lease" suitable for recording, setting forth those items, except rental, contained herein.

13.11 Applicable Law and Construction. The laws of the State of Illinois shall govern the validity, performance, and enforcement of this Lease. Whenever a period of time is provided in this Lease for Landlord to do or perform any act or thing, Landlord shall not be liable or responsible for any delays due to strikes, lockouts, casualties, acts of God, war, governmental regulation or control, or other causes beyond the reasonable control of Landlord, and in any such event said time period shall be extended for the amount of time Landlord is so delayed. The invalidity or the inability to enforce any provision of this Lease shall not affect or impair any other provision. The headings of the several articles contained herein are for convenience only and do not define, limit, or construe the contents of such articles.

13.12 Execution of Lease by Landlord and Landlord's Exculpation. Employees or agents of Landlord, have no authority to make or agree to make a lease or any other agreement or undertaking in connection herewith. The submission of this document for examination and negotiation does not constitute an offer to lease, or a reservation of, or option for, the Leased Premises, and this document

becomes effective and binding only upon the execution and delivery hereof by Landlord and Tenant. All negotiations, considerations, representations, and understandings between Landlord and Tenant are incorporated herein and may be modified or altered only by agreement in writing between Landlord or Tenant, and no act or omission of any employee or agent of Landlord shall alter, change, or modify any of the provisions hereof.

13.13 Binding Effect of Lease. The covenants, agreements, and obligations herein contained except as herein otherwise specifically provided shall extend to, bind, and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors, and assigns. Landlord, at any time and from time to time, may make an assignment of its interest in this Lease, and in the event of such assignment and the assumption by the assignee of the covenants and agreements to be performed by Landlord, Landlord and its successors and assigns (other than the assignee of this Lease) shall be released from any and all liability hereunder.

13.14 Interest on Unpaid Accounts. All amounts (other than Fixed Minimum Rent, or unless otherwise provided herein, all of which shall be due as herein provided) owed by Tenant to Landlord hereunder shall be deemed to be additional rent and shall, unless otherwise provided herein, be paid within ten (10) days from the date Landlord renders statements or accounts therefor. All amounts (including Fixed Minimum Rent and additional rent) shall bear interest from the date due until the date paid at the rate equivalent to two percent above the prime rate of interest in effect on the date of payment at Busey Bank Normal, Illinois, or its successor, or at the maximum legal rate of interest, whichever is lower.

13.15 Assignment, Sublease or License. Tenant may assign or sublet this Lease Agreement to any bona-fide licensee/franchisee of Doctor's Associates Inc. ("Franchisor") doing business as a Subway® restaurant, without the prior consent of or written notice to the Landlord under this Agreement. Such assignment or subcontracting shall not alter the Tenant's responsibility to the Landlord. Landlord agrees to accept rent from the Tenant, its assignee or sublessee.

Landlord recognizes and acknowledges that Tenant is a Delaware corporation and that Tenant's assets consist almost exclusively of leases, subleases, and options to purchase leased premises. Landlord also recognizes and acknowledges that Tenant was organized principally for the purpose of negotiating and drafting leases with a view towards subletting the leased premises to franchisees/licensees of Doctor's Associates Inc. ("DAI"). Landlord recognizes and acknowledges that it has been advised that DAI is a Florida corporation that owns all rights to award franchises for Subway® sandwich shops and that

Landlord has also been advised that Tenant has no rights whatsoever to award franchises for Subway® sandwich shops or collect any franchise-related royalties from any prospective sublessee of the premises. Landlord recognizes and acknowledges that it has been given an opportunity, whether by itself or with the assistance of its professional advisors, to make inquiry of Tenant's financial status and to evaluate said status to its satisfaction. Landlord has either made such inquiry and is satisfied with the response to such inquiry or has affirmatively and voluntarily determined not to do so. Landlord further recognizes and acknowledges that no person or entity other than Tenant has made any representations of any kind with regard to the ability of Tenant to perform Tenant's obligations hereunder. Landlord also recognizes and acknowledges that Tenant intends to sublease the premises to a person(s) who has or will be awarded a franchise/license for a Subway® sandwich shop from DAI, under which sublease the sublessee will pay rent directly to Landlord so that the rental payment from such sublessee will normally not be received or held by Tenant. Although the sublessee may open a business operation doing business as a Subway® sandwich shop and may have franchise and other business relationships with corporations related to or associated by the general public with "Subway," as it is commonly known, Landlord recognizes and acknowledges that the sole and exclusive person or entity against which it may seek damages or any remedies under this or any other document in which the Landlord and Tenant or Landlord and sublessee are parties, whether for unpaid rent and associated damages, claims of unjust enrichment, claims of unfair trade practices, or any other theory of recovery of any kind or nature, is Tenant or sublessee. Further, it is expressly understood and agreed that there will not be any liability whatsoever against (A) DAI, its shareholders, directors, officers, employees and/or agents, and/or (B) any persons and entities who are the shareholders, directors, officers, employees, and/or agents of the Tenant. Such exculpation of liability shall be absolute and without any exception whatsoever.

13.16 Use of Premises/Smoke Free. Tenant's use shall be defined as a restaurant for on and off premises consumption or for any other lawful purpose. Landlord acknowledges that Tenant's menu consists primarily of sandwiches, salads and related items and that from time to time Tenant may add test items to its menu. Landlord further agrees that Tenant may add, delete and/or change its menu without the prior consent of the Landlord provided that Tenant complies with all local codes and ordinances, and that the Landlord has no preexisting agreements prohibiting such menu additions. Tenant may sell fruit smoothies and/or yogurt. In no event shall Tenant's menu be construed as limited to sandwiches and salads.

Tenant acknowledges that an express material condition of the Lease is that the Tenant shall not permit any smoking on or about the Premises.

13.17 Surrender Of Premises. Tenant shall surrender the Premises at the end of the Lease term (or any extension thereof, or earlier termination, in the same condition as when it took possession. Tenant shall not be responsible for any repairs or alterations beyond those required to restore the Premises to a condition substantially similar to the condition of the Premises at the commencement of this Lease, reasonable wear and tear excepted.

Tenant's trade fixtures and all of Tenant's equipment shall not be considered fixtures, and shall remain the property of Tenant. As such, they may be removed by Tenant at any time, subject to the foregoing paragraph.

13.18 Signs. Subject to Landlord's approval, Tenant may erect signage in the windows of the Leased Premises, but may not erect signage on the building.

13.19 Parking. Landlord agrees to provide Tenant with at least Four (4) parking spaces in the buildings at no cost to the Tenant except for the deposit required for each parking card. Landlord represents and warrants that there is adequate non-exclusive parking in the parking deck that is part of the Uptown Station.

13.20 Severability. Should any provision of this Lease be or become invalid, void, illegal or not enforceable, it shall be considered separate and severable from this Lease and the remaining provisions shall remain in force and be binding upon the parties hereto as though such provision had not been included.

Landlord acknowledges that this Lease consists of thirteen sections and exhibits A through E.

IN WITNESS WHEREOF, the parties have executed and delivered this Lease as of the date first above written.

LANDLORD: TOWN OF NORMAL, ILLINOIS

Name: DocuSigned by:
Christopher Koos
53D3D8021121488...

By: Christopher Koos

Title: President, Board of Trustees

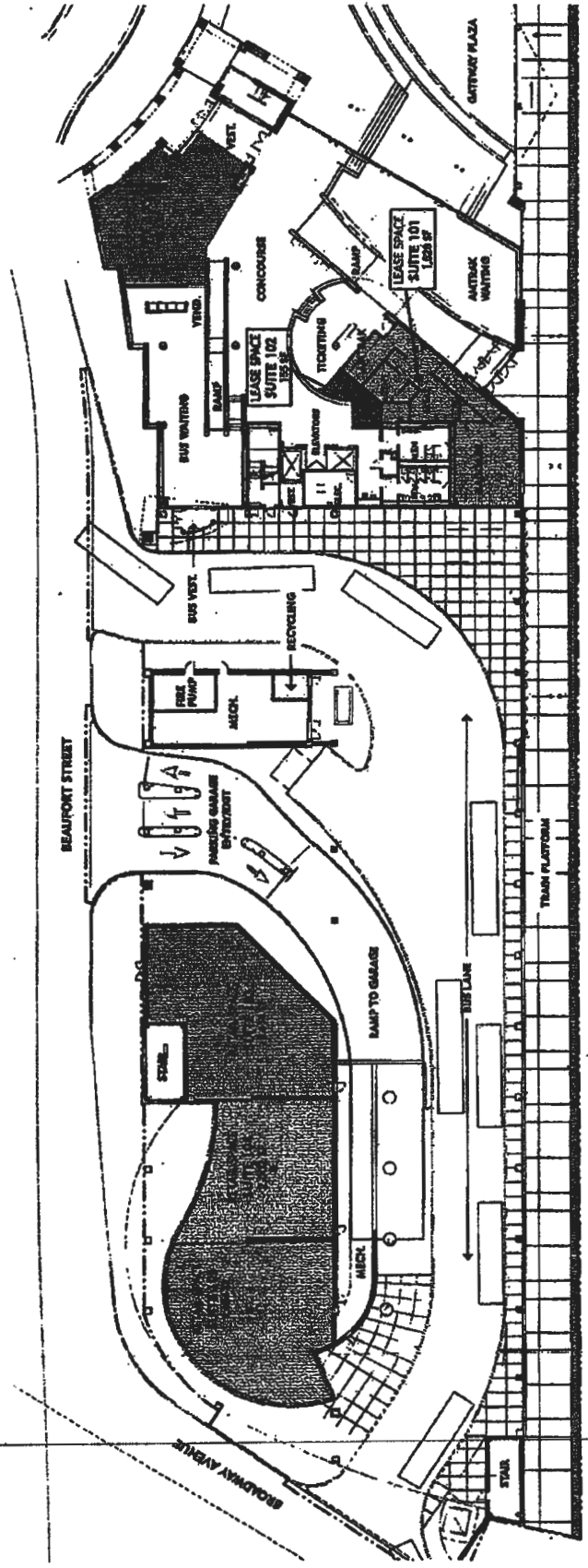
TENANT: SUBWAY REAL ESTATE, LLC.

Name: DocuSigned by:
Ernest A. Oliver Jr. 6/8/2012
404626127538460...

By: Ernest A Oliver Jr

Title: Manager

Exhibit A - Plan of Uptown Station



SCALE 1/32" = 1' |  | NORMAL MULTIMODAL CENTER |  | RATIO

Exhibit B - Plan of Leased Premises

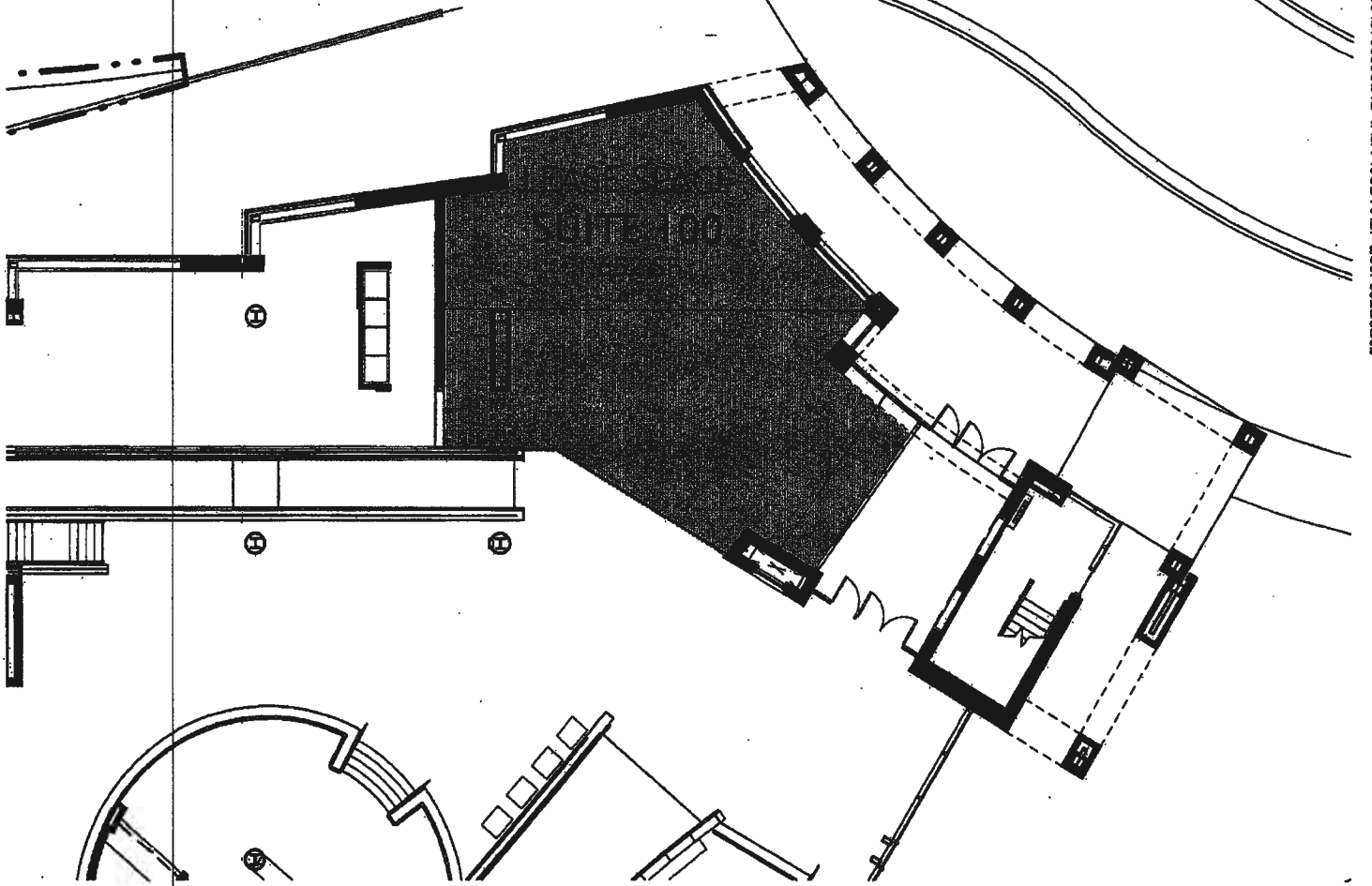


Exhibit C

**SUBWAY REAL ESTATE, LLC
UPTOWN STATION - 11 UPTOWN CIRCLE
TENANT BUILDOUT- DIVISION OF WORK**

LANDLORD'S WORK

The following improvements will be performed by the Landlord's contractor as shown on the tenant drawing by Ratio Architects dated _____.

- **Architectural and Engineering drawings** of tenant improvements
- **Concrete slab work** required for under slab improvements including opening the existing concrete floor backfilling with compacted fill and concrete patching
- **Floor, Ceiling and column cover.** As part of base building work supply and install, concrete floor slab, fiberglass reinforced column cover, finished ceiling including landlord lighting, sprinkler system and ventilation all per base building construction documents.
- **Framing** of all full height (9 foot and higher) tenant walls and ceiling in kitchen. Provide structural support for service counter soffit. Provide all framing to accommodate for plumbing fixtures as necessary.
- **Ceiling** – Install code compliant ceiling in kitchen area
- **Plumbing** to include all rough work including all sewer and water rough-in locations for all equipment
 - Supply and install slop sink with faucet
- **Electrical** to include all service and electrical work to all equipment within the walls framed by landlord. Additionally, install conduit stubs to location convenient for tenant extension to front counter equipment and lighting.
 - 200 Amp 3 phase 4 wire service with panel
 - Supply all lighting except specialty
 - Supply all switches and disconnects
- **Mechanical.** There will be no exhausting of the space just adjustments made to the present system

- **Fire sprinkler.** To include tying into sprinkler main far enough up stream to provide sufficient flow and volume to cover the area under the tenant ceiling above the kitchen and service counter. Include all required piping and sprinkler heads.
- **Drywall.** Install drywall over all walls and ceiling framed by landlord. Tape and sand ready for finish.

Landlord's contractor will supply all supervision and clean up for the Landlord work above.

Exhibit D

TENANT'S WORK

The following improvements will be performed by the Tenant's contractor as shown on the tenant drawing by Ratio Architects dated _____. All work will be performed by qualified union labor per the base building project labor agreement (PLA).

- **Oversight** tenant contractor will coordinate with landlord to confirm all rough-in locations and assure equipment to fit and work properly
- **Framing and finish** of service (front) counter soffit including lighting.
- **Ceiling installation** in service counter area
- **Equipment** - tenant will supply and install its equipment package including but limited to all stainless steel kitchen equipment, walk-in cooler/freezer with compressors, three compartment sink with accessories, warming and cooling drawers, counter display cases, half walls, front counter line up warming lights, etc.
- **Small wares, shelving and any other items** Subway may require for the full operation of the store.
- **Soda system** complete including any above ceiling raceways for the soda lines.
- **Decor Package** - Supply and install complete Subway Metro décor package including any Die-panel for the front line up, flooring, all cabinetry, millwork, seating, tables, wall finishes as approved by landlord.

- **Signage** - Supply and install all signage which shall be preapproved by Landlord
- **Specialty light fixtures** including pendants.

Tenant responsible for supervision and clean up for the Tenant work above.

Exhibit E

DESIGN CRITERIA FOR TENANT'S SIGNS

All interior, window, and exterior signage is subject to approval by the Landlord, although exterior signage will generally be prohibited. Exterior signage is subject to Section 15.17-11(A)(7) of the Municipal Code which may be found at

<http://www.normal.org/index.aspx?nid=106>; however, the Town Council may grant code variances when deemed appropriate.

Certificate of Completion

Envelope Number: 9588CB1D4A5A45CBAABFEC9F05ED3D52
 Subject: Please DocuSign this document: Subway Store# 55665.pdf
 Source Envelope:
 Document Pages: 4
 Certificate Pages: 4
 AutoNav: Enabled
 Envelope Stamping: Enabled

Status: Completed

Signatures: 2
 Initials: 0

Envelope Originator:
 Michele Romeo
 325 Bic Drive
 Milford, CT 06461
 romeo_m@subway.com
 IP Address: 65.215.93.238

Record Tracking

Status: Original
 6/8/2012 11:36:22 AM ET

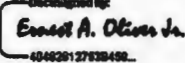
Holder: Michele Romeo
 romeo_m@subway.com

Location: DocuSign

Signer Events

Ernie Oliver
 oliver_e@subway.com
 manager
 SUBWAY REAL ESTATE, LLC
 Security Level: Email, Account Authentication
 (None)
 Consumer Disclosure:
 Not Offered
 ID:

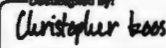
Signature

DocuSigned by:

 Ernest A. Oliver Jr.
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 Using IP Address: 65.215.93.238

Timestamp

Sent: 6/8/2012 11:41:31 AM ET
 Delivered: 6/8/2012 11:42:02 AM ET
 Signed: 6/8/2012 11:42:09 AM ET

Christopher Kocs
 waldrich@normal.org
 Security Level: Email, Account Authentication
 (None)

DocuSigned by:

 Christopher Kocs
 53030021121468...

Sent: 6/8/2012 11:42:15 AM ET
 Delivered: 6/12/2012 10:10:54 AM ET
 Signed: 6/12/2012 4:36:47 PM ET

Consumer Disclosure:
 Accepted: 6/12/2012 4:35:38 PM ET
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Using IP Address: 216.80.68.2

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Envelope Summary Events

Status

Timestamp

Envelope Sent	Hashed/Encrypted	6/8/2012 11:42:16 AM ET
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Completed	Security Checked	6/12/2012 4:36:47 PM ET

Consumer Disclosure

CONSUMER DISCLOSURE

From time to time, Franchise World Headquarters, LLC (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the "I agree" button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign "Withdraw Consent" form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

Notices and disclosures may be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we may provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

To request paper copies from Franchise World Headquarters, LLC

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to PERSON WHO REQUESTED YOUR SIGNATURE and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Franchise World Headquarters, LLC

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to PERSON WHO REQUESTED YOUR SIGNATURE and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000 or WindowsXP
Browsers (for SENDERS):	Internet Explorer 6.0 or above
Browsers (for SIGNERS):	Internet Explorer 6.0, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	Allow per session cookies Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the "I agree" button below.

By checking the "I Agree" box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC CONSUMER DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can

print it, for future reference and access; and

- Until or unless I notify Franchise World Headquarters, LLC as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by Franchise World Headquarters, LLC during the course of my relationship with you.

LEASE AGREEMENT
(Normal, IL Station)

This Lease Agreement ("Lease") is made and entered into as of this 31st day of May, 2012, by and between the Town of Normal, Illinois, a municipal corporation, having its principal place of business at 100 East Phoenix, Normal, IL 61761 ("LESSOR"), and National Railroad Passenger Corporation, a corporation organized under the former Rail Passenger Service Act and the laws of the District of Columbia, with offices at 30th Street Station, 5th Floor South Tower, Philadelphia, PA 19104 ("AMTRAK").

BACKGROUND

LESSOR owns certain real property in the Town of Normal, Illinois, located at 11 Uptown Circle, Normal, IL ("Station"), being more particularly shown on Exhibit "A", attached hereto and made a part hereof; and

AMTRAK desires to lease a portion of the Station as defined in Section 1 below.

NOW, THEREFORE, in consideration of the terms and conditions set forth herein, LESSOR and AMTRAK do hereby agree as follows:

1. PREMISES

a. LESSOR hereby leases to AMTRAK and AMTRAK leases from LESSOR for the "Term" (as defined below), and pursuant to the terms and conditions set forth herein an office located on the first floor of the Station and consisting of 1,528 square feet of space as delineated on the plan attached hereto as Exhibit "B", and made a part hereof, ("Premises").

b. LESSOR also hereby grants to AMTRAK, its employees, agents, licensees, contractors, passengers and invitees, the nonexclusive right in common with LESSOR and all others designated by LESSOR for the use of the common areas and common facilities in the Station and on the land on which the Station is located. The Station and the land on which it is located and the "Common Areas" (as defined below) are collectively referred to herein as the "Property". Common areas include sidewalks, plazas, parking areas, driveways and hallways, stairways, elevators, public bathrooms, loading docks, common entrances, lobbies, other public portions of the first floor of the Property and the pipes, ducts, conduits, wires and appurtenant meters and equipment serving the Premises ("Common Areas").

2. TERM

a. The initial term of this Lease shall be for thirty-five (35) years ("Term") commencing sixty (60) days after an occupancy permit is issued for the Premises ("Commencement Date"). If such permit has not been issued by December 31, 2012, AMTRAK may cancel this Lease. The Term will end thirty-five (35) years thereafter, unless (a) sooner terminated (i) by AMTRAK giving thirty (30) days' prior written notice to LESSOR that AMTRAK's rail passenger service to the Town of Normal, IL will relocate or cease or (ii) in the event LESSOR elects not to rebuild the Station as provided in paragraphs 13 and 14 in this Lease or (b) extended by AMTRAK as provided below.

b. On or about the Commencement Date, LESSOR shall execute and deliver to AMTRAK a Declaration of Commencement ("Declaration") in the form attached hereto as Exhibit D. AMTRAK shall promptly execute such Declaration confirming the Commencement

Date and return such to LESSOR.

c. AMTRAK shall have the option to extend the Term of this Lease for four (4) additional five (5) year terms by giving notice of its intent to exercise this option at least sixty (60) days before the end of the then current Term. Any extended term shall be upon all the same terms and conditions as set forth in this Lease and such extension shall be part of the Term.

3. RENT

AMTRAK shall pay rent in the amount of One Dollar (\$1.00) per Term ("Rent"), receipt of the Rent is hereby acknowledged by LESSOR.

a. AMTRAK shall to pay LESSOR as Additional Annual Rent the electricity, water and gas charges set forth in Section 7 below.

b. Audit Rights

AMTRAK or the Federal Railroad Administration, their respective agents, designees and accountants shall have the right at any time or from time to time after advance notice to LESSOR to make any examination or audit of LESSOR's books and records which relate in any way to the Station. If it is determined that the utility charges, or any other charges to AMTRAK are in error, then LESSOR shall pay any overpayment to AMTRAK and AMTRAK shall pay any underpayment to LESSOR.

4. USE

AMTRAK may occupy and use the Premises for any lawful purpose reasonably related to the operation of a rail passenger station and AMTRAK's business operations, including ticketing, waiting area for passengers, related mail, package, baggage, and express services and office, mechanical and/or engineering facilities, connecting bus service and operations incidental to AMTRAK's business. Upon approval from LESSOR, which approval shall not be unreasonably withheld, delayed or conditioned, AMTRAK shall be permitted to assign and/or sublease portions of the Premises to third parties for retail use for the convenience of AMTRAK's passengers, such as newsstands, coffee stands, ATM and vending machines beverage and snack stands. All uses set forth in this Section shall collectively be referred to as "USE".

5. PARKING

AMTRAK shall have the exclusive right to use for its employees, contractors and agents, free of charge, six (6) reserved parking spaces in the parking area located at the Property as shown on Exhibit "A", attached hereto and made a part hereof.

6. HOURS OF OPERATION

AMTRAK shall have the right to keep the Premises open during the time period which is a half an hour prior to the arrival of the first scheduled train and a half an hour after the arrival of the last scheduled train. If a train is due to arrive before 6am or after 10pm AMTRAK shall notify LESSOR or LESSOR's police department (at such time when AMTRAK is aware of the early or late arrival) and LESSOR or its police department shall arrange for the Station to be open for such added hours. The telephone number to notify the LESSOR of such arrivals is: 309-454-9535.

7. UTILITIES

LESSOR shall provide all utilities (electric, water and gas) to the Station. AMTRAK shall pay to LESSOR, "AMTRAK's Proportionate Share" of the actual electric, water and gas charges ("Utility Charges") for the first floor of the Station, without markup. "AMTRAK's Proportionate Share" shall mean the ratio of the square footage of the Premises to the square footage of the first floor of the Station. AMTRAK's Proportionate Share shall initially be 10%. In addition, AMTRAK shall pay AMTRAK's Proportionate Share of the first floor Common Areas Utility charges. The first floor Common Areas Utility Charges shall be determined by multiplying the Utility Charges for the first floor of the Station by the ratio of the square footage of the Common Areas on the first floor of the Station to the square footage of the entire first floor of the Station.

8. LESSOR'S WORK

LESSOR agrees to provide AMTRAK with leasehold improvements within the Premises in accordance with the plans and specifications attached hereto and incorporated herein as Exhibit "E", attached hereto and made a part hereof, by the Commencement Date. All such leasehold improvements shall be constructed in accordance with all applicable statutes, laws, rules, regulations, ordinances and codes, including without limitation, the Americans with Disabilities Act of 1990, as amended, and the regulations promulgated thereunder ("ADA") and must be constructed in accordance with AMTRAK'S safety, security, operation and engineering procedures, as applicable.

9. SIGNS

Signs needed for security or ADA compliance or other signs required in order for AMTRAK to be in compliance with any laws, statutes, regulations or government requirements are deemed approved by LESSOR ("Required Signs"). AMTRAK may (a) keep and maintain Required Signs on the Property throughout the Term of this Lease. All other signs shall not be erected without the prior approval of LESSOR, which approval shall not be unreasonably denied, delayed or conditioned. AMTRAK shall not erect or install any sign in the Station that violates any applicable law, ordinance, rule or regulation of any Federal agency.

10. MAINTENANCE, REPAIR AND SERVICES

a. Except as otherwise specifically provided herein, LESSOR, at its sole cost and expense, shall be responsible for the maintenance, repair and upkeep of the Property, including the maintenance, repair, replacement and alteration of the interior and exterior of the Station and all fixtures, equipment, components and systems that are a part of the Station or necessary to and for the operation of the Station and AMTRAK's use and occupancy of its Premises, including structural and roof repairs and maintenance and exterior landscaping, paving, trash removal, snow removal, pest control and maintenance.

b. AMTRAK shall be responsible for the maintenance of the Premises and any trade fixtures, equipment or other personal property of AMTRAK located on or within the Premises.

c. Notwithstanding anything to the contrary in this Lease, if LESSOR fails in any of its obligations under this Section 10, and such failure continues for more than three (3) consecutive days after notice from AMTRAK of such failure, AMTRAK may provide any such maintenance, repairs and services or arrange for the provision of such. In the event AMTRAK provides any such maintenance, repairs or service, LESSOR shall reimburse AMTRAK for the

cost and expense of such maintenance, repairs and services within forty-five (45) days of notice from AMTRAK for such payment. Upon request of LESSOR, AMTRAK shall supply LESSOR with verification of all costs.

11. ALTERATIONS AND IMPROVEMENTS

AMTRAK shall have the right to make alterations and improvements to the Premises subject to the following terms and conditions:

a. No alterations or improvements made by AMTRAK shall in any way impair the structural stability of the Premises.

b. AMTRAK shall request LESSOR's approval prior to making any alterations or improvements and all alterations or improvements must be approved in writing by LESSOR. LESSOR's approval shall not be unreasonably withheld, conditioned or delayed.

c. AMTRAK shall cause the Premises to be kept free and clear of any mechanic's lien or materialmen's liens which may arise out of the construction of any such alterations or improvements by AMTRAK.

d. Except for AMTRAK's personal property and trade fixtures (including machinery, equipment, signs and furnishings), all alterations and improvements that are permanently affixed to the Station shall become the property of the LESSOR and shall remain on and be surrendered with the Premises at the expiration or sooner termination of this Lease or any extension of the Term of this Lease.

e. AMTRAK's personal property and its trade fixtures, including machinery, equipment, signs and furnishings, shall remain the property of AMTRAK and may be removed by AMTRAK at any time during the Term or upon the expiration or sooner termination of this Lease (including any extension term). AMTRAK shall repair any damage to the Premises or Station caused by AMTRAK's removal of its personal property, trade fixtures, or equipment, but AMTRAK shall have no obligation to remove such items from the Station at any time.

f. AMTRAK, in its sole discretion and without limiting the obligations of LESSOR herein, may, with LESSOR's approval which shall not be unreasonably denied, delayed or conditioned (LESSOR shall be deemed to give its approval if the approval is unreasonably denied, delayed or conditioned), make improvements to the Station or adjacent areas for ADA or security purposes. If AMTRAK chooses to make such improvements, AMTRAK may enter in, on over, through and upon any property of LESSOR to obtain access to make such improvements. LESSOR's approval shall not be required for improvements required by the ADA or security.

g. Without approval of LESSOR, AMTRAK shall have the right at any time, at its sole cost and expense, to install sensors or cameras on or in the Station and Property for security purposes and without any further compensation to LESSOR. To the extent that either party has or will have sensors or cameras installed on or in the Station or Property, the parties agree, without further compensation, that each party shall have the right to access all materials produced by such devices and AMTRAK may share such with other agencies for security purposes.

12. INSURANCE AND INDEMNIFICATION

a. AMTRAK shall indemnify, defend, and hold harmless LESSOR from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) due to bodily injury, including death, to any person, or loss or damage (including loss of use) to any property, caused by the sole and direct willful misconduct of AMTRAK, its employees or agents, in connection with Amtrak's use of the Premises.

b. AMTRAK shall cover its indemnity obligations hereto under its corporate-wide self-insurance program.

c. AMTRAK shall cause all its subcontractors who perform work at the Station to add LESSOR and AMTRAK as additional insureds on subcontractors' general and auto liability insurance policies.

d. LESSOR shall indemnify, defend and hold harmless AMTRAK, its officers, officials, employees and agents from and against any and all liability, loss, damage, expense, costs (including without limitation, costs and fees of litigation) due to bodily injury, including death, to any person, or loss or damage (including loss of use) to any property, caused by the sole and direct willful misconduct of LESSOR its officers, officials, directors, its employees, invitees or agents in connection with this Lease, or Lessor's ownership of the Property.

e. LESSOR shall cause all its subcontractors who perform work at the Station to add LESSOR and AMTRAK as additional insureds on subcontractors' general and auto liability insurance policies.

f. LESSOR shall procure and maintain throughout the Term of this Lease property insurance on the Station for its full replacement value, with AMTRAK designated as an additional insured to the extent of AMTRAK's insurable interest therein.

13. DAMAGE OR DESTRUCTION

In the event of destruction, or substantial damage, to the Premises during the Term of this Lease which renders the Premises unusable to AMTRAK, in AMTRAK's sole discretion, LESSOR shall have the option of:

a. Within one hundred eighty (180) days after such damage or destruction, replacing or rebuilding the Station, including the Premises, and in such manner and according to such plans and specifications which would restore the Station, including the Premises, to substantially the same condition as immediately before its destruction or substantial damage, in which event LESSOR shall provide suitable temporary facilities while such replacement or rebuilding is ongoing; or

b. Declining to replace or rebuild, in which event AMTRAK shall have the option of terminating this Lease by written notice; or

c. LESSOR shall notify AMTRAK within thirty (30) days after such damages or destruction of LESSOR's decision to rebuild the Station including the Premises or declining to rebuild. During the 180 day repair or replacement period identified in Subsection (a) above, AMTRAK shall have no obligation to: (1) Pay any costs or expenses associated with the Station, including the Premises, required under this Lease; or (2) Provide any services including janitorial services to the Premises required under this Lease.

14. EMINENT DOMAIN

Eminent domain proceedings resulting in the condemnation of part of the Premises herein that leave the remaining portion usable by AMTRAK for purposes of the business for which the Premises are leased in AMTRAK's sole opinion, will not terminate this Lease Agreement. If AMTRAK, in its sole opinion, determines that the remaining portion is not usable by AMTRAK, AMTRAK may terminate this Lease by giving written notice of termination to LESSOR no more than ninety (90) days after the notice of condemnation or taking. The effect of such condemnation, should AMTRAK not terminate this Lease, will be to terminate this Lease

Agreement as to the portion of the Premises condemned and leave it in effect as to the remainder of the Premises, and the Rent and all other expenses provided for herein shall be adjusted accordingly. Compensation awarded as a result of such condemnation shall be that of LESSOR, except to the extent that part of the award is allocated as damages to fixtures on the Station which were furnished by AMTRAK, damages for the value of AMTRAK's leasehold estate or relocation expenses for AMTRAK.

15. ACCEPTANCE

AMTRAK hereby acknowledges that when it occupies the Premises it shall be deemed to have received the Premises in good order and condition unless AMTRAK notifies LESSOR of defects or problems with the Premises within one hundred twenty (120) days after the latter of (i) the grand opening of the Station or (ii) AMTRAK takes occupancy. If AMTRAK notifies LESSOR as aforesaid, LESSOR shall correct and repair any defects or problems identified by AMTRAK within thirty (30) days after the date of the notice.

16. SUBLEASE AND ASSIGNMENT BY AMTRAK

a. AMTRAK shall not assign or sublet the whole or any part of the Premises without LESSOR's prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned. This provision requiring LESSOR's consent shall not apply, and AMTRAK shall be permitted to assign or sublet to any entity whose management and operation is indirectly or directly controlling, controlled by or under common control with AMTRAK or if such assignment or subletting is due to or arises out of any judicial or legislative action or mandate, and any such transfers shall not be deemed an assignment or subletting.

17. DEFAULT BY AMTRAK

The failure of AMTRAK to perform substantially or keep or observe any of the terms, covenants and conditions which it is obligated to perform, keep or observe under this Lease within thirty (30) days after written notice from LESSOR identifying the specific term, covenant, or condition and requesting AMTRAK to correct or to commence correction for any such deficiency or default or such longer time period if the correction cannot be completed within said 30 days, provided that AMTRAK has commenced such correction, shall constitute an "Event of Default" by AMTRAK.

18. RIGHTS OF LESSOR AFTER DEFAULT BY AMTRAK

a. If an Event of Default by AMTRAK occurs, as provided in Section 17, LESSOR shall have the right (unless otherwise specified in the termination notice), in addition to any rights of the LESSOR at law or in equity and after written notice to AMTRAK, to terminate this Lease and enter and take possession of the Premises and expel, oust and remove any and all parties who may occupy any portion of the Premises, all in accordance with all applicable laws and procedures.

b. In case of any termination, re-entry, and/or dispossession by the LESSOR in accordance with lawful proceedings:

(1) The Rent which is due and owing up to the time of termination, re-entry or other dispossession shall become due thereupon and be paid up to the earlier of (a) the time of such termination or (b) upon reentry, dispossession or expiration: and

(2) LESSOR may relet the Premises or any part or parts thereof, either in the name of LESSOR or otherwise, for a term or terms which may at LESSOR's option be less

than or exceed the period which would otherwise have constituted the balance of the Term of the Agreement.

19. LESSOR'S DEFAULT

In the event LESSOR fails to perform any covenant or obligation required to be performed under this Lease, and such failure continues for more than thirty (30) days after notice from AMTRAK identifying such failure, such failure shall constitute an "Event of Default" by LESSOR. If an Event of Default by LESSOR occurs, AMTRAK, at its sole option and discretion, may: (1) perform such covenant or obligation on behalf of LESSOR in which event the LESSOR shall reimburse AMTRAK all costs and expenses associated with AMTRAK's performance within twenty (20) days after AMTRAK presents an invoice to LESSOR for such performance; (2) terminate this Lease; or (3) pursue any and all rights and remedies available at law or in equity.

20. QUIET ENJOYMENT

If and so long as AMTRAK shall keep all the covenants and agreements required by it to be kept under this Lease, LESSOR covenants and agrees that it and anyone claiming by through or under LESSOR shall not interfere with the peaceful and quiet occupation and enjoyment of the Premises by AMTRAK.

21. RIGHT OF ENTRY UPON PREMISES

LESSOR and its agents and employees shall have the right to enter upon the Premises, if accompanied by an AMTRAK employee, to inspect the same to determine if AMTRAK is performing the covenants of this Lease, on its part to be performed, to post such reasonable notices as LESSOR may desire to protect its rights, and to perform service and maintenance pursuant to its obligations under this Lease.

22. TAXES

Pursuant to 49 U.S.C. §24301(l), AMTRAK is exempt from all state and local taxes, surcharges, or fees.

23. COMPLIANCE WITH LAWS, ORDINANCES, AND RULES

AMTRAK agrees to conform to and not violate any applicable laws, ordinances, rules, regulations, and requirements of Federal authorities now existing or hereinafter created affecting AMTRAK's use and occupancy of the Premises. LESSOR agrees to conform and comply with all applicable laws, ordinances, rules, regulations and requirements of federal, state, county or other governmental authorities and various departments there of now existing or hereinafter created regarding LESSOR's ownership and maintenance of the Station and the Property, including compliance with the Americans with Disabilities Act. Nothing in this Lease shall be interpreted as making AMTRAK a responsible party for purposes of accessibility requirements under the Americans with Disabilities Act.

24. CONDITION OF PREMISES UPON SURRENDER

When AMTRAK vacates the Premises at the expiration of the Term or earlier termination of this Lease, whichever occurs first, AMTRAK shall leave the Premises in the same condition as when AMTRAK received possession, ordinary wear and tear, damage by fire or other casualty, or condemnation excepted and as may be altered, modified or improved in accordance

with the terms of this Lease.

25. NON-WAIVER

Any waiver of any breach of covenants or conditions herein contained to be kept and performed by either party shall be effective only if in writing and shall not be deemed or considered as a continuing waiver. Any waiver shall not operate to bar or prevent the waiving party from declaring a forfeiture or exercising its rights for any succeeding breach of either the same or other condition or covenant.

26. PARTNERSHIP DISCLAIMER

It is mutually understood and agreed that nothing in this Lease is intended or shall be construed in any way as creating or establishing the relationship of partners or joint venturers between the parties hereto, or as constituting AMTRAK as an agent or representative of LESSOR for any purpose or in any manner whatsoever.

27. PARTIES BOUND

Except as otherwise specifically provided in this Lease, this Lease shall bind and inure to the benefit of the parties hereto and their respective administrators, legal representatives, successors and assigns.

28. NOTICES

Notices given under the terms of this Lease must be in writing and shall be deemed properly served if such notice is hand delivered or mailed by certified mail, return receipt requested, or sent by an established overnight commercial courier for delivery on the next business day with delivery charges prepaid, addressed to the other party at the following address, or such other address as either party may, from time to time, designate in writing:

LESSOR:
TOWN OF NORMAL
100 E. Phoenix Avenue
Normal, IL 61761
Attn. Town Clerk

AMTRAK:
AMTRAK
30th Street Station, 5th Floor South
Philadelphia, PA 19104
Attn: Assistant Vice President Real Estate
Development

Notice mailed in accordance with the provisions hereof shall be deemed to have been given as to the date of hand delivery or the third business day following the date of such mailing, whichever is earlier.

29. TIME OF ESSENCE, BINDING UPON HEIRS, ETC.

Time is of the essence of each and all the terms and provisions of this Lease and the terms and provisions of this Lease shall extend to and be binding upon and inure to the benefit of the, administrators, successors and assigns of the respective parties hereto.

30. NUMBER AND GENDER

All words used herein in the singular number shall include plural and the present tense shall include the future, and the masculine gender shall include the feminine and neuter.

31. **ENTIRE AGREEMENT**

This Lease contains the sole and only agreement of the parties as to the leasing of the Premises. Any prior agreements, promises, negotiations or representations not expressly set forth in this Lease are of no force or effect.

32. **LANGUAGE CONSTRUCTION**

The language of each and all paragraphs, terms, and/or provisions of this Lease shall, in all cases and for any and all purposes, and any and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identify or status of any person or persons who drafted all or any portion of this Lease.

33. **HOLDING OVER**

If AMTRAK shall hold over the Premises, after expiration of the Term or any extension thereof, such holding over shall be construed to be only a tenancy from month to month subject to all of the covenants, conditions and obligations contained in this Lease provided, however, that nothing in this paragraph shall be construed to give AMTRAK any rights to so hold over and to continue in possession of the Premises without the consent of LESSOR.

34. **SALE OF THE STATION/NON DISTURBANCE**

LESSOR, and all succeeding landlords agree that prior to any sale, transfer, assignment or in any other manner of change in ownership or control of the Station it will require any new landlord, controlling party or owner to execute a document with AMTRAK that will acknowledge that such party agrees to be bound by all of the provisions of this Lease. This Lease shall be recorded by LESSOR in the recorder of deeds for the County of McLean, Illinois. This Lease shall not be subordinate to any other liens, mortgages or encumbrances unless such owner or holder of the lien, mortgage or other encumbrance signs a nondisturbance agreement approved by AMTRAK, in its sole discretion, prior to any disposition of the Station.

35. **AMENDMENT**

This Lease, including any exhibits hereto, shall not be amended, except in writing signed by the parties. Any amendment or addendum to this Lease shall expressly refer to this Lease.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures the day and year first above written.

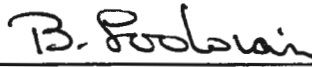
"LESSOR"

"AMTRAK"

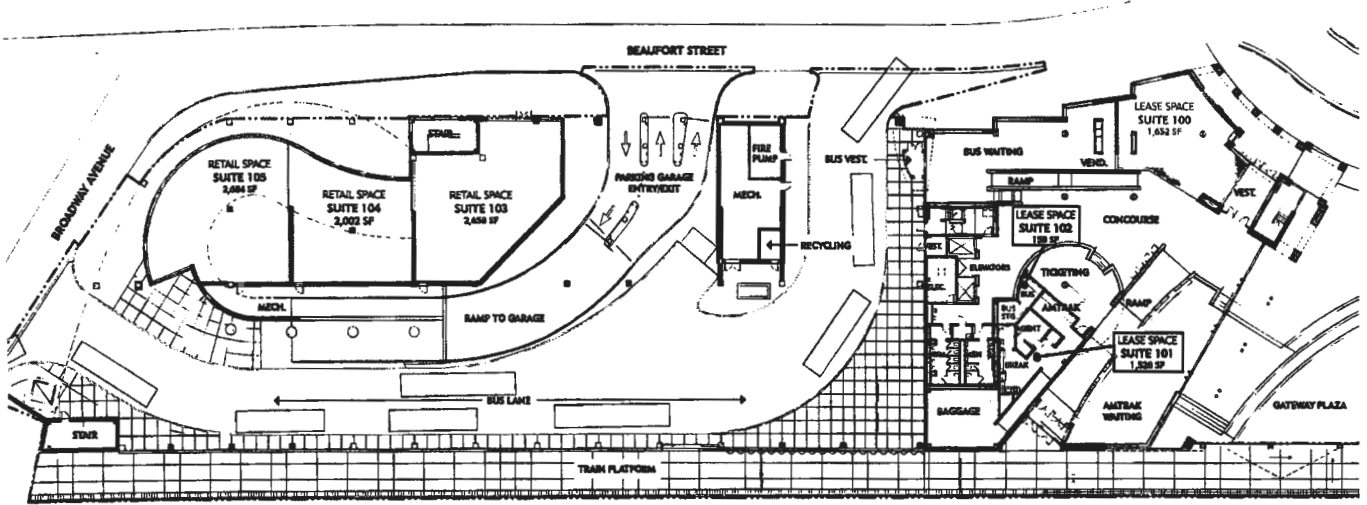
TOWN OF NORMAL, ILLINOIS

NATIONAL RAILROAD PASSENGER CORPORATION

By 

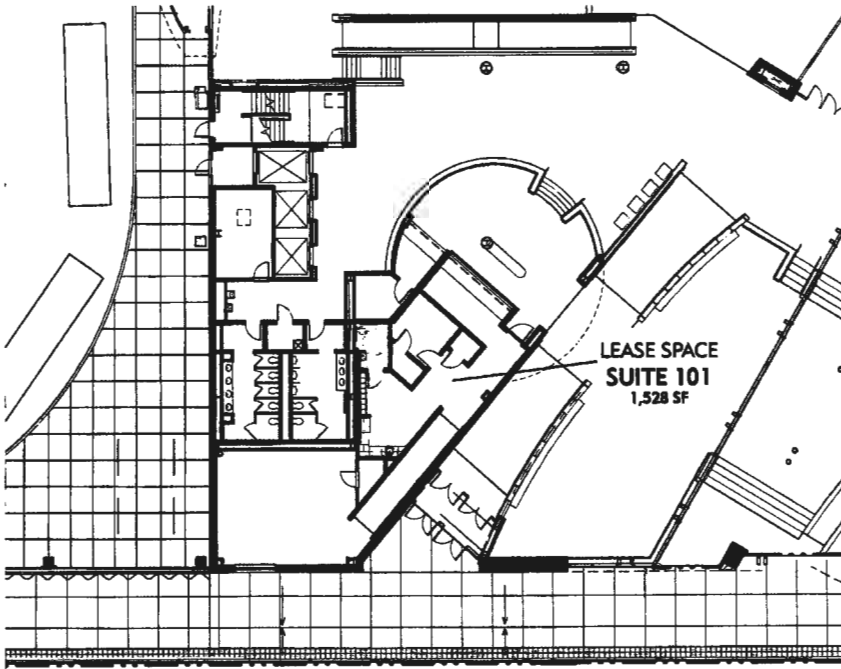
By 

Bruce Looloian
Assistant Vice President Real Estate
Development



© 2010 ARCHITECT, INC. 2011

SCALE 1/32" = 1' ◀ NORMAL MULTIMODAL CENTER RATIO



SUITE 101

- North wall: counter with overhead ceiling grille
- All other walls: metal stud with drywall
- Floors: vinyl on concrete slab
- Ceiling: acoustical tile/drywall
- Private restroom
- Private breakroom with casework, sink, and locker/storage
- Electrical service: on building system
- IT infrastructure
- Electrical conduit infrastructure to multimodal, plaza, and platform
- Tenant obligations:
 - Utilities per lease agreement

EXHIBIT C

(RESERVED)

EXHIBIT D

DECLARATION OF COMMENCEMENT

Now on this ____ day of _____ 2012 notice is hereby given to AMTRAK from the Town of Normal that an occupancy permit was issued by the Town of Normal for Uptown Station on the ____ day of _____ 2012 and according to Section 2 of the Station Lease Agreement between the Town of Normal and Amtrak dated May ____ 2012, the initial lease term of thirty-five years commences 60 days after issuance of such occupancy permit being the _____ day of _____, 2012.

Town of Normal

By: _____

Amtrak hereby confirms the Commencement Date of _____,
2012.

AMTRAK

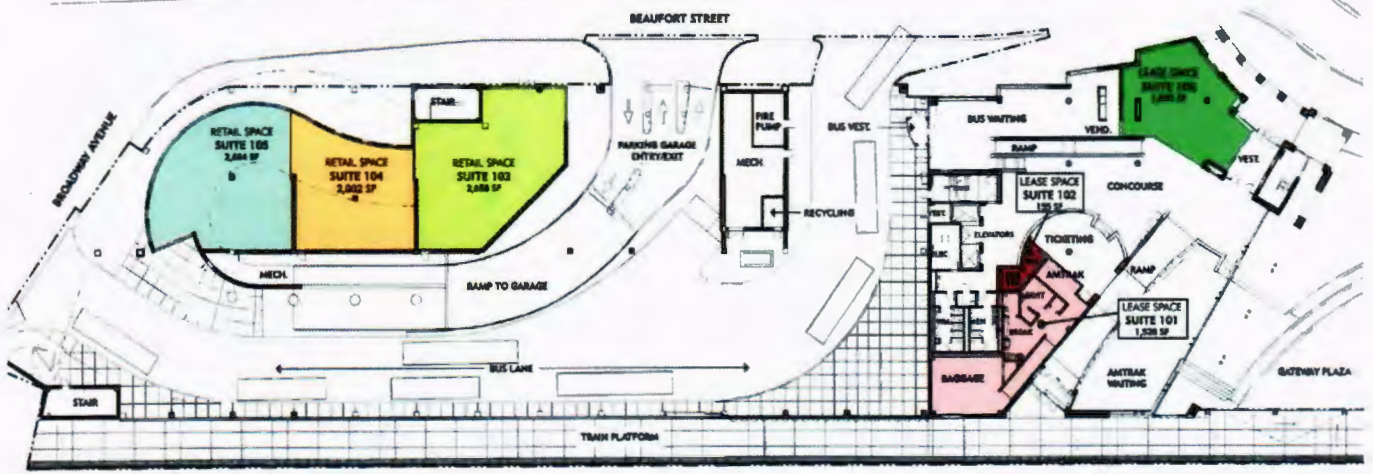
By: _____

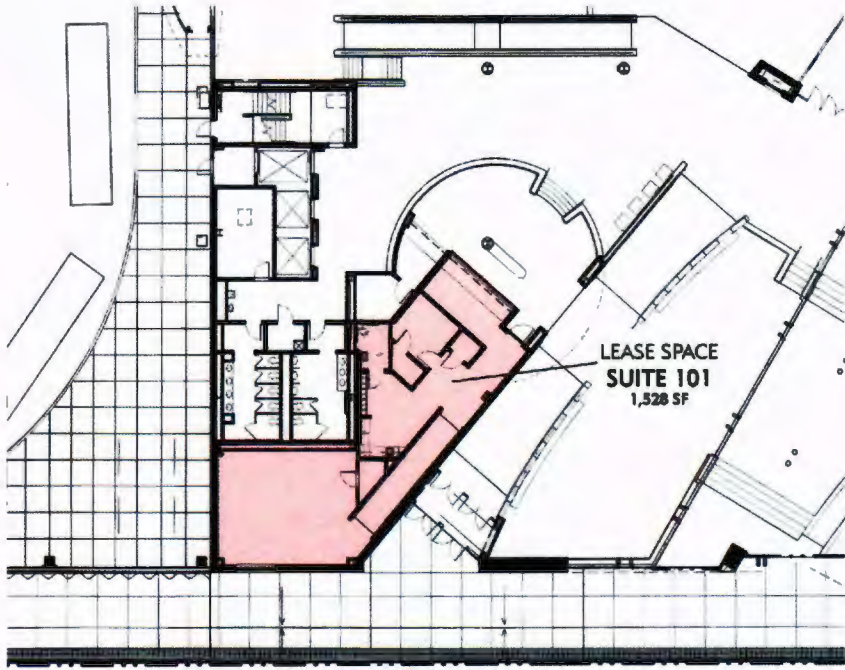
Date: _____

Upon execution please return to Town Clerk PO Box 589 Normal IL 61761-0589.

EXHIBIT E

**BUILD OUT SHALL BE IN ACCORDANCE WITH PLANS ON FILE WITH THE TOWN OF
NORMAL PREPARED BY RATIO ARCHITECT FOR UPTOWN STATION.**





SUITE 101

- North wall: counter with overhead ceiling grille
- All other walls: metal stud with drywall
- Floors: vinyl on concrete slab
- Ceiling: acoustical tile/drywall
- Private restroom
- Private breakroom with casework, sink, and locker/storage
- Electrical service: on building system
- IT infrastructure
- Electrical conduit infrastructure to multimodal, plaza, and platform
- Tenant obligations:
 - Utilities per lease agreement



TOWN'OF NORMAL DOWNTOWN/HAMMONS
REDEVELOPMENT AGREEMENT

Prepared by Jack B. Teplitz & Associates.

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EXHIBITS

THIS TOWN OF NORMAL DOWNTOWN/HAMMONS REDEVELOPMENT AGREEMENT (the "Agreement") is entered into as of the 19th day of July, 2004 (the "Effective Date"), by and between the Town of Normal, Illinois, a municipal corporation, (hereinafter referred to as the "Town") and John Q. Hammons and the John Q. Hammons Revocable Trust of Springfield, Missouri (hereinafter collectively referred to as the "Redeveloper").

RECITALS

WHEREAS, the Town has adopted a program for the redevelopment of a redevelopment area known as the Town of Normal Downtown Renewal Tax Increment Redevelopment Project Area (the "Redevelopment Project Area") in the Town, pursuant to 65 ILCS 5/11-74.4-1, *et seq.* of the Illinois Compiled Statutes, the "Tax Increment Allocation Redevelopment Act" (hereinafter referred to as the "Act");

WHEREAS, the Town has, pursuant to the provisions of the Act, adopted a plan known as the Town of Normal Downtown Renewal Tax Increment Redevelopment Plan (hereinafter referred to as the "Redevelopment Plan") pertaining to the redevelopment of the Redevelopment Project Area, substantially in the form of the document entitled Town of Normal Downtown Renewal Tax Increment Redevelopment Plan dated February 24, 2003 a copy of which is available for inspection in the office of the Town Clerk of the Town;

WHEREAS, the Town, in order to achieve the objectives of the Redevelopment Plan and to provide for meeting space for its citizens and for members of the general public, intends to construct an approximate twenty thousand (20,000) square foot net useable conference center (the "Conference Center") within the area designated as the "A Project Area" on Exhibit 1 attached hereto and made part hereof and which is to be located in the area bounded by the Fell Street to the west, North Street to the north, the Normal Theater to the east and the Hotel Site referred to below on the south (the "Conference Center Site");

WHEREAS, the Town, in order to achieve the objectives of the Redevelopment Plan and to provide for adequate parking for the general public utilizing the facilities located within the Redevelopment Project Area and the general public utilizing the Hotel described below and the Conference Center intends to construct a structured parking facility of at least three hundred (300) parking spaces (the "Parking Deck") in the area designated as the "C-2 Project Area" on Exhibit 1 (the "Parking Deck Site");

WHEREAS, the Town, in order to achieve the objectives of the Redevelopment Plan, intends to assist the Redeveloper in the development of a new approximately two hundred twenty (220) room Marriott Hotel and related facilities for use in support of the Conference Center (the "Hotel") within the "A Project Area" as shown on Exhibit 1 and which is to be located in the area bounded by the Fell Street to the west, the Conference Center Site and the Normal Theater to the north, Broadway Street to the east and Beaufort Street to the south (the "Hotel Site")

WHEREAS, the Conference Center, the Parking Deck and the Hotel are collectively referred to as the project (the "Project") and the Conference Center Site, the Hotel Site and the Parking Deck Site are collectively referred to as the project site (the "Project Site");

WHEREAS, in order to eliminate the blighting conditions within the "A Project Area" and the "C-2 Project Area", to help arrest and prevent blighting conditions outside the "A Project Area" and the "C-2 Project Area" in the Redevelopment Project Area, to enhance the quality of life in the Town, to

provide an economic stimulus to the area of the Town within which the Project Site is located in order to attract other private development which will enhance the tax base of the Town and to further the objectives of the Redevelopment Plan, the Town pursuant to its Home Rule Powers under Article 7 of the Constitution of the State of Illinois, the powers granted to the Town pursuant to the Act, and the powers granted to the Town pursuant to the Illinois Municipal Code, 65 ILCS 5/11-65-1 et. seq. and 65 ILCS 5/11-71-1 et. seq., as supplemented by the power and authority of the Town as a Home Rule Municipality, intends to construct the Conference Center and the Parking Deck and to assist the Redeveloper to help alleviate certain costs of the Redeveloper in the development of the Hotel;

WHEREAS, without the assistance of the Town as set forth in this Agreement, the Redeveloper would not undertake the construction of the Hotel;

WHEREAS, the Cost of the Hotel to be incurred by the Redeveloper is estimated to be approximately Thirty Million (\$30,000,000) Dollars;

WHEREAS, The Town and the Redeveloper have agreed to prepare a Master Plan in conjunction with the development of the Project on the Project Site which integrates the design and operation of the Conference Center, the Parking Deck and the Hotel;

WHEREAS, the Town believes it is necessary to redevelop the "A Project Area" and the "C-2 Project Area" in order to arrest the economic and physical decline of the Redevelopment Project Area, and to promote a policy of stabilization not only in the Redevelopment Project Area, but also in the surrounding area of the Town; and

WHEREAS, the Town believes that the acquisition of the Real Property and the development of the Project pursuant to the proposed Redevelopment Plan is in the vital and best interests of the Town and the health, safety, morals and welfare of its residents, and in accordance with the public purposes and provisions of the applicable federal, state and local laws.

NOW THEREFORE, in consideration of the promises and mutual covenants and obligations of the parties contained herein, and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the parties hereto, intending to be legally bound, hereby covenant and agree as follows:

ARTICLE I: DEFINITIONS

- 1.1 **Definition of Terms.** Certain terms used in this Agreement including any exhibits, amendments or addenda thereto shall have the following meanings unless their content or use clearly indicates otherwise:

"Act" means the *Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11 74.4-1 et seq.* as it may be amended from time to time.

"Agreement" means this Town of Normal Downtown/Hammons Redevelopment Agreement, complete with all schedules and exhibits attached hereto, as it may be amended or supplemented from time to time.

"Applicable Law" means all laws, statutes, acts, ordinances, rules, regulations, permits, licenses, authorizations, directives, orders and requirements of all Governmental Authorities, that now or hereafter during the term of this Agreement may be applicable to

the Town, the Redeveloper, and/or the Project, the Project Site, the Redevelopment Project and the construction, maintenance, use and operation thereof, including those relating to design standards, employees, zoning, building, health, safety, Hazardous Materials, and accessibility of public facilities.

"Bonds" means the general obligation bonds, tax increment financing bonds, bond anticipation notes or other obligations issued by the Town to fund its obligations under this Agreement, the Redevelopment Plan or Applicable Law including the Act.

"Bond Construction Funds" means the funds to which the proceeds of the Bonds have been deposited for the payment of construction costs for the Conference Center and the Parking Deck pursuant to the Bond Documents.

"Bond Counsel" means such nationally recognized legal counsel in the area of municipal bonds which have been designated by the Town.

"Bond Documents" means any and all contracts, agreements, indentures, resolutions, ordinances and other documents or instruments entered into or adopted by the Town in connection with the issuance of any Bond.

"Buildable Condition" means delivery of the Hotel Site to the Redeveloper with: (i) demolition of all existing structures and other above grade improvements including any at grade permanent surfaces (provided that any streets or alleys do not have to be removed if they can be removed by the Redeveloper's contractor during excavation or site work without any extraordinary cost the Redeveloper), removable of any below grade foundation to below the existing surface elevation, the cracking of below grade slabs, and the plugging of existing sanitary and/or storm sewer connections at the property line with all material removed from the site; (ii) all environmental remediation accomplished so as to comply with Applicable Law for use of the Hotel on the Hotel Site; and (iii) all utilities either removed and/or capped, if such capping shall not cause extraordinary construction costs for the Hotel nor interfere with the use of the Hotel as intended.

"Certificate of Completion" means a certificate issued by the Town, pursuant to Section 2.11 below, which indicates that the Redeveloper has Substantially Completed the Project or a phase or a part thereof.

"Completion of Construction of Parking Deck" shall mean that (i) the Parking Deck has been Substantially Completed, (ii) a Certificate of Completion for the Parking Deck has been issued by the Town pursuant to Section 2.11 of the Agreement, (iii) a final, permanent certificate(s) of occupancy for the Parking Deck has been issued, and (iv) the Parking Deck is fully operational and open for business.

"Closing Date" means the date upon which the acquisition of the Real Property by the Town is complete and the Hotel Site will be conveyed by the Town to the Redeveloper pursuant to Article VI below.

"Conference Center" means a planned meeting space complex for use by the general public which shall include, without limitation, approximately twenty thousand (20,000) square feet of net meeting space, including a grand ballroom and such other meeting and banquet rooms as may reasonably be required to serve as a community meeting facility,

including the necessary connections, doors and other modes of ingress and egress that will permit the use of the Normal Theater in conjunction with the Conference Center, plus support, pre-function and circulation areas and supporting back-of house areas and related furniture, fixtures, operating supplies and equipment, together with all the pertinent facilities and amenities, to be developed and constructed as part of the Conference Center pursuant to the plans and specifications.

"Conference Center Site" means the parcel of land, to be owned by the Town, on which the Conference Center is to be constructed.

"Construction Monitor" means any individual or entity engaged by the Town, at the Town's own cost and expense, to (i) review and recommend to the Town with respect to the Plans and Specifications, construction contracts, change orders during construction and Draw Requests with regard to the Conference Center and the Parking Deck, (ii) inspect the construction of the Conference Center and the Parking Deck and (iii) monitor any other matters with regard to this Agreement and/or the Project as directed by the Town.

"Construction Plans" mean construction documents which are complete for construction of the Project or any separate and distinct functional phase or part thereof and which will allow for the issuance of all permits for the construction of the Project or any phase or part thereof required by all governmental agencies having jurisdiction over the construction of the Project.

"Cost of the Hotel" means the costs and expenses related to the development of the Hotel in order to make it available for occupancy including but not limited to architectural and engineering design services and related consulting specialties, physical construction activities, interior design and decorating, purchase of FF&E, purchase of inventory and supplies necessary to begin Hotel operations, pre-opening marketing and operational expenses, interest expense related to a construction loan, development fees and other ancillary and related expenses.

"Design Phase" means the period from and including the Effective Date through and including the Closing Date.

"Design Standards" means those requirements adopted by the Town which govern the design of the Project including the use of materials in its construction.

"Draw Requests" means the schedule to be submitted by the Redeveloper to the Town on or about the tenth (10th) day of each month during the term of this Agreement detailing (i) the amounts incurred by the Redeveloper or the Redeveloper's contractor in connection with the construction of the Conference Center and the Parking Deck respectively, and (ii) the respective amounts approved for payment in accordance with this Agreement.

"Effective Date" means that which is set forth in the Preamble of this Agreement.

"Environmental Laws" means all statutes specifically described in the definition of Hazardous Materials and all federal, state and local environmental, health and safety

statutes, ordinances, codes, rules, regulations, orders and decrees regulating, relating to or imposing liability or standards concerning or in connection with Hazardous Materials.

"Exterior Architectural Appearance" means the architectural character, general composition and general arrangements of the exterior of the Project and the adjacent plazas and pedestrian areas, including the kind, color and texture of the building material and the type and character of all windows, doors, light fixtures, signs and appurtenant elements, visible from public streets and thoroughfares.

"FF&E" means those items of furnishings, fixtures and equipment for use in the operation of the Project.

"Final Completion" means the date upon which the following shall have occurred: (i) final completion of the Project in accordance with the Project Requirements as evidenced by the issuance of a certificate by the architect or architects of the components of the Project to such effect; (ii) the issuance of any approval of construction required under the Bond Documents or the Franchise Documents; (iii) a certificate of occupancy has been issued for each component of the Project; and (iv) all of the guest rooms, food outlets, meeting rooms and other facilities in the Hotel, Conference Center and Parking Deck are fully completed, open, and operational.

"Final Project Cost Analysis" means the statement of actual costs and expenses of the construction and development of the Hotel including the Costs of the Hotel submitted by the Redeveloper to the Town in certified form after completion of the Hotel.

"Final Site Plan" means the final plan of the Project or separate and distinct functional phases or part thereof which sets forth the limits of the work to be done, the building locations, ingress and egress, loading areas, parking, if any, landscaping, signage and adjoining streets including one or more elevations or sketches showing the exterior features and designs of all the buildings or structures.

"Franchise Documents" means any and all license or franchise agreements for the Hotel and Conference Center, together with any and all documents executed or delivered in connection therewith, between or among (i) the Town, the Redeveloper, and the Hotel Operator, or any one or more of them, and (ii) the Franchisor.

"Franchisor" means initially Marriott International, Inc. (as a Marriott Hotel) or any successor franchisor under any license or franchise agreement for the Hotel.

"Franchisor Approvals" means all approvals which are required to be obtained from the Franchisor from the Effective Date until the Final Completion of the Project in connection with the construction of the Project pursuant to Franchise Documents.

"Franchisor Requirements" means all requirements imposed upon the Project pursuant to the Franchise Documents including, without limitation, the Marriott Design Manual.

"Governmental Authority" means any agency, authority, board, branch, division, department or similar unit of any Federal, state, county or municipal or other governmental entity having jurisdiction over or validly imposing requirements on the Town, Redeveloper, the Project and the Project Site.

"Hazardous Materials" means any substance, material, waste, gas or particulate matter which is regulated by any local, state or federal governmental authority, including, but not limited to (i) petroleum, (ii) asbestos, (iii) polychlorinated biphenyl, (iv) radioactive materials, and (v) any other material or substance which is defined as a "hazardous waste", "hazardous material", "hazardous substance", "extremely hazardous waste", or "restricted hazardous waste" under any statute, rule or regulation of any jurisdiction including without limitation Section 311 of the Clean Water Act, Section 1004 of the Resource Conservation and Recovery Act, and Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act.

"Hotel" means an upscale full-service hotel having approximately two hundred twenty (220) guest rooms and appropriate support facilities such as a restaurant(s), a lounge(s) fitness center and business center, supporting back-of-the-house areas, food preparation facilities, together with such other amenities and features characteristic of a first-class, full-service hotel.

"Hotel Site" means the parcel of land, to be owned by the Redeveloper, on which the Hotel is to be constructed.

"Impositions" shall mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special, ordinary and extraordinary, foreseen and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on the Parking Deck or any portion thereof or with respect to any property located thereon or any business conducted thereon by the Redeveloper.

"Lease" means the Town of Normal Conference Center Lease Agreement entered into by the Town and the Redeveloper wherein pursuant to the terms thereof, the Town leases the Conference Center to the Redeveloper, a copy of which is attached hereto as Exhibit 2 and made of a part hereof.

"Master Plan" means the initial plans for the Project to be provided by the Redeveloper pursuant to Section 2.3 below, which plans shall show the conceptual layout of the Project on the Project Site including the integration of the design and operation of the Project, the anticipated areas of ingress and egress, parking, driveways, the proposed relationship to the Redevelopment Plan and the anticipated elevation of the Project or any phase thereof, types of uses, the relationship to the Public Parking and other real property adjacent to the Project Site; and may, but shall not be required to contain the Exterior Architectural Appearance of the Project and/or architectural drawings or detailed elevations of the Project.

"Maximum Rate" shall mean the greatest of the rates of interest from time to time permitted under applicable federal and state law. Wherever it is provided herein that a monetary sum shall be due to Town together with interest at the Maximum Rate and at such time there is no Maximum Rate, interest shall be due at the rate of eighteen percent (18%) per annum.

"Normal Theater" means the restored movie theater located on North Street which is owned by the Town and which will be connected to the Conference Center for use by users of the Conference Center and /or the Hotel for plenary or other special meetings.

"Parking Commencement Date" means the first to occur of: (a) the date the Town shall make available the Parking Spaces to Redeveloper in substantial compliance with the Plans and Specifications (which date shall be no later than the date the Town is obligated to issue to Redeveloper a Certificate of Completion of construction of the Parking Deck) or, (b) the date Redeveloper commences business from the Hotel after receipt from the Town of a certificate of occupancy: pursuant to the building code of the Town.

"Parking Deck" means the structured parking facility owned by the Town containing parking for not less than three hundred (300) vehicles including an all-weather elevated walkway across Beaufort Street between the Parking Deck and the Hotel to be located on the Parking Deck Site and constructed as part of the Project pursuant to the Plans and Specifications.

"Parking Deck Site" means the "C-2 Project Area" as shown on Exhibit 1 attached hereto and made a part hereof.

"Parking Expiration Date" shall mean the last day of the sixtieth (60) full calendar year after the Parking Commencement Date.

"Parking Spaces" shall mean three hundred (300) unreserved vehicular Parking Spaces in the Parking Deck for vehicular parking by employees, guests and invitees of the Hotel and the Conference Center.

"Parking Term" shall mean the commencement on the Parking Commencement Date and continuing through and until the Parking Expiration Date, subject to early termination as expressly provided in this Agreement.

"Permits" means all licenses, approvals, permits, variances, authorizations, entitlements, registrations, and the like required by any Governmental Authority.

"Plans and Specifications" means the Master Plan, the Preliminary Plans, the Final Site Plans, and the Construction Plans for the Project including the proposed FF&E to be installed in the Project, as such plans and specifications may be amended, modified, restated or supplemented from time to time in accordance with this Agreement.

"Preliminary Plans" means plans and drawings, including a Preliminary Site Plan which are preliminary to the Construction Plans, which plans and drawings include but are not limited to the limits of the work to be done, the location of buildings and all auxiliary structures, ingress and egress, loading areas, proposed signage, landscaping and one or more elevations showing the Exterior Architectural Appearance of the Project if the Exterior Architectural Appearance of the Project has not been submitted as part of the Master Plan and shall include a detailed Project Cost Analysis.

"Preliminary Site Plan" means the Project site layout including parking, if any, buildings, ingress and egress, pedestrian and vehicular circulation, utilities, grading,

storm water detention, landscaping and service areas, the proposed relationship to the Redevelopment Project Area including all proposed dedications and easements.

"Project" means the Hotel, the Conference Center, the Parking Deck and all related FF&E, landscaping, and other ancillary improvements, amenities and features to be included in the construction and development thereof.

"Project Cost Analysis" means the statement of actual or estimated costs and expenses of the Project in order to make it available for occupancy including but not limited to architectural and engineering design services and related consulting specialties, physical construction activities, interior design and decorating, purchase of FF&E, purchase of inventory and supplies necessary to begin Project operations, pre-opening marketing and operational expenses, interest expense related to a construction loan, development fees and other ancillary and related expenses and as the same may be amended, modified, restated or supplemented from time to time with the approval of the Town in accordance with this Agreement. All updates to the Project Cost Analysis shall be prepared in an identical format.

"Project Site" means the Conference Center Site, the Hotel Site and the Parking Deck Site.

"Real Estate Taxes" means the *ad valorem* real property taxes levied on the Project, the Project Site and any other structures or buildings on the Project Site.

"Real Property" means those parcels of land not currently owned by the Town and which are to be acquired by the Town upon which the Project is to be constructed

"Redeveloper" means John Q. Hammons and the John Q. Hammons Revocable Trust of Springfield, Missouri, who will develop and construct the Development Project.

"Redevelopment Project Area" means the Town of Normal Renewal Downtown Redevelopment Project Area as adopted by the Town in May, 2003.

"Redevelopment Project Costs" means those costs defined as Redevelopment Project Costs pursuant to Section 11-74.4-3(q) of the Act that were incurred by the Redeveloper in the construction and development of the Project.

"Related Agreements" shall mean, collectively, this Agreement, and the Conference Center Lease and any other agreement executed between the Town and Redeveloper (or any affiliate) in respect of the construction or operation of the Conference Center, the Hotel or the Parking Deck.

"Street Improvements" means all improvements to be made during the construction of the Project to the streets adjoining the Project Site and all utility and related work to be constructed within the rights-of-way of such streets.

"Substantial Completion or Substantially Complete" means complete construction, except for minor and ancillary alterations or additional work, so as to be available for the issuance of a certificate of occupancy pursuant to codes of the Town.

"Tax Increment Revenues" means the real estate tax revenues that are generated within the Redevelopment Project Area pursuant to Section 11-74.4- 8 of the Act.

- 1.2 **Construction of Words.** The words "hereof", "herein", "hereunder" and other words of similar import refer to this Agreement as a whole. The words "above" or "below" refer to the location of an Article, Section or other subdivision of this Agreement within this Agreement. Unless otherwise specified, references to Articles, Sections and other subdivisions of this Agreement are to the designated Articles, Sections and other subdivisions of this Agreement as originally executed. The headings of this Agreement are for the convenience of reference only and shall not limit or define the provisions hereof.
- 1.3 **Use of the Definitions.** Each of the foregoing definitions and basic provisions shall be construed in conjunction with the references thereto contained in the other provisions of this Agreement and shall be limited by such other provisions. Each reference in this Agreement to any of the foregoing definitions and basic provisions shall be construed to incorporate each defined term set forth above under such definition or provision
- 1.4 **Non-Limitation of Town's Remedies.** This section shall in no way limit the remedies of the Town pursuant to other Sections of this Agreement and pursuant to law and equity in the Event of Default

ARTICLE II: DEVELOPMENT OF THE PROJECT

- 2.1 **Development of the Project.** The Redeveloper shall develop the Project on the Project Site in a manner that is compatible with the Normal Downtown Renewal Plan, the Redevelopment Plan and Applicable Law and because the failure of the Redeveloper to construct the Project will prevent the Town from implementing the Redevelopment Plan, the Redeveloper guarantees the construction of the Project.
- 2.2 **Progress Reports.** During the development process, the Redeveloper shall submit monthly reports to the Town commencing on the first day of October, 2004, and on the first day of every month thereafter until Final Completion of the Project which will provide the Town with information concerning costs of the Project, design of the Project, financing efforts and other matters relevant to the development and construction of the Project and which shall include a Project Cost Analysis.
- 2.3 **Master Plan.** Commencing on the Effective Date and within ninety (90) days after the execution of this Agreement the Redeveloper shall prepare the Master Plan for the Project. The Master Plan may (but is not required to) include Exterior Architectural Appearance of the Project.
- 2.4 **Review and Approval of Master Plan.** The Town's approval or disapproval of the Master Plan must be made in writing and, if disapproved, shall set forth the reasons for such disapproval. If the Town does not approve or disapprove the Master Plan within thirty (30) days after receipt, they shall be deemed approved. If disapproved, the Redeveloper shall, within twenty (20) days from the date of disapproval, resubmit revised plans which the Town shall review within twenty-one (21) days. This process shall repeat until the plans are approved by the Town; provided that if the plans are not approved within seventy-five (75) days of the date of the first submittal of the Master

Plan, the Redeveloper may terminate this Agreement by giving written notice to the Town. In reviewing said plans, the Town will take into account the normal and customary costs of developing and constructing projects of this type. Any request for change in the Master Plan by the Town shall not cause an unreasonable increase in the costs of the Project.

- 2.5 **Preliminary Plans.** After approval by the Town of the Master Plan, the Redeveloper, within one hundred twenty (120) days of such approval, shall submit to the Town the Preliminary Plans for the Project. The Town shall review the Preliminary Plans for conformance with the Redevelopment Plan, the Downtown Renewal Plan prepared by Farr Associates, the Master Plan, the Design Standards, this Agreement and Applicable Law. If the Redeveloper has not submitted Exterior Architectural Appearance for review with the Master Plan, then the Exterior Architectural Appearance shall be part of the Preliminary Plans and shall be subject to approval by the Town under this section.
- 2.6 **Approval of Preliminary Plans by Town.** The Town's approval or disapproval of the Preliminary Plans must be made in writing and, if disapproved, shall set forth the reasons for such disapproval. If the Town does not approve or disapprove said plans within thirty (30) days after receipt, they shall be deemed approved. If disapproved, the Redeveloper shall, within twenty (20) days from the date of disapproval, resubmit revised plans which the Town shall review within twenty-one (21) days. This process shall repeat until the plans are approved by the Town. In reviewing said plans, the Town will take into account the normal and customary costs of developing and constructing projects of this type. Any request for change in the Preliminary Plans by the Town shall not cause an unreasonable increase in the costs of the Project. The Town will not unreasonably withhold its approval.
- 2.7 **Final Site Plan.** Within ninety (90) days after approval of the Preliminary Plans, the Redeveloper shall submit to the Town a Final Site Plan for the Project. The Town shall review the Final Site Plan for the purpose of determining compliance with the Master Plan, the Preliminary Plans, the Redevelopment Plan, this Agreement and Applicable Law.
- 2.8 **Construction Plans.** Within one hundred twenty (120) days after the approval of the Preliminary Plans, the Redeveloper shall submit to the Town construction plans for the Project (the "Construction Plans"). The Town shall within thirty (30) days from receipt approve or disapprove the Construction Plans, after reviewing said plans for compliance with Applicable Law, including but not limited to the life safety and zoning regulations, and conformance with the Preliminary Plans and Final Site Plan. If the Town disapproves the Construction Plans, the Redeveloper shall submit revised plans within a reasonable time from the date of rejection. Upon resubmission, the Town shall review and approve or disapprove such revised plans within ten (10) days of submittal. This process shall repeat until the plans are approved by the Town.
- 2.9 **Amended Construction Plans.** Prior to completion of the Project as certified by the Town pursuant to Section 2.11, if the Redeveloper desires to make any substantial change in the Construction Plans which significantly affects the appearance, function, or structural integrity of the Project, the Redeveloper shall submit the proposed change to the Town for its approval. If the Construction Plans, as modified by the proposed change, conform to the requirements of the Redevelopment Plan and this Agreement,

meet Applicable Law and do not create a fundamental change in the nature, size or aesthetics of the Project, the Town shall approve the proposed change and notify the Redeveloper in writing of its approval. If the Town disapproves of such change, it shall notify the Redeveloper in writing with specificity as to the reasons for the disapproval, in which event the Redeveloper may submit a revised change within a reasonable time thereafter. This process shall repeat until the revised plans are approved by the Town or the change is abandoned by the Redeveloper. If such change is not so approved or rejected in writing within ten (10) working days of receipt of the submission to the Town from the Redeveloper, such change will be deemed approved.

2.10 Commencement and Completion Requirements.

2.10.1 Commencement. The Redeveloper shall commence construction of the Project, no later than July 15, 2005 unless (i) the Town: fails to acquire all of the Real Property necessary for the Project Site pursuant to the date set forth in Section 6.1 below at which time the commencement of construction shall be delayed one (1) day for each day of delay in the acquisition of the Real Property beyond the required date and /or (ii) the Town does not approve the Master Plan, The Preliminary Plan or the Construction Plans within the initial time frames set forth in Sections 2.4, 2.5 and 2.8 above respectively at which time the commencement of construction shall be delayed one (1) day for each day of delay in the approval beyond the initial time frame; provided that any one day of delay pursuant to (i) above that coincides with a simultaneous day of delay pursuant to (ii) above shall only count as one day of delay.

2.10.2 Completion. The Redeveloper shall Substantially Complete construction of the Project, or any phase thereof, within twenty-four (24) months after commencement of construction or other mutually agreeable date.

2.11 Certificate of Completion. Promptly after Substantial Completion of construction of the Project or any separate or distinct phase or part thereof and upon request of the Redeveloper, the Town will execute and deliver to the Redeveloper a certificate of completion. Any Certificate of Completion by the Town shall be (and it shall be so provided in the certification itself) a conclusive determination of satisfaction with respect to the obligations of the Redeveloper and its successors and assigns that the construction of the Project or any phase thereof has been Substantially Complete in accordance with the provisions of this Agreement.

2.12 Form of Certification. The certification provided for in Section 2.11 shall be in such form as will enable it to be recorded in the Office of the Recorder of Deeds, McLean County, Illinois. If the Town refuses or fails to provide any certification in accordance with the provisions of this Agreement, the Town shall, within fifteen (15) days after written request by the Redeveloper, provide the Redeveloper with a written statement indicating in adequate detail in which respects the Redeveloper has failed to Substantially Complete construction of the Project or any applicable separate or distinct phase or part thereof in accordance with the provisions of this Agreement, or is otherwise in default, and what measures or steps will be necessary, in the opinion of the Town, for the Redeveloper to take or perform in order to obtain such certification. The Certificate of Completion as provided herein shall not be unreasonably withheld by the Town and the

Project shall be deemed approved if the Town fails to conform to the provisions of Section 2.11 and this Section 2.12.

- 2.13 Quality of Construction and Conformance to Federal, State and Local Requirements.** All work with respect to the Project, the Project Site and any other structures or buildings on the Project Site shall conform to Applicable Law including, but not limited to, environmental codes and life safety codes. The Redeveloper shall cause the construction of the Project to be commenced and to be prosecuted with due diligence and in good faith in accordance with the terms of this Agreement, and without delay and shall cause the Project to be constructed in a good and workmanlike manner in accordance with the Plans and Specifications.
- 2.14 Utilities.** All arrangements for utilities must be made by the Redeveloper with the applicable utility company. The Town makes no representations whatsoever with respect to the adequacy or availability of utilities with respect to the Project or Project Site.
- 2.15 Insurance.**
- 2.15.1 Liability Insurance Prior to Completion.** Prior to commencement of construction of the Project, the Redeveloper or the Redeveloper's contractor shall procure and deliver to the Town, at the Redeveloper's or such contractor's cost and expense, and shall maintain in full force and effect until each and every obligation of Redeveloper contained herein has been fully paid, or performed, a policy or policies of comprehensive liability insurance and during any period of construction, contractor's liability insurance, structural work act insurance and workmen's compensation insurance, with liability coverage under the comprehensive liability insurance to be not less than One Million Dollars (\$1,000,000) each occurrence and Five Million Dollars (\$5,000,000) total, all such policies to be in such form and issued by such companies as shall be reasonably acceptable to the Town to protect Town and Redeveloper against any liability incidental to the use of or resulting from any accident occurring in or about the Project or the improvements or the construction and improvement thereof. Each such policy shall name the Town as coinsureds and shall contain an affirmative statement by the issuer that it will give written notice to the Town at least thirty (30) days prior to any cancellation or amendment of its policy.
- 2.15.2 Builder's Risk Prior to Completion.** During the construction of the Project as certified by the Town, the Redeveloper shall keep in force at all times builder's completed value risk insurance, in non-reporting form, against all risks of physical loss, including collapse, covering the total value of work performed and equipment, supplies and materials furnished for the Project. Such insurance policies shall be issued by companies reasonably satisfactory to the Town, and shall name the Town as a coinsured. All such policies shall contain a provision that the same will not be cancelled or modified without a thirty (30) day written notice to the Town.
- 2.16 Lien Waivers.** All contracts for construction of the Project shall provide that all contractors and subcontractors shall furnish contractor's affidavits in the form provided by state statute and that waiver of liens be required for all payments made.

2.17 Rights of Inspection: During construction of the Project, the Town or its designee shall have the right at any time and from time to time to enter upon the Project for the purposes of inspection. Inspection by the Town of the Project shall not be construed as a representation by the Town that there has been compliance with the Construction Plans or any building or life safety codes adopted by the Town; or that the Project will be or is free of faulty materials or workmanship, or a waiver of any right the Town or any other party may have against the Redeveloper or any other party for noncompliance with the Construction Plans, Preliminary Plans, building or life safety codes or any other ordinances of the Town or the terms of this Agreement.

2.18 Coordination With Street Improvements. The parties agree that the design and construction of the Project shall be coordinated with the design and construction of the Street Improvements and subject to further agreement of the Town and Redeveloper, if there exists cost and or construction efficiencies to warrant it, the construction of the some or all of the Street Improvements may be accomplished by the contractor for the Hotel.

ARTICLE III: TOWN OBLIGATIONS

3.1 Conference Center. Subject to Article IV below, the Redeveloper, as an independent contractor, shall construct or cause to be constructed the Conference Center at the cost and expense of the Town.

3.2 Parking Deck. Subject to Article V below, the Redeveloper, as an independent contractor, shall construct the Parking Deck at the cost and expense of the Town.

3.3 Acquisition of Real Property. Subject to Article VI below, the Town shall acquire the Real Property and convey the Hotel Site to the Redeveloper.

3.4 Zoning. It is contemplated by the Town and the Redeveloper that the Project Site shall have a zoning classification which will permit the use of the Project as intended by this Agreement and which is in conformance to the General Land Uses set forth in the Redevelopment Plan. The parties agree that the current zoning for the property will, allow the Project Site to be used as intended and will cooperate with each other to obtain any title insurance policy zoning endorsement or other documentation in respect thereto as may be required by any lender to or tenant of the Project.

3.5 Waiver of Permit Fees. The Town agrees to waive any permit or other fees with regard to the construction of the Project.

ARTICLE IV: CONSTRUCTION OF AND LEASE OF THE CONFERENCE CENTER AND USE OF THE NORMAL THEATER

4.1 Redeveloper to Design and Construct the Conference Center. Because of the need to have an integrated design and operation of the Conference Center with the Hotel and because of various cost and construction efficiencies to have the Conference Center constructed by the Hotel contractor, the Town and the Redeveloper agree that the Redeveloper, as an independent contractor, shall, on behalf of the Town, be responsible for the design and construction of the Conference Center on the Conference Center Site.

4.2 Redeveloper's Design Phase Services. The Redeveloper shall perform the following services during the Design Phase of the Conference Center:

- (a) Develop the overall architectural design of the Conference Center together with the design for specialized portions of the Conference Center, such as interior design, mechanical, electrical, plumbing and HVAC systems and the generation of the Plans and Specifications therefore;
- (b) Provide general descriptions of the categories of the FF&E, operating supplies, fixed asset supplies and other personal property anticipated to be required for the Conference Center;
- (c) Generate the Plans and Specifications for the Conference Center and provide regular periodic review by the Town of such Plans and Specifications, as they are developed throughout the design development process;
- (d) Meet periodically, at reasonable intervals, with the Town to review the design of the Conference Center;
- (e) Submit to the Town the Plans and Specifications as required pursuant to Article II;
- (f) Prepare a Project Cost Analysis for the Conference Center and update such Project Cost Analysis as and when necessary;
- (g) On approval of the Plans and Specifications, obtain one or more contracts for the construction of the Conference Center which contract(s) shall be subject to the approval of the Town;
- (h) Assist the Town in the procurement of all Permits;
- (i) Consult with the Town to insure compliance with all Applicable Laws;
- (j) Obtain and evaluate, through appropriate consultants, environmental reports, engineering surveys, soil tests and such other tests and reports as may be advisable in connection with the construction of the Conference Center; and
- (k) Determine the public utilities that will be required for the Conference Center.

4.3 Redeveloper's Construction Phase Services. Throughout the construction phase of the Conference Center the Redeveloper shall perform the following services:

- (a) Assist the Town in enforcing the performance of each and every term, covenant, condition, agreement and provision of any construction contracts or sub-contracts with regard to the construction of the Conference Center;
- (b) Monitor the progress of the construction of the Conference Center and upon request of the Town, provide or cause to be provided written reports to the Town detailing such progress;

- (c) Assist the Town in ensuring that the contractor or subcontractors of the Conference Center do not substantially deviate from the Plans and Specifications unless such deviation has been approved by the Town and Redeveloper;
- (d) Review insurance maintained by the contractors or subcontractors for the Conference Center to ensure compliance with all Applicable Laws, requirements and Project documents;
- (e) Ensure that the contractor and subcontractors for the Conference Center including, without limitation, suppliers of FF&E, provide warranties to the Town that are not less than industry standards;
- (f) Evaluate proposed change orders, identify defective work, process applications for payment and make recommendations with respect thereto and otherwise assess the contractors and subcontractors performance;
- (g) Identify punch list items and coordinate completion of such items; and
- (h) Coordinate the work of the contractor and subcontractors with (i) the work and/or requirements of all utility providers and (ii) the construction of the Street Improvements.
- (i) During the construction of the Conference Center periodically update the Project Cost Analysis for the Conference Center.

4.4 Architect's Agreement. The Redeveloper shall cause any architects agreement and/or consulting contract with regard to the design of the Conference Center to (i) contain a right to terminate for convenience without penalty or premium and (ii) provide that the Town shall own all design rights for the Conference Center . Any architect's agreement or consulting contract shall also provide that the Town is an intended third party beneficiary thereof, and the owner shall have the right to enforce the duties of such architect or consultant in the event of default under this Agreement or a failure to perform by the Redeveloper and/or its successors and assigns. The Redeveloper shall provide to the Town, promptly upon receipt, copies of any notices from or to any architect or consultant of any alleged non-performance, breach or default by the Redeveloper or such architect or consultant under the architects or consultants agreement.

4.5 Town's Approval of Design. The Town shall have final approval on the design of the Conference Center and all Construction Plans including the materials to be utilized by the Redeveloper. The Town shall also have final approval on all changes in the form of change orders or otherwise to the Construction Plans, or changes in any other matter over which the Town has the power to approve.

4.6 Maximum Amount Paid by Town for Conference Center. It is the intention of the Town and the Redeveloper that the amount paid by the Town for the design and construction of the Conference Center including FF&E and supplies related thereto shall not exceed the sum of Eight Million (\$8,000,000) Dollars and shall be with regard to the actual cost of the Conference Center and shall not include any profit or markup for the Redeveloper; provided, however, if the actual cost to construct the Conference Center is

less than the sum of Eight Million (\$8,000,000) Dollars then the amount to be paid by the Town to the Redeveloper shall be reduced to such lower amount.

- 4.7 Town's Maximum Cost for Conference Center.** The Redeveloper shall be responsible for all costs of construction of the Conference Center including any costs or expenses resulting from change orders or changes in the Plans and Specifications for the Conference Center, FF&E and supplies in excess of Eight Million (\$8,000,000) Dollars.
- 4.8 Lease of the Conference Center.** In order to maximize the efficiencies of the operation of the Conference Center and to eliminate any financial risk for any economic losses pertaining to the operation of the Conference Center, the Town agrees to lease to the Redeveloper the Conference Center pursuant to the terms and conditions set forth in the Lease attached hereto as Exhibit 2.
- 4.9 Use of the Normal Theater.** In order to maximize the use of the Conference Center by the general public, the Town agrees to allow the use of the Normal Theater by groups attending events or functions at the Conference Center at times and at such costs and fees as may be determined by the Redeveloper and the Town from time to time; provided that the Redeveloper acknowledges that the Normal Theater is utilized at times for the showing of movies and will not be available at all times.

ARTICLE V: CONSTRUCTION OF THE PARKING DECK AND PARKING RIGHTS FOR THE HOTEL AND CONFERENCE CENTER USERS

- 5.1 Redeveloper to Design and Construct the Parking Deck.** Because of the need to have an integrated design and operation of the Parking Deck with the Hotel and Conference Center and because of various cost and construction efficiencies to have the Parking Deck constructed by the Hotel contractor, the Town and the Redeveloper agree that the Redeveloper, as an independent contractor, shall be responsible for the design and construction of the Parking Deck on the Parking Deck Site.
- 5.2 Redeveloper's Design Phase Services.** The Redeveloper shall perform the following services during the Design Phase:
- (a) Develop the overall architectural design of the Parking Deck together with the design for specialized portions of the Parking Deck, such as interior design, mechanical, electrical, plumbing and HVAC systems and the generation of the Plans and Specifications therefore;
 - (b) Provide general descriptions of the categories of the FF&E, operating supplies, fixed asset supplies and other personal property anticipated to be required for the Parking Deck;
 - (c) Generate the Plans and Specifications for the Parking Deck and provide regular periodic review of such Plans and Specifications, as they are developed throughout the design development process;
 - (d) To meet periodically, at reasonable intervals, with the Town to review the design of the Parking Deck;

- (e) To submit to the Town the Plans and Specifications as required pursuant to Article II;
- (f) Prepare a Project Cost Analysis for the Parking Deck and update such Project Cost Analysis as and when necessary;
- (g) On approval of the Plans and Specifications, obtain one or more contracts for the construction of the Parking Deck which contract(s) shall be subject to the approval of the Town;
- (h) Assist the Town in the procurement of all Permits;
- (i) Consult with the Town to insure compliance with all Applicable Laws;
- (j) Obtain and evaluate, through appropriate consultants, environmental reports, engineering surveys, soil tests and such other tests and reports as may be advisable in connection with the construction of the Parking Deck; and
- (k) Determine the public utilities that will be required for the Parking Deck.

5.3 Redeveloper's Construction Phase Services. Throughout the construction phase of the Parking Deck the Redeveloper shall perform the following services:

- (a) Assist the Town in enforcing the performance of each and every term, covenant, condition, agreement and provision of any construction contracts or sub-contracts with regard to the construction of the Parking Deck;
- (b) Monitor the progress of the construction of the Parking Deck and upon request of the Town, provide or cause to be provided written reports to the Town detailing such progress;
- (c) Assist the Town in ensuring that the contractor or subcontractors of the Parking Deck do not substantially deviate from the Plans and Specifications unless such deviation has been approved by the Town and Redeveloper;
- (d) To review insurance maintained by the contractors or subcontractors for the Parking Deck to ensure compliance with all Applicable Laws, requirements and Project documents;
- (e) Ensure that the contractor and subcontractors for the Parking Deck including, without limitation, suppliers of FF&E, provide warranties to the Town that are not less than industry standards;
- (f) Evaluate proposed change orders, identify defective work, process applications for payment and make recommendations with respect thereto and otherwise assess the contractors and subcontractors performance;
- (g) Identify punch list items and coordinate completion of such items; and

- (h) Coordinate the work of the contractor and subcontractors with (i) the work and/or requirements of all utility providers and (ii) the construction of the Street Improvements.
 - (i) During the construction of the Parking Deck periodically update the Project Cost Analysis for the Parking Deck.
- 5.4 Architect's Agreement.** The Redeveloper shall cause any architects agreement and/or consulting contract with regard to the design of the Parking Deck to (i) contain a right to terminate for convenience without penalty or premium and (ii) provide that the Town shall own all design rights for the Parking Deck . Any architect's agreement or consulting contract shall also provide that the Town is an intended third party beneficiary thereof, and the owner shall have the right to enforce the duties of such architect or consultant in the event of default under this Agreement or a failure to perform by the Redeveloper and/or its successors and assigns. The Redeveloper shall provide to the Town, promptly upon receipt, copies of any notices from or to any architect or consultant of any alleged non-performance, breach or default by the Redeveloper or such architect or consultant under the architects or consultants agreement.
- 5.5 Town's Approval of Design.** The Town shall have final approval on the design of the Parking Deck and all Construction Plans including the materials to be utilized by the Redeveloper. The Town shall also have final approval on all changes in the form of change orders or otherwise to the Construction Plans, or changes in any other matter over which the Town has the power to approve.
- 5.6 Cost of Parking Deck.** During the preparation of the Construction Plans for the Parking Deck, subject to the approval of the Town as to the terms, conditions and price, the Redeveloper shall arrange for a guaranteed maximum price contract for the construction of the Parking Deck with the contractor for the construction of the Hotel provided, however, that if the Town does not approve such terms, conditions and price, the Town may elect to provide for the construction of the Parking Deck through competitive bids or such other methods as it may choose.
- 5.7 Hotel and Conference Center User Parking Rights.** Town, in consideration of the covenants, agreements and undertakings of Redeveloper as herein set forth, does grant unto Redeveloper the right and privilege to use the Parking Spaces during the Parking Term subject to the terms and conditions set forth in this Agreement
- 5.8 Parking Term.** The Parking Term of this Agreement is for sixty (60) years beginning on the Parking Commencement Date and ending on the Parking Expiration Date.
- 5.9 'As Is' Condition.** The Parking Spaces are being provided "as is" "and "with all faults," and Town makes no warranty of any kind, express or implied, with respect to the Parking Spaces. Without limiting the generality of the preceding sentence, it is expressly agreed that Town makes no warranty as to the marketability, habitability or fitness for any particular purpose of the Parking Spaces.
- 5.10 Payment of Impositions.** While the Town and the Redeveloper do not anticipate that there will be any, Redeveloper shall pay all Impositions, if any, assessed, levied, charged, or imposed upon or against, the Parking Deck and any improvements constructed thereon

during the Term of this Agreement as a result of Redeveloper's use of the Parking Spaces. Such Impositions shall be the sole and exclusive obligation of Redeveloper. Redeveloper may, in good faith, at its own expense (and in its own name as Redeveloper may determine appropriate), contest any such Impositions. Town shall use reasonable efforts to cooperate with Redeveloper in contesting any such Impositions; provided, however, that Town shall not be required to incur any expense in connection therewith and Town shall not in any way become liable for the payment of any such Impositions or be held responsible for the outcome of any contest Impositions undertaken by Redeveloper.

- 5.11 Failure to Pay Impositions.** If Redeveloper shall fail to pay any Impositions for which it is liable before the same becomes delinquent, or fails to notify Town of its intention to contest the same prior to such delinquency, or fails to pay any contested Impositions before the property is threatened with foreclosure or similar proceedings, Town, at Town's election, may (but shall not be obligated to) pay such Impositions with any interest and penalties due thereon, and the amount paid by Town shall be repayable by Redeveloper on demand, together with interest thereon at the Maximum Rate from the date of such payment until repaid. Thereafter, in addition to all other remedies of Town, Town may require that Redeveloper pay to Town, on a monthly basis, one-twelfth (1/12) of the Impositions, as estimated by Town, becoming due during each calendar year. Any such additional payment shall be due monthly on the first day of each month and shall be held in escrow by Town.
- 5.12 Limitations on Use.** Town shall provide the Parking Spaces on the public levels of the Parking Deck. Hotel guests and employees shall be provided with "in" and "out" privileges. The Town may charge all others, such charges as the Town determines from time to time (unless the Hotel with the consent of the Town collects such charges and fees for the Town). Vehicles may only be parked in designated Parking Spaces within the Parking Deck. The Town may by appropriate security measures exclude use by the employees, guests and invitees of the Hotel and Conference Center from portions of the Parking Deck not subject to this Agreement. Town may also deny access to the Parking Deck by appropriate security measures to exclude use by members of the general public.
- 5.13 Compliance with Restrictions and Laws.** Redeveloper shall be responsible for using the Parking Deck in compliance with this Agreement and any applicable provisions of the Related Agreements. Redeveloper shall, at Redeveloper's sole expense, (a) comply with Applicable Law having jurisdiction over the Project as defined in the Agreement, (b) comply with any directive, order or citation made pursuant to law by any public officer requiring abatement of any nuisance or which imposes upon Town or Redeveloper any duty or obligation arising from Redeveloper's use of the Parking Deck, or required by reason of a breach of any of Redeveloper's obligations hereunder or by or through other fault of Redeveloper, (c) comply with all insurance requirements applicable to the Parking Deck, and (d) indemnify and hold Town harmless from any loss, cost, claim or expense which Town incurs or suffers by reason of Redeveloper's failure to comply with its obligations under clauses (a), (b), (c) or (d) above. If Redeveloper receives notice of any such directive, order citation or of any violation of any law, order, ordinance, regulation or any insurance requirements, Redeveloper shall promptly notify Town in writing of such alleged violation and furnish Town with a copy of such notice.

- 5.14 Unauthorized Use.** Redeveloper shall use its best efforts to prevent unauthorized usage of the Parking Deck. Redeveloper and Town shall cooperate to prevent unauthorized usage of the Parking Deck through a security system to be mutually developed and agreed upon by designated representatives of the parties.
- 5.15 Employee Permits.** Town shall issue permits or other appropriate devices to the designated employees of the Hotel which shall permit access to the Parking Deck. Redeveloper and the Town shall mutually agree as to which of the employees is to be permitted to use the Parking Spaces.
- 5.16 Valet Parking.** Redeveloper shall, subject to required Parking Spaces for disabled persons, be entitled to not more than sixty (60) designated valet parking services on the first floor of the Parking Deck for Hotel guests. Any Parking Spaces used for valet parking shall be deducted from Redeveloper's allocated Parking Spaces.
- 5.17 Use Nonexclusive.** Redeveloper's use of the Parking Deck is nonexclusive. Except as provided in Section 5.15 above, nothing in this Agreement shall grant Redeveloper the right to have any Parking Spaces marked or reserved exclusively for Hotel or Conference Center guests or employee parking. Any such reservation or dedication of vehicular Parking Spaces shall require the prior written consent of the Town.
- 5.18 Parking Fees and Reports.** Redeveloper may charge Hotel and Conference Center guests for the use of the Parking Spaces or valet Parking Spaces in the Parking Deck. Redeveloper shall provide Town with written reports of Hotel and Conference Center guests and employee Parking Deck usage in a format reasonably satisfactory to the Town, and such other reports or other information relating to vehicular parking by Hotel and Conference Center guests and employees including any fees charged and collected by the Hotel for parking services. Such reports shall be provided on a monthly basis and cover the parking usage during the previous calendar month period.
- 5.19 Parking Space Commitment.** Town in connection with the conduct of special events sponsored or approved by the Town has the right to require Redeveloper, subject to availability, to provide up to sixty-five (65%) percent of the available Parking Spaces as determined by the Hotel Manager fourteen (14) days in advance of special event for the exclusive use by the organizers, patrons, licensees, invitees and guests of Town connected with or participating in or attending such special event on each day that an event is being conducting at the Conference Center, or in Downtown Normal or the Normal Theater including days for any set up or break down required in connection with the special event (the "Parking Space Commitment"). In order to exercise its right to enforce the Parking Space Commitment, Town shall deliver to Redeveloper written notice of its intent to enforce the Parking Space Commitment, at least fourteen (14) days prior to the special event. Such written notice shall specify the date(s) on which the Parking Spaces shall be subject to the Parking Space Commitment and the number of vehicular spaces required.
- 5.20 Town Regulations.** Except as specifically provided in this Agreement, use of the Parking Deck by Hotel guests and employees shall be subject to all procedures, rules, regulations, and enforcement practices of the Town for the Parking Deck. Such rules, regulations and enforcement practices are subject to change at the Town's sole and absolute discretion.

Town shall provide Redeveloper with advance notice of changes and such procedures, rules, regulations and enforcement practices which relate to use of the Parking Deck.

- 5.21 Town Use of Redeveloper's Unused Parking Spaces.** Redeveloper agrees to forecast the anticipated use of its allocated Parking Spaces on a weekly basis and provide the Town with a daily written schedule one calendar week in advance, of any unused portion of Redeveloper's allocated Parking Spaces which may be used by the Town for public fee parking in the Parking Deck.
- 5.22 Improvements to the Parking Deck.** The Town shall be responsible, at the Town's sole cost and expense, shall be responsible for all alterations, additions, improvements or changes to the Parking Deck. It is understood and agreed by the parties that all improvements, alterations, or changes to the Parking Deck shall become the property of Town.
- 5.23 Maintenance of Parking Deck.** Town, at Town's cost and expense, shall at all times during the Term of this Agreement maintain and repair the Parking Deck.
- 5.24 Prohibition of Liens.** Redeveloper shall not suffer or permit any mechanics' liens or other liens to be filed against the Parking Deck by reason of any work, order, service or material supplied or claimed to have been supplied to Redeveloper. If any such mechanics' liens or materialmens' liens shall be recorded against the Parking Deck, or any improvements thereof, Redeveloper shall cause the same to be removed.
- 5.25 Required Insurance.** Throughout the Term, Redeveloper shall, at Redeveloper's expense, maintain comprehensive general liability insurance for bodily injury, death or property damage, insuring Redeveloper and naming Town as an additional insured, against all claims, demands, or actions relating to the use of the Parking Deck on an occurrence basis, issued by and binding upon a solvent insurance company licensed to do business in Illinois, with limits of not less than One Million (\$1,000,000) Dollars with respect to injury or death to a single person; not less than Five Million (\$5,000,000) Dollars with respect to any one occurrence and not less than One Million (\$1,000,000) Dollars for property damage or destruction. In addition to other remedies provided in this Agreement, if Redeveloper fails to maintain the insurance required by this Section, Town may, but is not obligated to, obtain such insurance and Redeveloper shall pay to Town upon demand as additional rental the premium cost thereof plus interest at the Maximum Rate from the date of payment by Town until repaid by Redeveloper. The insurance policy or policies must name both Redeveloper and Town as Named Insured.
- 5.26 Evidence of Insurance.** Prior to the commencement date of this Agreement, Redeveloper shall furnish to Town evidence of insurance in some manner acceptable to Town, showing that Redeveloper is in compliance with the insurance coverage requirements of this Article V and indicating the exclusions from coverage, if any. Any insurance company providing insurance required hereunder shall notify Town at least thirty (30) days prior to cancellation or material change in any such insurance. All insurance required by this Section shall be primary and noncontributing with any insurance that may be carried by Town. Town reserves the right, from time to time throughout the Term to increase the minimum insurance limits set out above to ensure that adequate insurance is being maintained.

- 5.27 Indemnification for Use of Parking Spaces.** The Town shall not be liable for any loss, damage, or injury of any kind or character to any person or property arising from any occurrence on the or within the Parking Deck. Redeveloper hereby waives all claims against Town for damage to any property or injury to, or death of, any person in, upon or about the Parking Deck arising at any time and from any cause (including specifically without limitation, the negligence of the Town) other than solely by reason of the gross negligence or willful misconduct of Town. Redeveloper for itself and its agents, employees, representatives, contractors, licensees, concessionaires, invitees, successors and assigns, expressly assumes all risks of injury or damage to person or property, either proximate or remote resulting from condition of the Parking Deck or any part thereof. In addition to the indemnity contained in Section 11.1 below and not in lieu thereof, Redeveloper agrees to indemnify and save harmless the Town and its agents, servants, officers and employees (collectively "Indemnitees") from and against any and all liabilities, damages, claims, suits, costs (including court costs, attorneys fees and costs of investigation) and actions of any kind arising or alleged to arise by reason of injury to or death of any person or damage to or loss of property occurring on, in or about the Parking Deck or by reason of any other claim whatsoever of any person occasioned or alleged to be occasioned by act or omission on the part of the Redeveloper or any officer, director, servant, agent, employee, representative, contractor, subcontractor, licensee, concessionaire, invitee, successor and assign, or by any Breach, violation or non performance of any covenant of Redeveloper under this Agreement, whether such liability, claims, suits, costs, injuries, deaths or damages arise from or are attributed to the concurrent negligence of any Indemnitee if any action or proceeding shall be brought by or against any Indemnitee in connection with any such liability or claim, Redeveloper on notice from Town, shall defend such action or proceeding at Redeveloper's expense, by or through attorneys reasonably satisfactory to the Town. The Provisions of this Section shall apply to all activities of the Redeveloper with respect to the Parking deck, whether occurring before or after execution of this Agreement. Redeveloper obligations under this Section shall not be limited to the limits of coverage of insurance maintained or required to be maintained by Redeveloper under this Agreement. This provision shall survive the termination of this Agreement.
- 5.28 Damage to Premises.** If, during the Parking Term, the Parking Deck situated on the Premises is wholly or partially destroyed or damaged by fire, or any other casualty whatsoever (collectively called a "Casualty"), Town may but is not required to repair, replace, restore and reconstruct the Parking Deck in a good and workmanlike manner.
- 5.29 Total Taking.** If all or substantially all of the Hotel, Conference Center and/or the Parking Deck is taken under power of eminent domain (which term as used in this Agreement shall include any conveyance in avoidance or settlement of condemnation or eminent domain proceedings) or other similar proceeding, then the Parking Term shall terminate as of the date of taking of possession by the condemning authority.
- 5.30 Partial Taking.** Town and Redeveloper agree that if less than all or substantially all of the Hotel, Conference Center and/or the Parking Deck is taken under power of eminent domain or other similar proceeding, then Parking Term shall nevertheless continue in effect as to the remainder of the Hotel and Conference Center and/or the Parking Deck as the case may be; provided, however, that if Town and Redeveloper both agree within thirty (30) days following the taking that so much of the Hotel, Conference Center and/or the Parking Deck as the case may be has been taken or condemned as to make it

economically unsound to attempt to use the remainder thereof for the conduct of Redeveloper's business thereon, then Parking Term shall terminate upon possession of such portion of the Hotel, Conference Center and/or the Parking Deck as the case may be by the condemning authority.

5.31 Award. All sums awarded or agreed upon between Town and the condemning authority for the taking of the interest of Town or Redeveloper in the Parking Deck, whether as damages or as compensation, will be the property of Town.

5.32 Cessation of Hotel Operations – Parking Termination. If the Hotel ceases operation as an upscale hotel as herein defined (excluding temporary periods for repair and renovation) or the Conference Center Lease has terminated, the Parking Term shall terminate and all rights to the use of the Parking Spaces by the Redeveloper pursuant to this Agreement shall cease.

ARTICLE VI: ACQUISITION OF REAL PROPERTY AND CONVEYANCE OF THE HOTEL SITE

6.1 Acquisition of Real Property. The Town shall utilize its best efforts to acquire the Real Property through all lawful means, prior to May 15, 2005.

6.2 Conveyance of Hotel Site. On the Closing Date, the Town shall convey to the Redeveloper for the sum of One (\$1) Dollar and other valuable consideration, subject to all of the terms and conditions of this Agreement, the Hotel Site by special warranty deed, free and clear of all liens and encumbrances, and not subject to any easements, covenants, restrictions, dedications or rights-of-way, materially affecting title to the Hotel Site or use of the Hotel Site except as agreed between the Town and the Redeveloper or otherwise agreed to in writing by the Redeveloper. The Town shall convey the Public Rights-of-Way within the Hotel Site by the adoption of a vacation ordinance.

6.3 Buildable Site. The Town agrees to deliver the Hotel Site in Buildable Condition to the Redeveloper. The Town also agrees that it will bring the Conference Center Site and the Parking Deck Site into Buildable Condition prior to the commencement of construction of the Project.

6.4 Title Commitment and Survey.

6.4.1 Title Commitment and Policy. The Town, at the Town's sole cost and expense, shall, within thirty (30) days after acquisition of the Real Property provide to the Redeveloper a title commitment (the "Title Commitment") for the Hotel Site, an ALTA Form B Town's Title Insurance Policy (the "Title Policy"), issued by Chicago Title Insurance Company (the "Title Insurer"). At Closing, the Town shall cause the Title Insurer to issue the Title Policy in the amount of One Million (\$1,000,000) Dollars showing merchantable record title to the Hotel Site to be in the Town (in accordance with the Title Commitment provided for in this Section 6.5.1), subject only to the Permitted Objections.

(a) Objections to Title of Record. Within seven (7) days after the Redeveloper's receipt of the aforesaid Title Commitment and the Survey set forth in Section 6.4.2 below, the Redeveloper shall furnish to the

Town written notification of any objections to or defects in title of record set forth in the Title Commitment. If the Redeveloper fails to give said notice within said seven (7) day period, the Redeveloper shall be deemed to have accepted all matters then affecting title to the Real Property set forth in the Title Commitment. If the Redeveloper does give said notice, the Redeveloper shall be deemed to have accepted all matters set forth in the Title Commitment not set forth in the notice. After receipt of said notice, the Town shall have the right, at its election, to endeavor to cure such objections to or defects in title set forth therein and shall notify the Redeveloper of such election within five (5) days. If the Town does elect to endeavor to cure such objections to or defects in title, it shall promptly commence and diligently pursue efforts to cure such objections.

- (b) **Failure to Cure Objections.** In the event the Town fails to cure the Redeveloper's objections to or defects in title within twenty (20) days of receiving notice of such objections to or defects in title, or if the Town shall determine that its efforts to cure will not be successful, the Redeveloper may either (i) waive such title objections to or defects in title and proceed with closing hereunder or (ii) terminate this Agreement. In the event of termination, the parties shall have no further rights or liabilities under this Agreement.

6.4.2 Survey. The Town shall, within sixty (60) days after the identification of the exact parameters of the Project Site, furnish the Redeveloper a current ALTA survey of the Project Site identifying the Hotel Site, Conference Center Site and Parking Deck Site, certified by a professional surveyor licensed by the State of Illinois and certified to the Title Insurer (and other parties designated by the Redeveloper).

6.5 Closing. The purchase of the Hotel Site shall be consummated as follows:

6.5.1 Closing Date. The closing (the "Closing") shall be on a date agreed to by the Town and the Redeveloper (the "Closing Date").

6.5.2 The Town's Deliveries. At Closing, the Town shall deliver to the Redeveloper the following:

- (a) **Deed.** An executed special warranty deed to the Hotel Site or a portion thereof, as set forth in Section 6.2 hereof.

- (b) **Title Policy.** The title policy for the Hotel Site as provided for in Section 6.4 hereof.

6.5.3 The Redeveloper's Deliveries. At or prior to Closing, the Redeveloper shall deliver to the Town the following:

- (a) **Insurance.** Proof that policies of insurance of the types and coverages specified in Section 2.15 hereof have been obtained and are in force;

- (b) **Plans.** Plans and Specifications for the Project previously approved by the Town in accordance with Article II hereof;
- (c) **Construction Contracts.** Executed construction contracts (with contractors reasonably acceptable to the Town) covering the construction of the Project;
- (d) **Declaration of Covenants, Uses and Restrictions.** Declarations of Covenants, Uses and Restrictions in the form attached hereto as Exhibit 3 executed by the Redeveloper;
- (e) **Notice to Proceed.** A notice to proceed to the general contractor of the Project (the "Notice to Proceed");
- (f) **Hotel Financing.** Evidence of equity and/or debt financing for the Hotel thereof in an amount sufficient to complete the Hotel;
- (g) **Closing Date Certificate.** A certificate executed by the Redeveloper to the effect that on and as of the Closing Date:
 - (1) All representations and warranties made by the Redeveloper in this Agreement and all schedules, documents, certificates or exhibits given to the Town pursuant to this Agreement are true correct in all material respects; and
 - (2) All of the covenants and obligations to be performed on the part of the Redeveloper under this Agreement as of the Closing Date have been timely and properly performed; and
- (h) **Approvals.** A certificate by the Redeveloper that all approvals necessary to close the acquisition of the Hotel Site have been obtained including approval of this Agreement.

6.5.4 Joint Deliveries. At Closing, the Town and the Redeveloper shall jointly deliver to each other the following:

- (a) **Closing Statement.** An agreed upon executed closing statement;
- (b) **Transfer Tax Filings.** Executed documents complying with the provisions of all federal, state, county and local law applicable to the determination of transfer taxes; and
- (c) **Lease.** An executed copy of the Lease.

6.5.5 Possession. Sole and exclusive possession of the Hotel Site shall be delivered to the Redeveloper on the Closing Date.

6.5.6 Property Taxes. All real property taxes with respect to the Hotel Site and the Conference Center Site for the period up to and including the Closing Date shall be the responsibility of the Town. All real property taxes with respect to the

Hotel Site and the Conference Center Site for the period commencing on the Closing Date shall be the responsibility of the Redeveloper.

6.5.7 Closing Costs. The Town shall pay the following costs: the Town's attorneys' fees, survey costs, the insurance premium for the title policy, any transfer taxes or sales taxes and the cost of documentary stamps. The Redeveloper shall pay the following costs: the Redeveloper's attorneys' fees and fees for recording the deed.

6.5.8 Brokerage Commissions. The Town represents to the Redeveloper that no real estate broker has been engaged by the Town with regard to this transaction. The Redeveloper represents to the Town that no real estate broker has been engaged by the Redeveloper with regard to this transaction. Each party (the "Indemnifying Party") agrees to indemnify and hold the other harmless against any brokerage commissions due to any real estate broker claiming to have been engaged by the Indemnifying Party with regard to this transaction.

ARTICLE VII: DISBURSEMENT OF BOND PROCEEDS

7.1 Bond Proceeds for the Construction of Conference Center and Parking Deck. Subject to the terms and conditions of this Agreement, the Town intends to issue Bonds, the proceeds of which shall be utilized for the construction of the Conference Center and the Parking Deck.

7.2 Creation of Construction Funds. Prior to the commencement of construction of the Conference Center and the Parking Deck, the Town shall deposit the amounts necessary for the construction of the Conference Center and the Parking Deck from the proceeds from the sale of the Bonds in respective construction funds from which disbursements shall be made to pay the Draw Requests in regard to the construction of the Conference Center and the Parking Deck

7.3 Draw Requests. Upon the submission of a Draw Request to the Town from the Redeveloper, the Town pursuant to the terms and conditions of the Bond Documents and this Agreement shall pay directly to the contractor, supplier or vendor of the Redeveloper or any payee designated by the Redeveloper (except to the Redeveloper itself, or any other entities or individuals related directly or indirectly to the Redeveloper) for the costs connected with the construction of the Conference Center and/or the Parking Deck.

7.4 Conditions Precedent to Disbursement. Prior to the initial Draw Request pursuant to Section 7.3 above, unless waived by the Town in writing, the Redeveloper shall furnish to the Town or the Town's designee the following, all to be satisfactory in both form and substance to the Town, which shall be conditions precedent to the disbursement of funds from the Bond Construction Funds established pursuant to Section 7.2 above:

- (a) Final approval of the Plans and Specifications for the Project;
- (b) Organizational documents and filings for the Redeveloper and all resolution necessary to effect the obligations of the Redeveloper pursuant to this Agreement;

- (c) Satisfactory proof that policies of insurance of the types and coverages specified in Section 2.15 above have been obtained and are in force;
- (d) A Project Cost Analysis showing all projected costs incidental to the completion of the Project;
- (e) Contracts and subcontracts covering the construction of the Project, to be approved by the Town;
- (f) Labor, material, performance and payment bonds issued by a company acceptable to the Town for any contractor, subcontractor or subcontractors with the Town named as a dual obligee or in lieu thereof a guarantee of performance of said contractors and subcontractors by the Redeveloper in such form as to be acceptable to the Town in its sole discretion;
- (g) Internal Revenue Service taxpayer identification number for the Redeveloper;
- (h) Such other documents, resolutions and other items reasonably required by the Town and its counsel;
- (i) Evidence that the Redeveloper has sufficient funds to complete construction of the Hotel;
- (j) The opinion of counsel for the Redeveloper, reasonable in form and content, relating to those matters set forth in Sections 15.1 through 15.4 below, and such other matters related to the Project, as the Town reasonably determines; and
- (k) Current financial statements concerning the Redeveloper.

7.5 Interest on Bond Construction Funds. Redeveloper consents and agrees that it has no claim or entitlement to any interest earned on unused funds in the Bond Construction Funds and that such interest may be transferred by the Town from the Bond Construction Funds at the Town's direction.

ARTICLE VIII: CONDITIONS PRECEDENT TO TOWN OBLIGATIONS AND ONGOING BENEFITS

8.1 Conditions Precedent to Transaction. The Town's obligations under this Agreement shall be subject to the Redeveloper's compliance with the Act and with its obligations pursuant to this Agreement.

ARTICLE IX: THE HOTEL – OPERATIONS AND COSTS OF COMPLETION

9.1 Operation and Maintenance of the Hotel. The Redeveloper for itself and its successors and assigns covenants that it will maintain the Hotel in good condition (reasonable wear and tear excepted) during the term of this Agreement. The Redeveloper shall operate the Hotel in a professional manner that meets Franchisor Requirements, including the establishment and funding of a reserve for the replacement of FF&E that equals or exceeds industry standards for hotels of this type if required by the Franchisor or in the case of a successor and/or assign if such successor and/or assign does not have the same

demonstrated financial capacity as the Redeveloper, and will do all things reasonably necessary to operate the Hotel in substantial compliance with Applicable Law.

- 9.2 Minimum Cost of the Hotel.** The Redeveloper covenants and agrees that the Cost of the Hotel shall be not less than Thirty Million (\$30,000,000) Dollars.
- 9.3 Final Project Cost Analysis for the Hotel.** Upon completion of the Hotel and the issuance of the Certificate of Occupancy by the Town, the Redeveloper shall submit to the Town the Final Project Cost Analysis for the Hotel. The Town, upon reasonable notice to the Redeveloper, may request copies of the underlying documentation and the records of the Redeveloper that support the information contained in the Final Project Cost Analysis.

ARTICLE X: REDEVELOPER COVENANTS AND RESTRICTIONS

- 10.1 Project Subject to Redevelopment Plan and Agreement.** The Redeveloper agrees to comply with the terms and conditions of this Agreement and to use its best efforts to construct the Project subject to the terms, covenants, building and use restrictions, and other conditions in the Redevelopment Plan and this Agreement.
- 10.2 Non-discrimination.** The Redeveloper shall not discriminate in violation of any applicable federal, state or local laws or regulations upon the basis of race, color, religion, sex, age, or national origin or other applicable factors in the sale, lease or rental, or in the use or occupancy of the Project or any part thereof.
- 10.3 Property Taxes.** The Redeveloper covenants that in the event it applies for, seeks, or authorizes any exemption from the imposition of general real property taxes on the Hotel Site, or any portion thereof the Redeveloper shall give the Town thirty (30) days prior written notice thereof. Also, nothing herein shall be construed so as to prevent the Redeveloper from otherwise contesting the assessment or collection of any real property taxes under procedures set forth in the laws of the State of Illinois or any political subdivision thereof, provided that the Redeveloper gives the Town fifteen (15) days prior written notice of its intent to contest the assessment or collection of real property taxes; provided, however, that the Redeveloper covenants and agrees that nothing contained herein shall relieve the Redeveloper from complying with all laws, rules and regulations of the State of Illinois and any political subdivision thereof pertaining to the levy and collection of said general real estate taxes. This Section 10.3 shall be an obligation of the Redeveloper (or assignee of the Redeveloper or subsequent Owner of the Hotel or Hotel Site or any portion thereof, as the case may be) only during the period that the Redeveloper (or assignee of the Redeveloper or subsequent Owner of the Hotel or Hotel Site or any portion thereof, as the case may be) owns a direct or indirect interest in the Hotel or Hotel Site or any portion thereof.
- 10.4 Duration of Covenants.** It is intended and agreed that the covenants provided in Sections 10.1 and 10.3 of this Agreement shall remain in effect until the earlier of (i) termination of the Redevelopment Plan, or (ii) December 31, 2026 and that the covenants provided in Section 10.2 hereof shall remain effective without any time limitation; provided, that all such covenants shall be binding on the Redeveloper only for such period as the Redeveloper maintains a direct interest in the Project Site or the Project or part thereof (excluding, for example, an interest therein solely as a creditor or

mortgagee), and only with respect to such direct interest in the Project Site or the Project or part thereof.

- 10.5 Covenants Running with the Land.** Subject to Section 10.4, it is intended and agreed that the covenants set forth in Sections 10.1 through 10.3 above shall be covenants running with the land and that they shall in any event be binding to the fullest extent permitted by law and equity, for the benefit and in favor of and enforceable by the Town, and with regard to Section 10.2 hereof, the Town, the State of Illinois and the United States of America.
- 10.6 Covenants Binding for the Benefit of Town.** Subject to Section 10.4, it is also intended and agreed that the foregoing covenants set forth in Sections 10.1 through 10.3 above shall in any event, and without regard to technical classification or designation as legal or otherwise, be, to the fullest extent permitted by law and equity, binding for the benefit of the Town and enforceable by the Town, the State of Illinois and the United States of America as provided in Section 10.5.
- 10.7 Forms of Covenants and Restrictions.** Certain of the covenants, uses and restrictions referred to in this Article X shall substantially be in the form of the Declaration of Covenants, Uses and Restrictions attached hereto and made a part hereof as Exhibit 3, which shall be executed and recorded with the McLean County Recorder of Deeds on or before the date that the Redeveloper commences construction of the Hotel.

ARTICLE XI: INDEMNIFICATION

- 11.1 The Redeveloper's Indemnification of the Town.** So long as the Redeveloper maintains a direct interest in the Hotel or Lease or any part thereof (excluding, for example, an interest therein solely as a creditor or mortgagee), the Redeveloper agrees to indemnify and save the Town and its officers, agents, employees and attorneys harmless against all claims by or on behalf of any person, firm or corporation arising from (i) the Redeveloper's operation or management of the Hotel or Conference Center, or from any work or thing done by the Redeveloper on the Project Site, or any work or activity of the Redeveloper connected to the construction of the Project; (ii) any breach or default on the part of the Redeveloper in the performance of any of its obligations under or in respect of this Agreement; (iii) any act of negligence or willful or wanton misconduct of the Redeveloper or any of its agents, contractors, servants or employees; (iv) any violation by the Redeveloper of any easements, conditions, restrictions, building regulations, zoning ordinances, Environmental Laws or land use regulations affecting the Project Site or the Project; (v) any violation of Applicable Law or (vi) any violation by the Redeveloper of state or federal securities law in connection with the offer and sale of interests in the Redeveloper, its affiliates or any part of the Project. The Redeveloper agrees to indemnify and save the Town harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid or in connection with any action or proceeding brought thereon. In case any such claim shall be made or action brought based upon any such claim in respect of which indemnity may be sought against the Redeveloper, upon receipt of notice in writing from the Town setting forth the particulars of such claim or action, the Redeveloper shall assume the defense thereof including the employment of counsel and the payment of all costs and expenses. The Town shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at

the expense of the Town. It is agreed and understood that the aforesaid indemnities in this Article XI shall be binding on the Redeveloper only for such period as the Redeveloper maintains a direct interest in the Hotel or Lease or part thereof (excluding, for example, a direct interest therein solely as a creditor or mortgagee), and only with respect to such direct interest in the Project or Project Site or part thereof, provided, notwithstanding the foregoing, the Redeveloper shall not be liable to indemnify and hold the Town harmless from any portion of any such loss, liability, cost or expense which results from the negligence or willful misconduct of the Town, its officials, agents, or employees.

- 11.2 Town Indemnification of the Redeveloper.** To the extent not prohibited by law, the Town of Normal, so long as the Redeveloper maintains a direct interest in the Hotel or Lease or any part thereof (excluding, for example, an interest therein solely as a creditor or mortgagee), shall indemnify and hold harmless the Redeveloper arising from any and all claims, damages, costs, and expenses, including without limitation, attorney's fees caused by the Town of Normal or any of its agents, contractors, officials or employees arising from: (i) any act of negligence or willful and wanton misconduct of the Town or any of its agents, contractors, officials or employees; (ii) any breach or default on the part of the Town in the performance of any of its obligations under or in respect of this Agreement; or (iii) any violation of Applicable Law. The Town agrees to indemnify and save the Redeveloper harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid or in connection with any action or proceeding brought thereon. In case any such claim shall be made or action brought based upon any such claim in respect of which indemnity may be sought against the Town, upon receipt of notice in writing from the Redeveloper setting forth the particulars of such claim or action, the Town shall assume the defense thereof including the employment of counsel and the payment of all costs and expenses. The Redeveloper shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of the Redeveloper. Notwithstanding the foregoing, the Town of Normal retains any and all defenses and immunities provided by the Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/1/101 *et seq.* In addition, neither party intends this paragraph to waive its rights to limited liability under the Illinois Worker's Compensation Act or *Kotecki* line of cases. Provided, further, notwithstanding the foregoing, the Town shall not be liable to indemnify and hold the Redeveloper harmless from any portion of any such loss, liability, cost or expense which results from the negligence or willful misconduct of the Redeveloper, its officials, agents, or employees.

ARTICLE XII: PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER

- 12.1 Prohibition Against Transfer of Hotel, Lease or Hotel Site Prior to Completion of Construction.** The Redeveloper represents and agrees that prior to the Substantial Completion of construction of the Hotel and Conference Center as certified by the Town (in accordance with Sections 2.11 and 2.12 hereof) the following prohibitions and restrictions shall apply to the transfer of the Hotel, Lease or Hotel Site:
- 12.1.1 Prohibitions.** Except only by way of security for a mortgage, deed of trust or other facility only for the purpose of obtaining equity or debt financing necessary to enable the Redeveloper to purchase the Hotel Site and construct the Hotel, the Redeveloper has not made or created, and will not, prior to the Substantial

Completion of construction of the Hotel as certified by the Town, make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to the Agreement, the Hotel, Lease or Hotel Site or any part thereof or any interest therein, or any contract agreement to do any of the same, except for utility, support, ingress and egress and similar easements, without the prior written approval of the Town.

12.1.2 Conditions for Approval. The Town shall be entitled to require, except as otherwise provided in this Agreement, as conditions to any such approval pursuant to this Section 12.1, that:

- (a) Any proposed transferee shall have the qualifications and financial responsibility and capacity, as reasonably determined by the Town, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Redeveloper (or, in the event the transfer is of or related to part of the Hotel, Lease or Hotel Site, such obligations to the extent that they relate to such part);
- (b) Any proposed transferee, by instrument in writing reasonably satisfactory to the Town and in a form recordable among the land records, shall expressly assume all of the obligations of the Redeveloper under this Agreement and agree to be subject to all the conditions and restrictions to which the Redeveloper is subject (or, in the event that the transfer is of or relates to part of the Hotel, Lease or Hotel Site, such obligations, conditions and restrictions to the extent that they relate to such part). Provided, that the fact that any transferee of, or any other successor in interest whatsoever to, the Hotel, Lease or Hotel Site, or any part thereof, shall not have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in the Agreement or agreed to in writing by the Town) relieve or except such transferee or successor of or from such obligations, agreements, conditions, or restrictions, or deprive or limit the Town of or with respect to any rights or remedies or controls with respect to the Hotel, Lease or Hotel Site or the construction thereof; it being the intent of this, together with other provisions of this Agreement, that (to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of the Hotel, Lease or Hotel Site or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate legally or practically, to deprive or limit the Town of any rights or remedies or controls regarding the Hotel, Lease or Hotel Site and the construction thereof that the Town would have had, had there been no such transfer;
- (c) There shall be submitted to the Town for review all instruments and other legal documents involved in effecting the transfer;
- (d) The Redeveloper and its transferee shall comply with such other reasonable conditions as the Town may find desirable in order to achieve

and safeguard the purposes of the Redevelopment Plan and this Agreement; and

- (e) The consideration payable for the transfer or assignment by the transferee or assignee or on its behalf shall not exceed an amount representing the actual cost (including carrying charges) to the Redeveloper of the Hotel, Lease or Hotel Site (or allocable part) and the purpose of this provision is to preclude assignment of this Agreement or transfer of the Hotel, Lease or Hotel Site (or any parts thereof) for pecuniary gain or profit prior to Substantial Completion of the Hotel, Lease or Hotel Site and to provide that in the event any such assignment or transfer is made (and is not cancelled), the Town shall be entitled to increase the purchase price of the Hotel, Lease or Hotel Site to the Redeveloper by the amount that the consideration payable for the assignment or transfer is in excess of the amount that may be authorized pursuant to this Section 12.1.2(e) and such consideration shall, to the extent it is in excess of the amount so authorized, belong to and forthwith be paid to the Town at the same time as or prior to the transfer.

12.2 Transfer of Hotel, Lease or Hotel Site after Completion of Construction. After Substantial Completion of the Project as certified by the Town (in accordance with Sections 2.11 and 2.12 hereof), the Redeveloper (and any subsequent Owner of the Hotel, and Assignee of the Conference Center Lease or any part thereof) may, pursuant to Sections 12.2.1 and 12.2.2 below, transfer its interest in the Hotel, this Agreement, and the Conference Center Lease (or any portion thereof) by instrument in writing reasonably satisfactory to the Town, and in a form recordable among the land records, pursuant to which the transferee shall expressly assume all of the obligations of the Redeveloper under this Agreement and the Conference Center Lease and agree to be subject to all the conditions and restrictions to which the Redeveloper is subject (or, in the event that the transfer is of or relates to part of the Hotel or the Conference Center Lease, such obligations, conditions and restrictions to the extent that they relate to so such part). Provided, that the fact that any transferee of, or any other successor in interest whatsoever to, the Hotel or the Conference Center Lease, or any part thereof, shall not have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in the Agreement or agreed to in writing by the Town) relieve or except such transferee or successor of or from such obligations, agreements, conditions, or restrictions, or deprive or limit the Town of or with respect to any rights or remedies or controls with respect to the Hotel and the Conference Center Lease or the construction thereof; it being the intent of this, together with other provisions of this Agreement, that (to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of the Hotel, Conference Center Lease or this Agreement or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate legally or practically, to deprive or limit the Town of any rights or remedies or controls regarding the Hotel, this Agreement and the Conference Center Lease and the construction thereof that the Town would have had, had there been no such transfer.

12.2.1 After the commencement Date of the Conference Center Lease and during its Term no transfer or assignment shall be made by Redeveloper of the Hotel, this Agreement and the Conference Center Lease without the prior written consent of

Town which shall not be unreasonably withheld, and in no event shall it be withheld if the proposed transferee or assignee is a competent hotel operator, with experience in the operation of a conference center, currently managing at least two (2) or more existing upscale full service hotels and having either (a) a net consolidated fair market value, or (b) a net consolidated book value on its most recent audited financial statement, of at least twenty million dollars (\$20,000,000) (a "Permitted Assignee") provided that the Permitted Assignee must comply with the provisions of (ii) and (iii) in Section 12.2.2 below.

12.2.2 Notwithstanding anything contained herein to the contrary and only after construction of the Hotel and Conference Center is Substantially Completed, with the prior written consent of Town which shall not be unreasonably withheld, Redeveloper may assign its interest under this Agreement and the Conference Center Lease to an institutional lender (a "Permitted Lender Assignee") which provides financing for, and takes a mortgage or deed of trust lien upon, the Hotel; provided, however, that such Permitted Assignee must agree with Town in writing that if the Permitted Assignee forecloses on the Hotel and/or the Conference Center Lease, the Permitted Assignee will (i) concurrently therewith, foreclose on Redeveloper's interest under this Agreement; (ii) pay to Town any amounts remaining unpaid under this Agreement and the Conference Center Lease; and (iii) abide by the terms of this Agreement and the Conference Center Lease (so long as same remain in effect).

- 12.3 Status of Assignee.** Any assignee of the Redeveloper under the provisions hereof shall be considered the "Redeveloper" for all purposes of this Agreement.
- 12.4 Assignment to Affiliated Entity.** Nothing herein shall be construed to prevent the Redeveloper from assigning its interest in this Agreement to an affiliated entity owned or controlled by the Redeveloper provided that: (i) the Redeveloper provides forty-five (45) days prior written notice of such assignment along with appropriate written documentation to satisfy the requirements of this Section 12.4; (ii) such entity has the financial capacity to perform the obligations of the Redeveloper pursuant to this Agreement; (iii) such entity in writing assumes such obligations and conditions in compliance with the terms and conditions set forth in Section 12.1.2 (a) through (d) of this Agreement; and (iv) the Redeveloper submits to the Town at least fifteen (15) business days before execution and delivery of such documents effecting such an assignment the final execution form copies of such documents for the Town's review and commentary; provided, further, that such an assignment shall not relieve the Redeveloper of its obligations pursuant to this Agreement.
- 12.5 No Release of Redeveloper.** Any consent by the Town to any total or partial transfer of the Hotel, Lease or Hotel Site shall not be deemed a release of the Redeveloper from any of its obligations hereunder, or from any conditions or restrictions to which the Redeveloper is subject, unless the Redeveloper is expressly released in writing by the Town.
- 12.6 Opinion of Bond Counsel.** Any transfer, sale, assignment, pledge, mortgage or other disposition of the Hotel, the Conference Center Lease or this Agreement shall only be made after obtaining the written opinion of Bond Counsel that such transfer, sale,

assignment, pledge, mortgage or other disposition will not adversely affect the tax exempt status of the interest on the Bonds.

ARTICLE XIII: DEFAULT AND REMEDIES

13.1 Events of Default. The following shall be events of default (the "Events of Default") with respect to this Agreement:

13.1.1 If any material representation made by the Redeveloper or the Town in this Agreement, or in any certificate, notice, demand or request made by the Redeveloper or the Town in writing and delivered to the other party pursuant to or in connection with any of said documents shall prove to be untrue or incorrect in any material respect as of the date made; or

13.1.2 Breach by the Redeveloper or the Town of any material covenant, warranty or obligation set forth in this Agreement.

13.2 Remedies Upon Default. In the case of an Event of Default by either party hereto or any successors to such party, such party or successor shall, upon written notice from the other party, take immediate action to cure or remedy such Event of Default within sixty (60) days after receipt of such notice (or within a reasonable time if the Event of Default can not be diligently cured within such sixty (60) day period). If, in such case action is not taken, or not diligently pursued, or the Event of Default shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure or remedy such Event of Default, including but not limited to, proceedings to compel specific performance by the party in default of its obligations.

In case the Town or the Redeveloper shall have proceeded to enforce its rights under this Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the party initiating such proceedings, then and in every such case the Redeveloper and the Town shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Redeveloper and the Town shall continue as though no such proceedings had been taken.

13.3 Other Rights and Remedies of Town and Redeveloper: Delay in Performance Waiver.

13.3.1 No Waiver by Delay. Any delay by the Town or the Redeveloper in instituting or prosecuting any actions or proceedings or otherwise asserting their rights under this Agreement shall not operate to act as a waiver of such rights or to deprive them of or limit such rights in any way (it being the intent of this provision that the Town or the Redeveloper should not be constrained so as to avoid the risk of being deprived of or limited in the exercise of the remedies provided in this Agreement because of concepts of waiver, laches or otherwise); nor shall any waiver in fact made by the Town or the Redeveloper with respect to any specific Event of Default by the Redeveloper or the Town under this Agreement be considered or treated as a waiver of the rights of the Town or the Redeveloper under this Section or with respect to any Event of Default under any section in this Agreement or with respect to the particular Event of Default,

except to the extent specifically waived in writing by the Town or the Redeveloper.

13.3.2 Rights and Remedies Cumulative. The rights and remedies of the parties to this Agreement (or their successors in interest) whether provided by law or by this Agreement, shall be cumulative, and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the time or different times, of any other such remedies for the same Event of Default by the other party. No waiver made by either such party with respect to the performance, nor the manner or time thereof, or any obligation of the other party or any condition to its own obligation under the Agreement shall be considered a waiver of any rights of the party making the waiver with respect to the particular obligation of the other party or condition to its own obligation beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect in regard to any other rights of the party making the waiver or any other obligations of the other party.

13.3.3 Delay in Performance. For the purposes of any of the provisions of this Agreement except with regard to payment of real estate taxes as provided herein, neither the Town, nor the Redeveloper, as the case may be, nor any successor in interest, shall be considered in breach of, or in default of, its obligations with respect to the beginning and completion of construction of the Project, in the event of enforced delay in the performance of such obligation due to unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to acts of God, acts of the public enemy, acts of federal, state or local government, acts of the federal or state judiciary, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, embargoes, acts of nature, unusually severe weather or delays of subcontractors due to such causes; it being the purposes and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the Town or the Redeveloper with respect to the beginning and completion of the construction of the Project, the Public Projects shall be extended for the period of the enforced delay. Provided, that the party seeking the benefit of the provisions of this Section, shall within thirty (30) days after the beginning of any such enforced delay have first notified the other party thereof in writing, of the cause or causes thereof, and requested an extension of the period of enforced delay. Such extensions of schedule shall be agreed to in writing by the parties hereto.

ARTICLE XIV: TERMINATION OF AGREEMENT

14.1 Termination by the Town. The Town has the right to terminate all or part of this Agreement upon ten (10) days prior written notice to the Redeveloper as follows:

14.1.1 The Town may terminate this Agreement if:

- (a)** The Master Plan is not accepted within the required time frames pursuant to Section 2.4 above; and

- (b) Any Event of Default by the Redeveloper is not cured within the time frame set forth in Article XIII above.

14.2 Termination by the Redeveloper. The Redeveloper has the right to terminate all or part of this Agreement upon ten (10) days prior written notice to the Town as follows:

14.2.1 The Redeveloper may terminate this Agreement if any Event of Default by the Town is not cured within the time frame set forth in Article XIII above.

ARTICLE XV: REPRESENTATIONS OF THE REDEVELOPER

The Redeveloper represents, warrants and agrees as the basis for the undertakings on its part herein contained that:

- 15.1 Redeveloper.** The Redeveloper comprises John Q. Hammons individually and the John Q. Hammons Revocable Trust, located at 300 John Q Hammons Parkway, Suite 900, Springfield, Missouri 65806 and is in good standing to do business in the State of Illinois.
- 15.2 Authorization.** The Redeveloper has power to enter into, and by proper action has been duly authorized to execute, deliver and perform this Agreement.
- 15.3 Non-Conflict or Breach.** Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, conflicts with or results in a breach of any of the terms, conditions or provisions of any restriction, agreement or instrument to which the Redeveloper is now a party or by which the Redeveloper is bound.
- 15.4 Pending Lawsuits.** There are no lawsuits either pending or threatened that would affect the ability of the Redeveloper to proceed with the construction and development of the Project on the Project Site.
- 15.5 Location of Project.** The Project will be located within the Project Site.
- 15.6 Conformance with Requirements.** That the Plans and Specifications and construction of the Project in accordance with the Plans and Specifications will in all respects conform to and comply with Franchise Requirements and all covenants, conditions, restrictions, zoning ordinances, environmental regulations and land use regulations affecting the Project Site.
- 15.7 Construction Monitor.** That it will cooperate and facilitate the activities of the Construction Monitor and any other consultants retained by the Town with regard to the design and construction of the Conference center and the Parking Deck.

ARTICLE XVI: REPRESENTATIONS OF THE TOWN

The Town represents, warrants and agrees as a basis for the undertakings on its part contained herein that:

- 16.1 **Organization and Authorization.** The Town is a municipal corporation organized and existing under the laws of the state of Illinois, and has the power to enter into and by proper action has been duly authorized to execute, deliver and perform this Agreement.
- 16.2 **Redevelopment Plan.** The Redevelopment Plan (including the Redevelopment Project Area set forth therein) has been properly formed, adopted and approved by the Town in accordance with Illinois law and is in full force and effect.
- 16.3 **Non-Conflict or Breach.** Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, conflicts with or results in a breach of any of the terms, conditions or provisions of any restriction, agreement or instrument to which the Town is now a party or by which the Town is bound.
- 16.4 **Pending Lawsuits.** There are no lawsuits either pending or threatened that would affect the ability of the Town to perform this Agreement.

ARTICLE XVII: MORTGAGE FINANCING AND RIGHTS OF MORTGAGEES

- 17.1 **Limitation Upon Encumbrance of Property.** Prior to the Final Completion of the Hotel and the Conference Center, as certified by the Town, neither the Redeveloper nor any successor in interest to the Hotel and/or Conference Center Lease or any part thereof shall engage in any financing or any other transaction creating a mortgage or other encumbrances or lien upon the property, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attached to the Hotel and/or the leasehold interest in the Conference Center, except for the purposes of obtaining funds necessary for the construction and development of the Hotel. Prior to the Final Completion of the Hotel and Conference Center as certified by the Town, the Redeveloper (or successor in interest) shall notify the Town in advance of any financing, secured by a mortgage or other similar lien instrument, it proposes to enter into with respect to the Hotel and the leasehold interest in the Conference Center, or any part thereof, and in any event it shall promptly notify the Town of any encumbrance or lien that has been created on or attached to the Hotel and/or the leasehold interest in the Conference Center, whether by voluntary act of the Redeveloper or otherwise. In the event the Redeveloper is in default under this Agreement, the right of the mortgagee to cure the default is governed by Section 17.4 of this Article.
- 17.2 **Mortgagee Not Obligated to Construct.** Notwithstanding any of the provisions of this Agreement, including, but not limited to those which are or intended to be covenants running with the land, the holder of any mortgage (including any such holder who obtains title to the Hotel or the Lease or any part thereof as a result of foreclosure proceedings, or action in lieu thereof, but not including: (i) any other party who thereafter obtains title to the Hotel or Lease or such part from or through such holder, or (ii) any other purchaser at foreclosure sale other than the holder of the mortgage itself) shall in no way be obligated by the provisions of this Agreement to construct or complete the Project or to guarantee such construction or completion; nor shall any covenant or any other provision in the Deed be so construed to so obligate such holder; provided, that nothing in this Section or any other Section or provision of this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Project or any part thereof to any uses, or to

construct any improvements thereon, other than those uses or improvements provided or permitted in the Redevelopment Plan.

17.3 Notices of Default. Whenever the Town shall deliver any notice of demand to the Redeveloper with respect to any breach or default by the Redeveloper in its obligations or covenants under the Agreement, the town shall at the same time forward a copy of such notice or demand to each holder of any mortgage authorized by the Agreement at the last address of such holder shown in the records of the Town.

17.4 Mortgagee's Option to Cure Defaults. After any breach or default referred to in Section 17.3 hereof, each such holder shall (insofar as the rights of the Town are concerned) have the right, at its option, to cure or remedy such breach or default (or such breach or default to the extent that it relates to the part of the Hotel or leasehold interest in the Conference Center covered by its mortgage) and to add the cost thereof to the mortgage debt and the lien of its mortgage; provided, that if the breach or default is with respect to any matter concerning the construction of the Project, nothing contained in this Section or any other Section of this Agreement shall be deemed to permit or authorize such holder, either before or after foreclosure or action in lieu thereof, to undertake or continue the construction of the Project or financing relative thereto (beyond the extent necessary to conserve or protect improvements or construction already made) without first having expressly assumed the obligation to the Town, by written agreement satisfactory to the Town, to complete, in the manner provided in this Agreement, the Project or the part thereof to which the lien or title of such holder relates. Any such holder who shall properly complete the Project or applicable part thereof shall be entitled, upon written request made to the Town, a certification or certifications by the Town to such effect in the manner provided in Section 2.11 of this Agreement, and any such certificate shall, if so requested by such holder, mean and provide that any remedies or rights by the Town against said holder with respect to any default in or breach of this Agreement by the Redeveloper or such successor, shall not apply to the part or parcel of the Hotel or Conference Center to which such certification relates. Nothing contained in this paragraph shall limit the remedies the Town has pursuant to other provisions of this Agreement.

17.5 Town's Option to Pay Mortgage Debt or Purchase Property. Prior to Final Completion of Hotel and/or the Conference Center as certified by the Town, and in any case where subsequent to default or breach by the Redeveloper or successors in interest under this Agreement or the Conference Center Lease, the holder of any mortgage on the Project or any part thereof:

- (a) has, but does not exercise, the option to construct or complete the Project or any part thereof covered by its mortgage or to which it has obtained title, and such failure to exercise said option continues for a period of sixty (60) days after the holder has received notice or has been otherwise informed of the default or breach; or
- (b) undertakes construction of completion of the Project but does not complete such construction within the period as agreed upon the Town and such holder (which period shall in any event be at least as long as the period for such construction or completion in the Agreement), and such default shall not have been cured within sixty (60) days after written demand by the Town to do so; or

- (c) has initiated foreclosure proceedings pursuant with regard to any mortgage on the Project or any part thereof

the Town shall (and every mortgage instrument made by the Redeveloper or successor in interest shall so provide) have the option of paying to the holder the amount of the mortgage debt and securing an assignment of the mortgage and the debt secured thereby, on in the event ownership of the Project (or any part thereof) has vested in such holder by way of foreclosure or action in lieu thereof, the Town shall be entitled, at its option, to a conveyance of the Project or any part thereof (as the case may be) upon payment to such holder of an amount equal to the sum of:

1. the mortgage debt at the time of foreclosure or action in lieu thereof (less all appropriate credits, including but not limited to those resulting from collection and application of rentals and other income received during foreclosure proceedings);
2. all expenses with respect to the foreclosure;
3. the next expense if any (exclusive of general overhead), incurred by such holder in and as a direct result of the subsequent management of the Project;
4. the costs of any improvements made by such holder; and
5. an amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage debt and such debt has continued in existence.

17.6 Town's Option to Cure Mortgage Default. In the event of a default or breach by the Redeveloper, or any successor in interest in or of any of its obligations under, and to the holder, of any mortgage or other instrument creating an encumbrance or lien upon the Hotel or Lease or any part thereof which Redeveloper fails to timely cure, the Town may at its option cure such default or breach by entering upon the Project making the necessary improvements, in which case the Town shall be entitled, in addition to and without limitation upon any other rights or remedies to which it shall be entitled by this Agreement, operation of law, or otherwise, to reimburse from the Redeveloper or successor in interest of all costs and expenses incurred by the Town in curing such default or breach and to a lien upon the Project (or the part hereof to which the mortgage, encumbrance, or lien relates) for such reimbursement; provided, that any such lien shall be subject always to the lien (including any lien contemplated, because of the advances yet to be made), of any existing mortgages on the Hotel and the Lease authorized by the Agreement or the Lease.

ARTICLE XVIII: MISCELLANEOUS

18.1 Authorized Representatives.

18.1.1 Redeveloper. The Redeveloper designates Steven E. Minton, Senior Vice President, Architecture/Construction, John Q. Hammons Industries as an authorized representative who, unless Applicable Law requires action by the Trustee or the individual member of the Redeveloper, shall have the power and authority to make or grant or do all things, requests, demands, approvals, consents, agreements and other actions required or described in this Agreement for and on behalf of the Redeveloper, provided that the Redeveloper may, from time to time, designate a substitute authorized representative by notifying the Town in writing pursuant to Section 18.5 .

18.1.2 Town. The Town shall designate the City Manager as an authorized representative, who, unless Applicable Law requires action by the corporate authorities of the Town, shall have the power and authority to make or grant or do all things, requests, demands, approvals, consents, agreements and other actions required or described in this Agreement for and on behalf of the Town, provided that the Town may, from time to time, designate a substitute authorized representative by notifying the Redeveloper in writing pursuant to Section 18.5 .

18.2 Entire Agreement. The terms and conditions set forth in this Agreement and exhibits attached hereto supersede all prior oral and written understandings and constitute the entire agreement between the Town and the Redeveloper with respect to the subject matter hereof.

18.3 Binding Upon Successors in Interest. This Agreement shall be binding upon all the parties hereto and their respective heirs, successors, administrators, assigns or other successors in interest.

18.4 Titles of Paragraphs. Titles of the several parts, paragraphs, sections or articles of this Agreement are inserted for convenience of reference only, and shall be disregarded in construing or interpreting any provision hereof.

18.5 Notices. Notices or demands hereunder shall be in writing and shall be served (a) by personal delivery; or (b) by certified mail, return receipt requested to the Town at:

the Town Clerk,
Town Hall, 100 East Phoenix Ave.,
P.O. Box 589,
Normal, Illinois 61761

With copies to:
Its City Manager
Town Hall, 100 East Phoenix Ave.,
P.O. Box 589,
Normal, Illinois 61761

And

Its Director of Downtown Development
Town Hall, 100 East Phoenix Ave.,
P.O. Box 589,

Normal, Illinois 61761

And

Its Corporation Counsel
Town Hall, 100 East Phoenix Ave.,
P.O. Box 589,
Normal, Illinois 61761

or to the Redeveloper at:

300 John Q Hammons Parkway, Suite 900,
Springfield, Missouri 65806

With copies to:

Debra Shantz
Senior Vice President & General Counsel
John Q. Hammons Hotels and Resorts
300 John Q Hammons Parkway, Suite 900,
Springfield, Missouri 65806

And

Steven E. Minton,
Senior Vice President, Architecture/Construction,
John Q. Hammons Industries
300 John Q Hammons Parkway, Suite 900,
Springfield, Missouri 65806

or to the last known address of either party or to the address provided by any assignee if such address has been given in writing. In the event said notice is mailed, the date of service of such notice shall be deemed to be two (2) business days after the date of delivery of said notice to the United States Post Office.

- 18.6 Severability.** If any provision of this Agreement is held to be invalid, the remainder of this Agreement shall not be affected thereby.
- 18.7 Memorandum of Agreement.** At either party's request, the parties shall execute and record a Memorandum of Agreement with respect to the Project and the Project Site in the form attached as Exhibit 4.
- 18.8 Further Assistance and Corrective Instruments.** The Town and the Redeveloper agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required by the parties hereto for carrying out the intention of or facilitating the performance of this Agreement.

The parties hereto acknowledge that the Town intends to issue Bonds, the proceeds of which will be utilized to fund the Town's obligations contemplated hereunder. The

Redeveloper and the Town agree to execute, acknowledge, deliver and cause to be executed, acknowledged, or delivered, such instruments, opinions, certificates and documents as may be required reasonably by Bond Counsel.

- 18.9 Highway Signage.** The Town will utilize its best effort to provide dedicate signage in the streets and highways located within the Town directing traffic from Interstate 74, Interstate 55 and Interstate 39 to the Hotel and Conference Center.
- 18.10 LEED Rating System.** The Town, in its commitment to encourage the use of environmentally sensitive design techniques in the Redevelopment Project Area, has adopted in Section 15.17-14 of the Town of Normal Municipal Code, the U.S. Green Building Council's LEED Rating System, Version 2.0. The Town and the Redeveloper recognize that meeting such standards may be cost prohibitive with regard to the development and construction of similar hotels and conference centers. The Town and the Redeveloper pledge to work towards the goals of the LEED standards in the design and development of the Project provided however, that the Town agrees to cooperate with the Redeveloper in obtaining a waiver of the LEED Rating System if such requirements materially increase the cost of the Project.
- 18.11 Provisions Not Merged With Deed.** None of the Provisions of this Agreement are intended to nor shall they be merged by reason any transfer of title to the Hotel Site from the Town to the Redeveloper or any successor in interest, and said transfer shall not be deemed to affect or impair the provisions and covenants of this Agreement.
- 18.12 No Gifts.** The Redeveloper covenants that neither the Redeveloper nor any officer director, trustee, employee or agent of the Redeveloper, or any other person connected with the Redeveloper, has made, offered or given, either directly or indirectly, to any officer, employee or agent of the Town, or any other person connected with the Town, any money or anything of value as a gift or bribe or other means of influencing his or her action in his or her capacity with the Town.
- 18.13 Reciprocal Easement.** Upon approval of the Construction Plans and the Final Site Plan, the Town and the Redeveloper shall enter into a Reciprocal Easement Agreement which shall provide for public access between various components of the Project and for the maintenance of common elements.
- 18.14 Prevailing Wages.** The Town and the Redeveloper agree that the construction of the Project is subject to the Prevailing Wage Act of the State of Illinois, 820 ILCS 130 *et. seq.*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and caused their respective seals to be affixed and attested thereto as of the date first above written.

TOWN OF NORMAL

By: Christopher Koo
Its Mayor

Attest: Wendell J. Bupp
Its Town Clerk

REDEVELOPER

By: [Signature]
Print Name: John @ Hammons

Title: Trustee

Attest:
By: Nicole Laurin
Print Name: Nicole Laurin

Title: Clerical Assistant

**TOWN OF NORMAL/HAMMONS
REDEVELOPMENT AGREEMENT**

EXHIBITS

- 1. Project Site Map**
- 2. Conference Center Lease Agreement**
- 3. Declaration of Covenants, Uses and Restrictions**
- 4. Memorandum of Agreement**

EXHIBIT 1

Proposed Project Areas

- Phase I**
- A (Total Site A)**
 - A-1 (Beaufort Street)
 - A-2 (Fell/Beaufort Inter.)
 - A-3 (Fell Ave - North-Beaufort)
 - A-4 (North St - Fell - Circle)
 - A-5 (Broadway - North-Beaufort)
 - B (Office/Retail)**
 - B-1 (Sidewalks on north side)
 - C (Multi-Modal Center)**
 - C-1 (Roundabout and Plaza)
 - C-2 (Fell/Beaufort parking lot)
 - C-3 (Beaufort/Broadway Inter.)
 - C-4 (Beaufort Broadway - Circle)
 - C-5 (Constitution Blvd - Circle - Mulberry)
 - D (Museum)**
 - D-1 (Parking & Plaza s. of 100 E. Beaufort)
 - D-2 (Beaufort St. - Circle - Linden)
 - E (Mixed Use)**
 - E-1 (Parking)
 - E-2 (Retail)
 - F (Office/Retail)**
 - F-1 Parking (Water Dept)
 - F-2 (Parking)
 - G (Mixed Use)**
 - G-1 (Mulberry St - Fell - tracks)
 - I (Seaborn church and PC)**
 - I-1 (Retail)
 - I-2 (College Ave - Fell - tracks)
 - P (Public Campus)**
 - P-1 (Constitution Trail - RR - Vernon)
 - P-2 (Irving St. - Broadway - Linden)
 - P-3 (Broadway Ave - Phoenix - Vernon)
 - P-6 (City Hall Public Parking)
- Phase II**
- H (Retail)
 - J-1 thru J-6 (Residential blocks between Fell & Linden)
 - J-7
 - K (Retail)
 - L (Retail)
 - P (Public Campus)
 - P-4 (Fell Ave - RR - Vernon)
 - P-5 (Fell - Linden - Beaufort)
- Phase III**
- M (Retail)
 - M-1
 - N (residential)
 - O (residential)

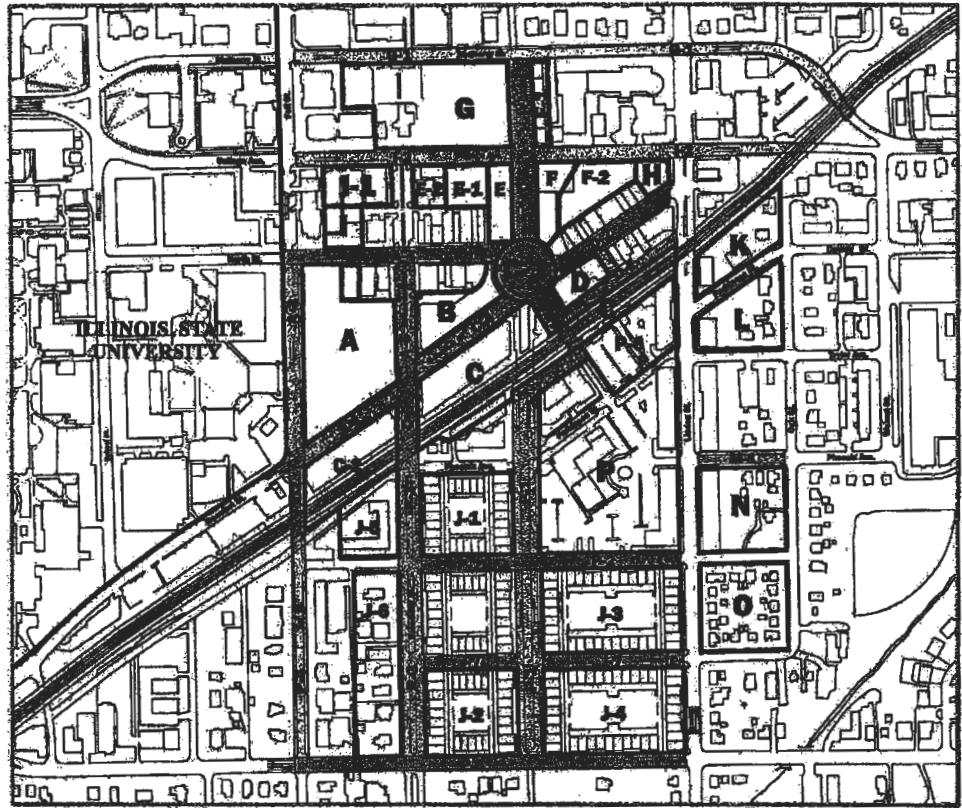


EXHIBIT 2

Hammons Conference Center Lease Agreement

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THIS TOWN OF NORMAL CONFERENCE CENTER LEASE AGREEMENT (the "Lease Agreement") is entered into as of the ___ day of _____, 2004 (the "Effective Date"), by and between the Town of Normal, Illinois, a municipal corporation, (hereinafter referred to as the "Town") and John Q. Hammons and the John Q. Hammons Revocable Trust of Springfield, Missouri (hereinafter collectively referred to as the "Redeveloper").

RECITALS

A. The Town and Redeveloper have entered into a Town of Normal Downtown/Hammons Redevelopment Agreement pursuant to the Town of Normal, Downtown Renewal Tax Increment Redevelopment Plan (the "Agreement") pursuant to which, among other things, the Town will provide Redeveloper with certain economic development assistance "Economic Redevelopment Assistance") in order to make possible Redeveloper's development and operation of a upscale full service hotel of approximately two hundred twenty (220) rooms and appropriate support facilities (the "Hotel") and, adjacent thereto, The Town of Normal intends to construct a planned meeting space complex for use by the general public which shall include approximately twenty thousand (20,000) square feet of net meeting space, which shall include a grand ball room and other meeting and banquet rooms (the "Conference Center") within the redevelopment project area (the "Redevelopment Project Area") as defined in the Town of Normal, Downtown Renewal Tax Increment Redevelopment Plan (the "Redevelopment Plan").

B. Pursuant to the Agreement and 65 ILCS 5/11-74.4-1 *et seq.* of the Illinois Compiled Statutes, The Tax Increment Allocation Redevelopment Act (the "Act"), the Town will acquire record title to certain real estate legally described on Schedule 1 attached hereto (the "Conference Center Site"), upon which the Town proposes to construct the Conference Center and install various items of furniture, fixtures and equipment described on Schedule 2 attached hereto (the "FF&E"), all in conformity with the Plans and Specifications as defined and approved pursuant to the Agreement. The Conference Center Site, Conference Center, FF&E and all other improvements on the Conference Center Site are hereinafter collectively referred to herein as the Property (the "Property").

C. Pursuant to the Agreement, because the Property will be adjacent to, and architecturally integrated with, the Hotel and improvements being developed by Redeveloper in accordance with the Plans and Specifications as defined and approved pursuant to the Redevelopment Agreement, the Town has engaged Redeveloper as agent for the Town to construct the Conference Center and certain other improvements on the Conference Center Site, and install the FF&E.

D. Because the Town wishes to avoid the problems of directly operating a facility such as the Property, and because the Town wishes to eliminate the possibility of having to use public funds for the operation and maintenance of the Property, the Town desires to lease the Property to Redeveloper on a long-term basis pursuant to certain triple-net lease provisions which will result in the Town not having to expend funds for operational, repair, maintenance, insurance and all other periodic expenses relating to the Property.

AGREEMENTS

NOW, THEREFORE, the Parties agree as follows:

DEFINITIONS – ALL TERMS THAT ARE INITIALLY CAPITALIZED ARE EITHER DEFINED HEREIN OR ARE DEFINED IN THE AGREEMENT. IF DEFINED IN THE AGREEMENT, SUCH DEFINITIONS ARE HEREBY INTEGRATED HEREIN AND MADE A PART OF THIS LEASE AGREEMENT.

ARTICLE 1: OFFER AND ACCEPTANCE

Section 1.1: Offer of Town. The Town offers to lease the Property to Redeveloper for the Term on the terms and conditions contained in this Lease.

Section 1.2: Acceptance by Redeveloper. The Redeveloper accepts the Town's offer to lease the Property and agrees to occupy and use the Property only for the operation of a Conference Center (the "Permitted Use").

ARTICLE 2: DURATION

Section 2.1: Term. The term of this Lease (the "Term") shall commence on the Commencement Date (the "Commencement Date") and shall continue for a period of sixty (60) years (the "Lease Termination Date").

"Commencement Date" means the first to occur of: (a) the date Town shall tender possession of the Property to Redeveloper in substantial compliance with the Plans and Specifications (which date shall be no later than the date the Town is obligated to issue to Redeveloper a Certificate of Completion of construction of the Conference Center pursuant to the Agreement) or, (b) the date Redeveloper commences business from the Property after receipt from the Town of a certificate of occupancy: pursuant to the building code of the Town.

If the Hotel ceases operation as an upscale hotel as herein defined (excluding temporary periods for repair and renovation), the Lease Agreement shall terminate and all rights to the use of the Conference Center by the Redeveloper pursuant to this Lease Agreement shall cease.

Section 2.2: Holding Over. In the event Redeveloper remains in possession of the Property without objection by Town for any period beyond the Term, Redeveloper, shall be deemed a month-to-month tenant subject to all conditions, terms, provisions and obligations of this Lease Agreement to the extent applicable to a month-to-month tenancy. There shall be no privilege to extend this Lease Agreement for any period beyond the Term.

ARTICLE 3: PAYMENT OF RENT

Section 3.1: Rent. The Rent payable by Redeveloper to Town shall be One Dollar (\$1) per Lease Year ("Lease Year"). Redeveloper agrees to pay the Base Rent to Town in full in advance within thirty (30) days of the Commencement Date.

ARTICLE 4: TAXES, UTILITIES AND INSURANCE

Section 4.1: Taxes: Responsibility. If any Taxes are levied on the Property or the leasehold interest created pursuant to this Lease Agreement, Redeveloper shall pay the Taxes attributable to the Property when due and furnish Town copies of the paid tax statements or other statements evidencing payment within thirty (30) days of receipt of Town's request for such copies.

"Taxes" means, collectively, real estate taxes, assessments, fees or assessments, and other governmental levies and charges, general and special, of any kind which are assessed or

imposed upon or in respect of the Property or any part thereof, but shall exclude any franchise, corporate, estate, inheritance, succession, capital levy or transfer tax of Town, or any income, profits or revenue tax, or any other tax, assessment, charge or levy upon the Rent; however, if at any time during the Term a tax on rents is assessed against Town or the Rent as substitution in whole or in part for taxes assessed by the State of Illinois or any political subdivision thereof on the Property such tax shall be deemed to be included within the definition of Taxes and shall be payable as provided herein.

Section 4.2: Authority to Protest. Town hereby grants to Redeveloper, at Redeveloper's sole expense authority to protest any Taxes which Redeveloper believes to be excessive or unlawful.

Section 4.3: Payment of Taxes: Termination. At the end of the Term or sooner termination of this Lease whether by operation of law, failure to comply with the provisions hereof or otherwise, Redeveloper shall pay to the appropriate taxing authority the Taxes required of Redeveloper in respect to the then current or past Lease Years, or both, as the case may be, within thirty (30) days of the date of termination based upon the last paid statement or statements in respect of such Taxes. If the Taxes ultimately determined to be owed with respect to the current or past Lease Years differ from the amount so paid by Redeveloper, Redeveloper shall be liable for the deficiency in Taxes, or entitled to the refund in Taxes, as the case may be.

Section 4.4: Utilities. Redeveloper shall pay all Utilities ("Utilities") attributable to the property when-due, and be responsible for contacting all utility providers to commence and terminate service in Redeveloper's name.

"Utilities" means, without limitation, all water, electricity, gas, garbage removal, heat, telephone, cable television, hot water, and other consumable services supplied to or in respect of the Property.

Section 4.5: Insurance. Redeveloper shall provide and maintain the Insurance, issued by such insurance companies as are licensed to do business in the State of Illinois, and shall deliver a certificate of insurance to Town evidencing the Insurance ("Insurance") on or prior to the Commencement Date, naming the Town, Town's beneficiaries, if any, and such of Town's mortgagees or contract vendors as Town periodically designates as coinsureds (and in Redeveloper's sole discretion, any Leasehold Mortgagees and/or Fee Mortgagees, as mortgagees pursuant to standard mortgagee clauses). The Insurance shall provide for written notice to Town by the insurance companies, not less than thirty (30) days prior to expiration, cancellation, renewal or modification of such Insurance. Not more frequently than once after each ten (10) Lease Years during the Term, Town shall have the right to cause the Redeveloper to increase the amount of general public liability insurance required by an amount specified by Town, but in no event more than ten percent (10%) each ten (10) Lease Years.

"Insurance" means, collectively:

- (a) general public liability insurance against claims for personal injury, death, or bodily injury or property damage occurring upon, in or about the Property, and Hotel, with limits, subject to adjustment as provided in Section this 4.5 Insurance, of not less than One Million Dollars (\$1,000,000) with respect to injury or death to a single person; not less than Five Million Dollars (\$5,000,000)

with respect to any one accident; and not less than One Million Dollars (\$1,000,000) with respect to property damage;

- (b) fire and extended coverage insurance in an amount equal to ninety percent (90%) of the actual replacement cost (exclusive of the cost of excavation, foundations and footings below ground level) of the Property and Hotel, without deduction for physical depreciation, including any additions to the Property and Hotel, by Redeveloper or Town; and,
- (c) Until the Redevelopment Plan Termination Date, business interruption insurance as required by the principal lender with respect to Hotel and the Property;
- (d) in the event of the sale, use, dispensing or giving of any alcoholic beverage from the Property and Hotel, dram shop insurance with respect to the Property and Hotel, against liability created by any statute, rule or law or ordinance making Town, Town's beneficiaries or mortgagee's or contract vendor, liable for injury, death or damage by reason of the sale, use, dispensing or giving of alcoholic or intoxicating beverages, with coverage for injuries or death, loss of support and for property damage to the maximum aggregate extent of possible recovery under the laws of the State of Illinois, or more if required by legislation of the State of Illinois, or any political subdivision with respect to increased limits of recovery, naming Town and any mortgagee or contract vendor as additional insureds; and
- (e) Workmen's compensation insurance.

Such insurance policies shall, upon Town's written request, be issued by a company or companies licensed to do business in the State of Illinois and shall be deposited by Redeveloper with Town together with proof of payment of the premiums thereon, which insurance shall provide for written notice to Town by the insurance company not less than thirty (30) days prior to expiration, cancellation, renewal or modification of such insurance. An appropriate renewal of any policy or certificate of insurance as above provided shall, upon Town's written request, be deposited by Redeveloper with Town not less than ten (10) days prior to the expiration of such policy, together with proof of payment of premiums on the renewal of such policy.

Section 4.6: Waiver of Subrogation Rights. The Parties release each other, and their respective authorized officers, agents and representatives, from any claims for loss or damage to any person or to the Property or Hotel, and to the fixtures, personal property, Redeveloper's improvements, and alterations of either Town or Redeveloper in or on the Property or Hotel, that are caused by or result from risks insured against under any insurance policies carried by the Parties and in force at the time of any such damage.

The Parties further specifically agree that neither Party shall be liable to the other for any loss or damage caused by or resulting from fire or any of the risks insured against under any such insurance policies, even though such loss or damage may have been occasioned by the negligence of the other Party, its agents or employees. However, this Section 4.6 Waiver of Subrogation Rights shall not apply with respect to losses or damages not reimbursed with insurance proceeds under such an insurance policy or paid pursuant to such an insurance policy.

Section 4.7: Failure to Comply. If Redeveloper shall fail to comply with this Article 4: Taxes, Utilities and Insurance, Town may, but need not, perform any act required of Redeveloper on behalf of Redeveloper, without releasing Redeveloper from any responsibility. Any amounts paid, together with costs, expenses and reasonable attorneys' fees, shall be due and owing to the Town from the Redeveloper and shall bear interest from the date of Town's payment at the rate of ten percent (10%) per year until paid.

ARTICLE 5: MAINTENANCE

Section 5.1: Maintenance: Responsibilities of Town. The Town shall have no maintenance responsibility with regard to the Property.

Section 5.2: Maintenance: Responsibilities of Redeveloper. Redeveloper shall be responsible for all of the matters set forth in following subsections of this Section 5.2 Maintenance: Responsibilities of Redeveloper.

- (a) **General Maintenance and Repair.** The Redeveloper shall commit no waste and shall, at Redeveloper's expense, maintain, repair and replace the Property, including but not limited to the roof, supporting members, the foundations, and the structural and non-structural aspects of the Property, heating and air conditioning equipment, sidewalks, all utility lines and services, boiler, sprinkler systems, elevators, interior walls, plumbing and electrical systems, drains, doors, windows, plate glass and glass, outside walls, lawn and Conference Center Sitescaping.
- (b) **Janitorial Services.** Redeveloper shall at Redeveloper's expense, be responsible for all janitorial services with respect to the Property.
- (c) **Snow and Ice Removal.** The Redeveloper shall, at Redeveloper's expense, be responsible for snow and ice removal.
- (d) **Termination: Delivery-of Property.** Upon termination of the Lease, Redeveloper shall deliver up the Property in like order, condition and repair, depreciation caused by the reasonable and considerate use thereof or casualty excepted. Further, Redeveloper shall not do or suffer any waste, damage, disfigurement or injury to any part of the Property.

Section 5.3: Risk of Redeveloper. Redeveloper agrees that all of Redeveloper's property in or about the Property, including but not limited to Redeveloper's inventory, apparatus, equipment, business records, supplies and material shall be at the risk of Redeveloper only.

ARTICLE 6: IMPROVEMENTS: MECHANICS' LIENS

Section 6.1: Improvements. Subject to the restrictions set forth in the following subsections and the following sentence of this Section 6.1 Improvements, Redeveloper shall, at Redeveloper's option, have the right to make changes or alterations to the Property. Redeveloper must obtain prior written consent from the Town, which consent shall not be unreasonably withheld, before any substantial change or alteration is commenced which involves structural alterations to the Conference Center. Redeveloper shall have

the right to remodel, decorate or otherwise improve the Property so long as such remodeling, decorations or improvements do not involve structural alterations of the Conference Center.

- (a) **Compliance with Applicable Law.** All work done in connection with any change or alteration to the Property made by Redeveloper shall be done in a good and workmanlike manner and in compliance with the building and zoning laws and with all other laws, ordinances, orders, rules, regulations and requirements of all Federal, state and municipal governments as the appropriate departments, commissions, boards and office thereof, and in accordance with the orders, rules and regulations of the Board of Fire Underwriters or any other body now or hereafter constituted exercising similar functions and the Redeveloper shall procure certificates of occupancy and other certificates required by law.
- (b) **Fixtures.** All fixtures purchased and installed by Redeveloper, except the replacement of Town's fixtures, shall remain the personal property of Redeveloper. Within ninety (90) days after the end of the Term or sooner termination of this Lease, Redeveloper may remove such fixtures, provided Redeveloper shall repair any damage caused by such removal, or, upon the written consent of Town, reimburse Town for the cost of such repair. If Redeveloper shall fail to remove such fixtures within such ninety (90) day period, or otherwise reimburse Town for the repair costs, the fixtures shall become the absolute property of Town without payment or credit of any kind therefore.
- (c) **Impairment of Structural Soundness.** No change or alteration to the Property made by Redeveloper shall at any time be made which shall impair the structural soundness of the Conference Center.
- (d) **Insurance: Workmen's Compensation/General Liability.** At all times when any change or alteration to the Property is in progress, Redeveloper shall cause to be maintained workmen's compensation insurance in accordance with the law covering all persons employed in connection with the change or alteration, structural work act insurance and general liability insurance for the mutual benefit of the Redeveloper and Town expressly covering the additional hazards due to the Property or any part thereof.
- (e) **Procurement and Payment of Governmental Permits.** No change, modification or alteration to the Property shall be commenced until Redeveloper shall have procured and paid for all required municipal and other governmental permits and authorizations of the various municipal departments and governmental subdivisions having jurisdiction.
- (f) **Restrictions.** No changes, modifications or alterations to the Conference Center of any kind shall be made which would materially decrease the size of the Conference Center, or materially reduce or impair the usefulness of the Conference Center.

Section 6.2: Mechanics' Liens. Redeveloper shall not suffer or permit any mechanics' lien to be filed against the Property, or any part, by reason of work, labor, services or materials performed or supplied or claimed to have been performed or supplied. If such

mechanic's lien shall be filed against the Property, or any part thereof, Redeveloper shall cause the lien to be discharged of record within ninety (90) days after the date of filing; provided, however:

- (a) Redeveloper shall not be required to discharge the lien so long as Redeveloper shall in good faith and with due diligence contest the same by appropriate legal proceedings which shall have the effect of preventing the, sale or forfeiture of the Property, or any part thereof or interest therein to satisfy the same; and,
- (b) While such lien is of record against the Property or any part thereof or interest therein, Redeveloper shall provide a bond satisfactory to Town to indemnify Town and any mortgagee and/or contract vendor, from all loss or expense by reason of such lien or claim of lien.

If Redeveloper shall fail to discharge the lien within such period, or otherwise provide a bond, then in addition to any other right or remedy of Town, Town may, but shall not be obligated to, discharge the same by paying the amount claimed to be due without inquiry into its validity. Any amount paid by Town in procuring the discharge of such lien and all necessary disbursements in connection therewith, with interest thereon at the rate of ten percent (10%) per annum from the date of payment, shall be repaid by Redeveloper on demand and if unpaid, may be treated as additional rent.

ARTICLE 7: DAMAGE OR DESTRUCTION BY FIRE OR OTHER CASUALTY

Section 7.1: Prior to Redevelopment Plan Termination Date. Prior to the termination of the Redevelopment Plan (the "Redevelopment Plan Termination Date"), if the Property is damaged or destroyed by fire or other casualty, Redeveloper must repair or rebuild the Property in accordance with Section 7.3 Repair and Replacement Procedures.

Section 7.2: After Redevelopment Plan Termination Date. After the Redevelopment Plan Termination Date, if the Property is damaged or destroyed by fire or other casualty, Redeveloper shall have the rights and duties set forth in this Section 7.2 After Redevelopment Plan Termination Date.

- (a) **Substantial Fire or Casualty.** After the Redevelopment Plan Termination Date, if Twenty-five percent (25%) or more of the replacement value of either (i) the Conference Center (which value shall not include the value of the Conference Center Site), or (ii) Hotel (which value shall not include the value of the underlying Conference Center Site) is damaged or destroyed by fire or other casualty (the "Substantial Casualty"), Redeveloper must elect one (1) of the following two (2) alternatives set forth in this Section 7.2(a) Substantial Fire or Casualty, by notifying Town in writing of such election within ninety (90) days of the date of such damage or destruction.
 - (i) **Repair or Rebuild Property.** Redeveloper may elect to repair or rebuild the Property in accordance with Section 7.3 Repairs and Replacement Procedures.
 - (ii) **Terminate Lease and Town Retains Insurance Proceeds.** Redeveloper may elect to terminate this Lease, in which event Town will be entitled to all insurance proceeds relating to the Property and/or the

damage or destruction thereof. Redeveloper shall assign to Town all of Town's right, title and interest in such insurance proceeds for the purpose of rebuilding the Conference Center.

- (b) **Other Fires or Casualties.** After the Plan Termination Date, if a fire or casualty with respect to the Conference Center occurs, which is not a Substantial Casualty, Redeveloper must repair or rebuild the Property in accordance with Section 7.3 Repair and Replacement Procedures.

Section 7.3: Repair and Replacement Procedures. In the event that Redeveloper is required to repair and rebuild the Property in accordance with this Article 7 Damage or Destruction by Fire or Other Casualty, Redeveloper shall, apply the proceeds of Insurance to repair the damage or otherwise restore and rebuild the Property as nearly as possible to the condition of the Property immediately prior to such damage or destruction, or to such condition as the Parties shall mutually agree upon in writing, and complete such repair, restoration or rebuilding within a reasonable time after the damage or destruction provided, however, that delay due to or occasioned by strikes, casualties, weather or unavailability of materials or labor or other causes beyond the reasonable control of Redeveloper shall automatically extend time for completion to such extent. The obligation of Redeveloper to pay the Rent shall continue unabated. In the event of repair, restoration or rebuilding, Town and Redeveloper shall assign and deliver all proceeds of the Insurance recovered on account of the damage or destruction, less the cost, if any, of such recovery, to such depository as may be agreed upon between the Parties for payment of the cost of repair, restoration or rebuilding. If the proceeds of the Insurance shall be insufficient to pay the entire cost of repair, restoration or rebuilding of the Property, Redeveloper shall pay the deficiency. Any balance of the Insurance money remaining after the entire cost of repair, restoration or rebuilding shall have been paid, shall be the sole property of Redeveloper.

ARTICLE 8: CONDEMNATION OF PROPERTY AND COMPENSATION AWARDED

Section 8.1: Condemnation. If under the power of eminent domain, there shall be a permanent taking of the whole or any portion of the Property and/or the Hotel, so as to materially affect the Permitted Use of the Property or the use of the Hotel, either physically or economically, this Lease Agreement, shall terminate and the Rent shall be apportioned to the date that title shall be taken by the appropriating authority. In the event of any taking of a portion of the Property and/or the Hotel which does not materially affect the Permitted Use of the Property or the use of the Hotel, this Lease Agreement shall continue in full force and effect and the Rent shall continue unabated.

Section 8.2: Compensation. In the case of the termination of this Lease Agreement, any such compensation awarded shall be paid to the Town and Redeveloper in accordance with law. In the case where the eminent domain action does not materially affect the Permitted Use of the Property or the use of the Hotel, all compensation awarded with regard to the Property shall be paid to the Town for the sole purpose of rebuilding the Conference Center.

ARTICLE 9: INSPECTION

Redeveloper shall permit Town or its designee to enter the Property in the event of an emergency at anytime or at all times upon reasonable notice for the purpose of inspecting the Property,

performing Town's obligations hereunder or performing Redeveloper's obligations if not performed by Redeveloper; however, nothing herein shall imply any duty upon Town to perform Redeveloper's responsibilities, nor as a waiver of Redeveloper's default; or, exhibiting the Property for the purpose of sale or rental. Town shall be entitled to display "For Sale" or "For Rent" signs on the Property, commencing ninety (90) days prior to the last day of the final Lease Year.

ARTICLE 10: SIGNS AND USE

Section 10.1: Redeveloper Signs. Redeveloper shall have the right to erect and maintain such outside signs on the Property, paint lettering or place decals on windows and doors all of which shall conform to Applicable Law and shall have the right to take down or remove any such signs, lettering or decals, provided Redeveloper shall repair any damage caused by any such removal.

Section 10.2: Town Signs. Redeveloper shall display a sign on both the exterior and interior of the Conference Center indicating the following Conference Center name: "Town of Normal Conference Center". The style and location of the sign will be designed by Redeveloper and approved by the Town.

Section 10.3: Use of Property.

- (a) **General Public Use.** During the Term of the Lease, Redeveloper agrees that the Property will be open and available to the general public pursuant to the normal and standard terms as established by the Redeveloper from to time.
- (b) **Non-Discrimination.** During the Term of the Lease, Redeveloper agrees not to discriminate in violation of any applicable Federal, State or local law on the basis of race, color, religion, sex, age, or natural origin or other factors as may by law be applicable in the use or occupancy of the Property.
- (c) **Operation as Conference Center.** During the Term of the Lease, Redeveloper shall operate the Property as a Conference Center.

ARTICLE 11: CONDITION OF PROPERTY; INDEMNIFICATION OF TOWN

Section 11.1: Condition of Property; Acceptance by Redeveloper. Since the Redeveloper has designed, developed, and constructed the Property for the Town, the Redeveloper shall be presumed to be, as of the Commencement Date, fully familiar with the physical condition of the Property and it shall be further presumed that the Property was in good and satisfactory condition as of the Commencement Date.

Section 11.2: Indemnification. Redeveloper shall indemnify and save Town, its officers, agents and employees, harmless against and from any and all claims, dues or demands (including reasonable attorneys' fees and costs), by or on behalf of any Person, arising from any act or omission set forth in the following subsections of this Section 11.2 Indemnification.

- (a) **Accident, Injury or Damage.** Any accident, injury or damage whatsoever, caused to any person, firm or corporation, occurring during the Term, in or about the Property.

- (b) **Any Acts of Redeveloper.** Any act of Redeveloper or any of its agents, contractors, servants, employees or licensees.
- (c) **Breach or Default of Redeveloper.** Any breach or default on the part of Redeveloper in the performance of any covenant or agreement on the part of Redeveloper to be performed pursuant to the terms of this Lease.
- (d) **Conduct or Management Relating to Work.** The conduct or management of or from any work or thing whatsoever done in or about the Property.
- (e) **Legal Action.** All costs, counsel fees, expenses and liabilities incurred in or about any such claim or action or proceeding brought thereon.

Section 11.3: Redeveloper's Assumption of Legal Costs. Redeveloper covenants and agrees to pay and to indemnify Town against all legal costs and charges, including counsel fees, reasonably incurred in obtaining possession of the Property after default of Redeveloper or upon the expiration or earlier termination of the Term of this Lease or in enforcing any covenant or agreement of Redeveloper contained in this Lease.

Section 11.4: Redeveloper's Responsibility For All Operating Costs. Redeveloper agrees that it is responsible for, all operating costs associated with the Property during the Term of the Lease; that Town has no responsibility therefore, and that Redeveloper will indemnify and hold Town harmless with respect to all such operating costs associated with the Property.

ARTICLE 12: ASSIGNMENT

Redeveloper may assign any part or all of Redeveloper's interest in this Lease Agreement (referred to as an "Assignment"), only as provided in Article XII of the Agreement.

Section 12.1: Release of Redeveloper Upon Assignment of Entire Interest. In the event of an Assignment by Redeveloper of its entire interest in this Lease Agreement, Town shall concurrently release Redeveloper from any and all future obligations pursuant to this Lease Agreement and the Redevelopment Agreement. Town further agrees to execute a written release to this effect concurrent with such Assignment and all other documentation reasonably requested by Redeveloper to effectuate this Section 12.4 Release of Redeveloper Upon Assignment of Entire Interest.

Section 12.2: Assumption of Lease Obligations by Assignee. Notwithstanding any other provisions of this Article 12 Assignment, no Assignment by Redeveloper of all or any part of its interest in this Lease Agreement shall be effective unless the assignee, whether as assignee or as successor in interest of any assignee of Redeveloper, including any purchaser of the Lease Agreement under a foreclosure of any mortgage or other lien on this Lease Agreement, shall immediately be and become and remain liable for the payment of the Rent and other charges payable under this Lease Agreement, and for the due performance of all the covenants, agreements, terms and provisions of this Lease Agreement on Redeveloper's part to be performed to the full end of the Term, which agreements, covenants, terms and provisions apply to and bind every such assignee with the same force and effect as though such assignee were Redeveloper named in this Lease Agreement. No transfer to such assignee shall be binding upon Town unless such

assignee shall deliver to Town an instrument which contains a covenant of assumption by said assignee to such effect, but the failure or refusal of such assignee to deliver such instrument shall not release or discharge such assignee from its obligations and liability as above set forth.

ARTICLE 13: RECORDATION OF REDEVELOPER'S INTEREST

Town and Redeveloper shall each have the right at any time to record this Lease Agreement (and any amendments hereto), and/or a memorandum of lease in the McLean County Recorder's Office and all other appropriate recording offices. Town and Redeveloper each agree to execute upon request by the other party any documentation required with respect to such recordings.

ARTICLE 14: PROHIBITION ON TRANSFERS BY TOWN

Town shall be prohibited from transferring, selling, assigning, pledging, mortgaging or in any other manner whatsoever disposing of all or any portion of Town's interest in the Property and/or in this Lease Agreement, without the prior written consent of Redeveloper, which consent shall not be unreasonably withheld. Redeveloper shall have the right at any time to record a memorandum of this prohibition in the McLean County Recorder's Office and all other appropriate recording offices. Town agrees to execute upon request by Redeveloper any documents with respect to such recording.

ARTICLE 15: RECIPROCAL EASEMENTS

Prior to the Commencement Date of the Lease, Town and Redeveloper agree to subject the Property, including (without limitation) the Conference Center Site and, Conference Center any utilities relating to the Property and the party wall or walls to reciprocal easement declarations and amendments thereto substantially in the form attached to the Agreement, with the owner or owners of the adjacent parcel of real estate on which Hotel is to be constructed, to be recorded in the McLean County Recorder's Office and all other appropriate recording offices. Town and Redeveloper agree to execute upon request by the other party any documentation reasonably required with respect to such reciprocal easement declarations, and their amendments. During the Term, Redeveloper shall have the right to enact and enforce reasonable rules relating to the subject matter of such reciprocal party wall and easement declarations and amendments thereto.

ARTICLE 16: ACCESS TO BOOKS OF CONFERENCE CENTER; ANNUAL REPORTS

Section 16.1: Town's Access to Conference Center Books and Records. During the Term, the Town shall have the right, during normal business hours and on five (5) days notice to Redeveloper, to inspect the books and records of Redeveloper relating to the Conference Center.

Section 16.2: Annual Reports. During the Term, Redeveloper shall present an annual report on a fiscal year basis to the Town setting forth (a) the number of persons attending Conference Center events and the nature and type of such events, and (b) the program for the operation of the Conference Center for the next succeeding year including marketing and sales programs and the anticipated number of events and special programs.

ARTICLE 17: NOTICE OF EVENT OF DEFAULT AND REMEDIES

Section 17.1: Notice of Event of Default. Upon the occurrence of an Event of Default ("Event of Default"), Town shall give Redeveloper notice of such Event of Default.

"Event of Default" means, at the option of Town, and with notice or demand upon Redeveloper, the breach by Redeveloper of any provision of this Agreement.

Section 17.2: Remedies. If at the expiration of sixty (60) days after the receipt of such notice, Redeveloper fails:

- (a) With respect to an Event of Default which can, with due diligence by Redeveloper, be cured within such sixty (60) day period, to cure such Event of Default; or,
- (b) with respect to an Event of Default which cannot, with due diligence by Redeveloper, be cured within such sixty (60) day period, to proceed with due diligence to cure the Event of Default within such period and thereafter to continue with due diligence to cure such Event of Default (it being intended that in connection with an Event of Default not susceptible of being cured with due diligence within such sixty (60) day period, the time of Redeveloper within which to cure the same shall be extended for such period as may be reasonably necessary to cure such Event of Default with due diligence);

Town, at Town's option, may terminate this Agreement. In this event, Town shall be obligated to use best efforts to mitigate any damages.

ARTICLE 18: LEASEHOLD MORTGAGES

Section 18.1: Leasehold Mortgage Authorized. On one or more occasions, without Town's prior consent, Redeveloper may take back a purchase money leasehold mortgage upon a sale and assignment of the leasehold estate created by this Lease ("Leasehold Estate") or may mortgage or otherwise encumber such Leasehold Estate, under one or more Leasehold Mortgages ("Leasehold Mortgages") and assign this Lease as security for such Leasehold Mortgage or Mortgages.

18.2 Notice to Town.

- (a) (i) If Redeveloper shall, on one or more occasions, take back a purchase money leasehold mortgage upon a sale and assignment of the Leasehold Estate or shall mortgage Redeveloper's Leasehold Estate, and if the holder of such Leasehold Mortgage shall provide Town with notice of such Leasehold Mortgage together with a true copy of such Leasehold Mortgage and the name and address of the leasehold mortgagee ("Leasehold Mortgagee"), Town and Redeveloper agree that, following receipt of such notice by Town, the provisions of this Article 18 shall apply in respect to each such Leasehold Mortgage.
- (ii) In the event of any assignment of a Leasehold Mortgage or in the event of a change of address of a Leasehold Mortgagee or of an assignee of such Leasehold Mortgage, notice of the new name and address shall be provided to Town.

- (b) Town shall promptly upon receipt of a communication purporting to constitute the notice provided for by Section 18.2(a) above acknowledge by an instrument in recordable form receipt of such communication as constituting the notice provided for by Section 18.2(a) above or, in the alternative, notify the Redeveloper and the Leasehold Mortgagee of the rejection of such communication as not conforming with the provisions of Section 18.2(a) and specify the specific basis of such rejection.
- (c) After Town has received the notice provided for by Section 18.2(a) above, the Redeveloper, upon being requested to do so by Town, shall with reasonable promptness provide Town with copies of the note or other obligation secured by such Leasehold Mortgage and of any other documents pertinent to the Leasehold Mortgage as specified by Town. If requested to do so by Town, Redeveloper shall thereafter also provide Town from time to time with a copy of each amendment or other modification or supplement to such instruments. All recorded documents shall be accompanied by the appropriate certification of the custodian of the recording office as to their authenticity as true and correct copies of official records and all nonrecorded documents shall be accompanied by a certification by Redeveloper that such documents are true and correct copies of the originals. From time to time upon being requested to do so by Town, Redeveloper shall also notify Town of the date and place of recording and other pertinent recording data with respect to such instruments as have been recorded.

The term "Leasehold Mortgage" as used in this Article 18 shall include a mortgage, a deed of trust, a deed to secure debt, or other security instrument by which Redeveloper's Leasehold Estate is mortgaged, conveyed, assigned, or otherwise transferred, to secure a debt or other obligation.

The term "Leasehold Mortgagee" as used in this Article 18 shall refer to a holder of a Leasehold Mortgage in respect to which the notice provided for by Section 18.2 has been given and received and as to which the provisions of this Article 18 are applicable.

Section 18.3 Consent of Leasehold Mortgagee Required. No cancellation, surrender or modification of this Lease shall be effective as to any Leasehold Mortgagee unless consented to in writing by such Leasehold Mortgagee, provided that this Section 18.3 shall not affect the Town's rights under this Lease (and subject to the provisions and limitations of this Article 18) to terminate this Lease as a result of the default of Redeveloper.

Section 18.4 Default Notice. Town, upon providing Redeveloper any notice of: (i) default under this Lease, (ii) a termination of this Lease or (iii) a matter on which Town may predicate or claim a default shall, at the same time, provide a copy of such notice to every Leasehold Mortgagee. No such notice by Town to Redeveloper shall be deemed to have been duly given unless and until a copy thereof has been so provided to every Leasehold Mortgagee. From and after such notice has been given to a Leasehold Mortgagee, such Leasehold Mortgagee shall have the same period, after the giving of such notice upon it, for remedying any default (or acts or omissions which are the subject matter of such notice) or causing the same to be remedied, as is given Redeveloper after the giving of such notice to Redeveloper, plus in each instance, the additional periods of time specified in Section 18.5 and Section 18.6 to remedy: commence remedying or

cause to be remedied the defaults (or acts or omissions which are the subject matter of such notice) specified in any such notice. Town shall accept such performance by or at the instigation of such Leasehold Mortgagee as if the same had been done by Redeveloper. Redeveloper authorizes each Leasehold Mortgagee to take any such action at such Leasehold Mortgagee's option and does hereby authorize entry upon the premises by Leasehold Mortgagee for such purpose.

Section 18.5 Notice to Leasehold Mortgagee.

- (a) Anything contained in this Lease to the contrary notwithstanding, if any default shall occur which entitles Town to terminate this Lease, Town shall have no right to terminate this Lease unless, following the expiration of the period of time given Redeveloper to cure such default (or the act or omission which gave rise to such default), Town shall send a termination notice ("Termination Notice") notifying every Leasehold Mortgagee of Town's intent to so terminate at least thirty (30) days in advance of the proposed effective date of such termination if such default is capable of being cured by the payment of money, and at least forty-five (45) days in advance of the proposed effective date of such termination if such default is not capable of being cured by the payment of money ("Termination Notice Period"). The provisions of Section 18.06 below shall apply if, during such thirty (30) or forty-five (45) day Termination Notice Period, any Leasehold Mortgagee shall:
- (i) Notify Town of such Leasehold Mortgagee's desire to nullify such Termination Notice, and
 - (ii) pay or cause to be paid all rent, additional rent, and other payments then due and in arrears as specified in the Termination Notice to such Leasehold Mortgagee and which may become due during such thirty (30) or forty-five (45) day Termination Notice Period, and
 - (iii) comply or in good faith, with reasonable diligence and continuity, commence to comply with all non-monetary requirements of this Lease then in default and reasonably susceptible of being complied with by such Leasehold Mortgagee, provided however, that such Leasehold Mortgagee shall not be required during such forty-five (45) day Termination Notice Period to cure or commence to cure any default consisting of Redeveloper's failure to satisfy and discharge any lien, charge or encumbrance against the Redeveloper's interest: in this Lease or the Property subject to the Lease, junior in priority to the lien of the Leasehold Mortgagee held by such Leasehold Mortgagee.
- (b) Any notice to be given by Town to a Leasehold Mortgagee pursuant to any provision of this Section 18.5 shall be deemed properly addressed if sent to the Leasehold Mortgagee who served the notice referred to in Section 18.2 unless notice of a change of Leasehold Mortgagee ownership has been given to Town pursuant to such Section 18.2.

Section 18.6 Procedure on Default.

- (a) If Town shall elect to terminate this Lease by reason of any default of Redeveloper, and a Leasehold Mortgagee shall have proceeded in the manner provided for by Section 18.5, the specified date for the termination of this Lease as fixed by Town in its Termination Notice shall be extended for a period of six months, provided that such Leasehold Mortgagee shall, during such six month period:
- (i) Pay or cause to be paid the rent, additional rent and other monetary obligations of Redeveloper under this Lease as the same become due, and continue its good faith efforts to perform all of Redeveloper other obligations under this Lease, excepting (A) obligations of Redeveloper to satisfy or otherwise discharge any lien, charge or encumbrance against Redeveloper's interest in this Lease or the Property subject to the Lease junior in priority to the lien of the mortgage held by such Leasehold Mortgagee (provided, that this clause (A) shall not apply to Taxes defined in Section 4.1 Taxes: Responsibility), and (B) past non-monetary obligations then in default and not reasonably susceptible of being cured by such Leasehold Mortgage; and
 - (ii) If not enjoined or stayed, take steps to acquire or sell Redeveloper's interest in the Lease by foreclosure of the Leasehold Mortgage or other appropriate means and prosecute the same to completion with due diligence.
- (b) If at the end of such six (6) month period such Leasehold Mortgagee is complying with Section 18.6(a), this Lease shall not then terminate, and the time for completion by such Leasehold Mortgagee of its proceedings shall continue so long as such Leasehold Mortgagee is enjoined or stayed and thereafter for so long as such Leasehold Mortgagee proceeds to complete steps to acquire or sell Redeveloper's interest in this Lease by foreclosure of the Leasehold Mortgage or by other appropriate means with reasonable diligence and continuity. Nothing in this Section 18.6, however, shall be construed to extend this Lease beyond the original terms thereof as extended by any options to extend the terms of this Lease properly exercised by Redeveloper or a Leasehold Mortgagee in accordance with Article 18, nor to require a Leasehold Mortgagee to continue such foreclosure proceedings after the default has been cured. If the default shall be cured and the Leasehold Mortgagee shall discontinue such foreclosure proceedings, this Lease shall continue in full force and effect as if Redeveloper had not defaulted under this Lease.
- (c) If a Leasehold Mortgagee is complying with Section 18.6(a), upon the acquisition of Redeveloper's Leasehold Estate herein by such Leasehold Mortgage or its designee or any other purchaser at a foreclosure sale or otherwise and the discharge of any lien, charge or encumbrance against the Redeveloper's interest in this Lease of the demised premises which is junior in priority to the lien of the Leasehold Mortgage held by such Leasehold Mortgagee and which the Redeveloper is obligated to satisfy and discharge by reason of the terms of this Lease, this Lease shall continue in full force and effect as if Redeveloper had not defaulted under this Lease.

- (d) For the purposes of this Article 18, the making of a Leasehold Mortgage shall not be deemed to constitute an assignment or transfer of the Lease or of the Leasehold Estate hereby created, nor shall any Leasehold Mortgagee, as such, be deemed to be an assignee or transferee of this Lease or of the Leasehold Estate hereby created, so as to require such Leasehold Mortgagee as such, to assume the performance of any of the terms, covenants, or conditions on the part of the Redeveloper to be performed hereunder, by the purchaser at any sale of this Lease and of the Leasehold Estate hereby created in any proceedings for the foreclosure of any Leasehold Mortgage, or the assignee or transferee of this Lease and of the Leasehold Estate hereby created under any instrument of assignment or transfer in lieu of the foreclosure of any Leasehold Mortgage shall be deemed to be an assignee or transferee within the meaning of this Article 18, and shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of the Redeveloper to be performed hereunder from and after the date of such purchase and assignment, but only for so long as such purchaser or assignee is the owner of the Leasehold Estate. If the Leasehold Mortgagee or its designee shall become holder of the Leasehold Estate and if the buildings and improvements on the premises shall have been or become materially damaged on, before or after the date of such purchase and assignment, the Leasehold Mortgagee or its designee shall be obligated to repair, replace or reconstruct the building or other improvements in accordance with the provisions in Section 7.3, but only to the extent of the net insurance proceeds received by the Leasehold Mortgagee or its designee by reason of such damage. However, should such net insurance proceeds be insufficient to repair, replace or reconstruct the building or other improvements to the extent required by Section 7.3 and should the Leasehold Mortgagee or its designee choose not to fully reconstruct the building or other improvements to the extent required by Section 7.3 such failure shall constitute an event of default under this Lease.
- (e) Any Leasehold Mortgagee or other acquirer of the Leasehold Estate of Redeveloper pursuant to foreclosure, assignment in lieu of foreclosure or other proceedings may upon acquiring Redeveloper's Leasehold Estate, without further consent of Town, sell and assign the Leasehold Estate on such terms and to such persons and organizations are acceptable to such Leasehold Mortgagee or acquirer and thereafter be relieved of all future obligations under this Lease; provided that such assignee has delivered to Town its written agreement to be bound by all of the provisions of this Lease.
- (f) Notwithstanding any other provisions of this Lease, any sale of this Lease and of the Leasehold Estate hereby created in any proceedings for the foreclosure of any Leasehold Mortgage, or the assignment or transfer of the Lease and of the Leasehold Mortgage, or the assignment or transfer of this Lease and other Leasehold Estate hereby created in lieu of the foreclosure of any Leasehold Mortgage, shall be deemed to be a permitted sale, transfer or assignment of this Lease and of the Leasehold Estate hereby created.

Section 18.7 New Lease.

- (a) **New Lease Offered to Leasehold Mortgagee.** In the event of the termination of this Lease as a result of Redeveloper's default, Town shall, in addition to

providing the notices of default and termination as required by this Article 18, provide each Leasehold Mortgagee with written notice that the Lease has been terminated, together with a statement of all sums which would at that time be due under this Lease but for such termination, and of all other defaults, if any, then known to Town. Town agrees to enter into a new lease (the "New Lease") of the Property subject to this Lease with such Leasehold Mortgagee or its designee for the remainder of the term of this Lease, effective as of the date of termination, at the rent and additional rent, and upon the terms, covenants and conditions (including all options to renew but excluding requirements which are not applicable or which have already been fulfilled) of this Lease, provided:

- (i) Such Leasehold Mortgagee shall make written request upon Town for such New Lease within sixty (60) days after the date such Leasehold Mortgagee receives Town's Notice of termination of this Lease given pursuant to this Section 18.7.
- (ii) Such Leasehold Mortgagee or its designee shall pay or cause to be paid to Town at the time of the execution and delivery of such New Lease, any and all sums which would at the time of execution and delivery thereof be due pursuant to this Lease but for such termination and, in addition thereto, all reasonable expenses, including reasonable attorney's fees which Town shall have incurred by reason of such termination and the execution and delivery of the New Lease and which have not otherwise been received by Town from Redeveloper or other party in interest under Redeveloper. Upon the execution of such New Lease, Town shall allow to the Redeveloper named therein as an offset against the sums otherwise due under this Section 18.7 or under the New Lease an amount equal to the new income, derived by Town from the demised premises during the period for the date of termination of this Lease to the date of the beginning of the Lease term of such New Lease. In the event of a controversy as to the amount to be paid to Town pursuant to this Section 18.7, the payment obligation shall be satisfied if Town shall be paid the amount not in controversy, and the Leasehold Mortgagee or its designee shall agree to pay any additional sum ultimately determined to be due plus interest at the rate of ten percent (10%) per annum and such obligation shall be adequately secured.
- (iii) Such Leasehold Mortgagee or its designee shall agree to remedy any of Redeveloper's defaults of which said Leasehold Mortgagee was notified by Town's Notice of Termination and which are reasonably susceptible of being so cured by Leasehold Mortgagee or its designee.
- (iv) Any New Lease made pursuant to this Section 18.7 and any renewal lease entered into with a Leasehold Mortgagee pursuant to the terms hereof shall be prior to any mortgage or other lien, charge or encumbrance of the fee of the Property and the Redeveloper under such New Lease shall have the same right, title and interest in and to the Property as Redeveloper had under this Lease.

(v) Redeveloper under any such New Lease shall be liable to perform the obligations imposed on Redeveloper by such New Lease only during the period such person has ownership of such Leasehold Estate.

(b) **New Lease Priorities.** If more than one Leasehold Mortgagee shall request a New Lease pursuant to Section 18.7(a), Town shall enter in to such New Lease with the Leasehold Mortgagee whose mortgage is prior in lien, or with the designee of such Leasehold Mortgagee Town, without liability to Redeveloper to any Leasehold Mortgagee with an adverse claim, may rely upon a mortgagee title insurance policy issued by a responsible title insurance company doing business within the State of Illinois as the basis for determining the appropriate Leasehold Mortgagee who is entitled to such New Lease.

Section 18.8 Leasehold Mortgagee Need Not Cure Specified Defaults. Nothing herein contained shall require any Leasehold Mortgagee or its designee as a condition to its exercise of any right hereunder to cure any default of Redeveloper under this Lease not reasonably susceptible of being cured by such Leasehold Mortgagee or its designee, in order to comply with the provisions of Section 18.5 and Section 18.6, or as a condition of entering into the New Lease provided for by Section 18.7.

Section 18.9 Eminent Domain. Redeveloper's share, as provided by Article 8, of the proceeds arising from an exercise of the power of eminent domain shall, subject to the provision of such Article 8, be disposed of as provided for by any Leasehold Mortgagee.

Section 18.10 Casualty Loss. A standard mortgagee clause naming each Leasehold Mortgagee may be added to any and all insurance policies required to be carried by Redeveloper hereunder on condition that the insurance proceeds are to be applied in the manner specified in this Lease and the Leasehold Mortgagee shall so provide, except that the Leasehold Mortgagee may provide a manner for the disposition of such proceeds, if any, otherwise payable directly to the Redeveloper (but not such proceeds, if any, payable jointly to the Town and the Redeveloper) pursuant to the provisions of this Lease.

Section 18.11 Legal Proceedings and Arbitration. Town shall give each Leasehold Mortgagee prompt notice of any arbitration or legal proceedings between Town and Redeveloper involving obligations under this Lease. Each Leasehold Mortgagee shall have the right to intervene in any such proceedings and be made a party to such proceedings, and the parties hereto do hereby consent to such intervention. In the event that any Leasehold Mortgagee shall not elect to intervene or become a party to any such proceedings, Town shall give the Leasehold Mortgagee notice of, and a copy of any award or decision made in any such proceedings, which shall be binding on all Leasehold Mortgagees not intervening after receipt of notice of arbitration.

Section 18.12 No Merger. So long as any Leasehold Mortgagee is in existence, unless all Leasehold Mortgagees shall otherwise expressly consent in writing, the fee title to the demised premises and the Leasehold Estate of Redeveloper therein created by this Lease shall not merge but shall remain separate and distinct, notwithstanding the acquisition of said fee title and said Leasehold Estate by Town or by Redeveloper or by a third party, by purchase or otherwise.

Section 18.13 Future Amendments. In the event on any occasion hereafter Redeveloper seeks to mortgage its Leasehold Estate, Town agrees to amend this Lease from time to time to

the extent reasonably requested by an a Leasehold Mortgagee unrelated to Redeveloper proposing to make Redeveloper a loan secured by a first lien upon Redeveloper's Leasehold Estate, provided that such proposed amendments do not materially and adversely affects the rights of Town or its interest in the demised premises. All reasonable expenses incurred by Town in connection with any such amendment shall be paid by Redeveloper.

Section 18.14 Estoppel Certificate. Town shall, without charge, at any time and from time to time hereafter, but not more frequently than twice in any one-year period (or more frequently if such request is made in connection with any sale or mortgaging of Redeveloper's Leasehold interest or permitted subletting by Redeveloper), within ten (10) days after written request of Redeveloper to do so, certify by written instrument duly executed and acknowledged to any Leasehold Mortgagee or purchaser or assignee, or proposed Leasehold Mortgagee or proposed purchaser or assignee, or any other person, firm or corporation specified in such request: (A) as to whether this Lease has been supplemented or amended, and if so, the substance and manner of such supplement or amendment; (B) as to the validity and force and effect of this Lease, in accordance with its tenor, (C) to the best knowledge of Town, as to the existence of any default hereunder; (D) to the best knowledge of Town, as to the existence of any offsets, counterclaims or defenses hereto on the part of the Redeveloper; (E) as to the commencement and - expiration dates of-the term of this Lease; and (F) as to any other matters as may be reasonably so requested. Any such certificate may be relied upon the by the Redeveloper and any other person, firm or corporation to whom the same may be exhibited or delivered, and the contents of such certificate shall be binding on the Town.

Section 18.15 Notices. Notices from Town to the Leasehold Mortgagee shall be mailed to the address furnished Town pursuant to Section 18.2, and those from the Leasehold Mortgagee to Town shall be mailed to the address designated pursuant to the provisions of Section 18.4 hereof. Such notices, demands and requests shall be given in the manner described in Section 18 and shall in all respects be governed by the provision of that section.

Section 18.16 Erroneous Payments. No payment made to Town by a Leasehold Mortgagee shall constitute agreement that such payment, was, in fact, due under the terms of this Lease; and a Leasehold Mortgagee having made any payment to Town pursuant to Town's wrongful, improper or mistaken notice or demand shall be entitled to the return of any such payment or portion thereof provided he shall have made demand therefore not later than one year after the date of it payment.

ARTICLE 19 FEE MORTGAGES

Prior to the termination of this Lease, Redeveloper may not make any mortgage of the fee of the Property (the "Fee Mortgage") without the prior written consent of Town, which consent cannot be unreasonably withheld.

ARTICLE 20 GENERAL CONDITIONS

Section 20.1 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors assigns.

Section 20.2 Choice of Law. The laws of the State of Illinois shall govern the validity, interpretation and administration of this Agreement.

Section 20.3 Complete Agreement. This Lease Agreement supersedes any prior agreements and undertakings among the Parties except the Agreement, and along with such Redevelopment Agreement, represents the complete agreement of the Parties.

Section 20.4 Cumulative Remedies. Each right, power and remedy herein conferred upon Town is cumulative of every other right, power or remedy of Town, whether herein or by law conferred, and the exercise of one or more of the same shall not be deemed or considered an election or remedy.

Section 20.5 Execution of Additional Documents. Each Party shall execute, acknowledge and deliver such additional documents, writings or assurances as any other Party may periodically require so as to give full force and effect to this Lease Agreement.

Section 20.6 Execution of Counterparts. This Lease Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

Section 21.7 Incorporation by Reference; Schedules. The paragraphs under the heading "RECITALS:" and any Schedule referred to in this Lease Agreement is hereby made a part of this Lease Agreement.

Section 20.8 Interpretive Guidelines. The words and phrases set off by quotation marks in the Glossary have the meanings therein indicated. Any word or phrase which appears in this Agreement in parenthesis, set off by quotation marks and capitalized has the meaning denoted by its context. Whenever the words and phrases defined either in the Glossary or elsewhere in this Agreement are intended to have their defined meanings, the first letter of such word or the first letters of all substantive words in such phrase shall be capitalized. When the context permits, a word or phrase used in the singular includes the plural, and when used in any gender, its meaning also includes all genders. Captions of Sections are inserted as a matter of convenience only and do not define, limit or extend the scope or intent of this Agreement or any provision thereof.

Section 20.9 Notices. All notices, requests, communications and demands hereunder shall be given in writing and shall be deemed to have been duly given if delivered in person or sent by registered or certified mail, postage prepaid, to the Town at the Town's last known address, care of the Town Clerk of the Town with copies to the Town Manager of the Town and the Corporation Counsel of the Town; and if to the Redeveloper, or any assignee of Redeveloper's interest in this Lease, at the address of the Property, or to such other place and/or person as either shall periodically designate in writing.

Section 20.10 Waiver of Breach. The waiver by any Party of any breach of this Agreement, whether in a single instance or repeatedly, shall not be construed as a waiver of rights under this Agreement. Any waiver shall not constitute a waiver by such Party to strictly adhere to this Agreement nor as a waiver of any claim for damages or other remedy by reason of any such breach.

Section 20.11 Authorized Representative of Town. The Town hereby designates the City Manager as an authorized representative, who, unless applicable law requires action by

the Town Council and Mayor of the Town, shall have the power and authority to make or grant or do all things, requests, demands, approvals, consents, agreements and other actions required or described in this Lease for and on behalf of the Town.

Section 20.12 Authorized Representative of the Redeveloper. The Redeveloper shall designate an individual as an authorized representative, who, unless applicable law requires action by the Redeveloper's governing authority, shall have the power and authority to make or grant or do all things, requests, demands, approvals, consents, agreements and other actions required or described in this Lease for and on behalf of the Redeveloper.

Section 20.13 Use of the Conference Center by the Town. The Redeveloper shall permit the Town to use the Conference Center, or a portion thereof, for five (5) days a year to be agreed upon annually by the Town and the Redeveloper at no rent or charge, provided that the Town shall be responsible for all the necessary and reasonable costs and charges for such use (but not including any administrative or overhead charges of the Redeveloper or any affiliated entity). The specific days of use shall be agreed upon by the Town and the Redeveloper, provided that (i) the Redeveloper shall not unreasonably withhold its approval and (ii) as long as any Bonds issued on a tax-exempt basis remain outstanding and unpaid, the Town covenants to limit its use of the Conference Center to that number of days, in the aggregate, the fair market value of which, when aggregated with any payment to Town by the Redeveloper hereunder in respect of the Conference Center shall not exceed five (5%) percent of the principal of or the interest on such Bonds, on a present value basis at the time of issuance.

EXECUTION:

Dated at Normal, Illinois, on the Execution Date.

TOWN OF NORMAL

REDEVELOPER

By: _____
Its Mayor

By: _____
Print Name: _____

Attest: _____
Its Town Clerk

Title: _____

Attest:

By: _____
Print Name: _____

Title: _____

EXHIBIT 3

Prepared By:

Jack B. Teplitz
Jack B. Teplitz & Associates
331 Fulton St., Ste. 525
Peoria, Illinois 61602

After recording return to:

Steven Mahrt
Corporation Counsel
Town of Normal
100 E. Phoenix
PO Box 589
Normal, Illinois 61761

DECLARATION OF COVENANTS, USES AND RESTRICTIONS

John Q. Hammons and the John Q. Hammons Revocable Trust of Springfield, Missouri (the "Declarant"), is the owner of certain real property located in the Town of Normal, the County of McLean, the State of Illinois, more fully described in Exhibit A attached hereto and made a part hereof (the "Hotel Site").

The Declarant has entered into the Town of Normal Downtown/Hammons Redevelopment Agreement (the "Agreement") dated as of _____, 2004, with the Town of Normal (the "Town"). The Agreement provides that the Declarant shall develop a hotel as described in the Agreement (the "Hotel") on the Hotel Site, which Hotel will further the development of the Town of Normal, Illinois Downtown Renewal Tax Increment Redevelopment Plan adopted by the Town on February 24, 2003 (the "Plan"). The Plan was recorded with the McLean County Recorder on _____, 2003 as Document No. _____. For the purpose of enhancing and protecting the value, the attractiveness and the desirability of the Hotel as developed pursuant to the terms of the Agreement; for the purpose of protecting the rights of the Town pursuant to the terms of the Agreement; and for the purpose of enhancing and protecting the purposes of the Plan as aforementioned, the Declarant hereby declares that all of the Hotel and Hotel Site and each part thereof shall be held, sold, and conveyed only subject to the following covenants, uses and restrictions, which shall constitute covenants running with the land and shall be binding on all parties having any rights, title or interest in said property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

1. The Hotel Site and the Hotel shall be subject to the Agreement and the terms, covenants, building and use restrictions, and conditions in the Plan.

2. The Declarant agrees that the Declarant shall not discriminate in violation of all applicable federal, state or local laws or regulations upon the basis of race, color, religion, sex, age, national origin or other applicable factors in the sale, lease or rental or in the use or occupancy of the Hotel Site or Hotel or any part thereof.

3. The Declarant covenants that it will pay all real estate taxes with respect to the Hotel Site or Hotel when due; and shall not apply for, seek, or authorize any exemption from the imposition of general real estate taxes on said Hotel Site or Hotel without first obtaining the prior written approval of the Town of Normal. Nothing herein shall be construed so to prevent Declarant from contesting the assessment or collection of any taxes under statutory procedures set forth in the Illinois Compiled Statutes; provided that the Declarant, its successors and assigns shall give the Town of Normal fifteen (15) days prior written notice of its intent to contest the assessment or collection of taxes.

GENERAL PROVISIONS

4. It is intended and agreed that the covenants provided in Sections 1 and 3 of this Declaration shall remain in effect until the earlier of (i) termination of the Plan or (ii) December 31, 2026; and the covenants provided in Section 2 shall remain effective without any time limitation; provided, that all such covenants shall be binding on the Declarant only for such period as the Declarant maintains a direct ownership interest in the Hotel Site or Hotel or part thereof (excluding, for example, an interest therein solely as a creditor or mortgagee), and only with respect to such direct ownership interest in the Hotel Site or Hotel or part thereof. The termination of the covenants in Sections 1 and 3 shall be effective upon the happening of the events described in this Section 4 without any further action by either Declarant or the Town and without the recording of any release or other document.

5. Subject to Section 4 above, it is intended and agreed that the covenants set forth in Sections 1 through 3 above shall be covenants running with the land and that they shall in any event and without regard to technical classification or designation as legal or otherwise, be binding to the fullest extent permitted by law and equity, for the benefit and in favor of and enforceable by the Town and with regard to Section 2 above, the Town, the State of Illinois, and the United States of America.

6. Failure by the Town or as the case may be, by the State of Illinois or the United States of America to enforce any covenant or restriction herein contained, shall in no event be deemed a waiver of the right to do so thereafter.

7. Invalidation of any one of these covenants or restrictions by judgment or court order, shall in no way affect any other provisions, which shall remain in full force and effect.

8. Covenants and restrictions of this Declaration may be amended by the Declarant only by duly recording an instrument, executed and acknowledged by the Town.

Executed at Normal, Illinois, on the date first above written.

By: _____
JOHN Q. HAMMONS

JOHN Q. HAMMONS REVOCABLE TRUST OF
SPRINGFIELD, MISSOURI

By: _____

Print Name: _____

Title: _____

STATE OF ILLINOIS)
) SS.
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY that _____, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary for the uses and purposes therein set forth; and on his respective oath stated that he was duly authorized to execute said instrument.

GIVEN under my hand and notarial seal this ____ day of _____, 2004.

Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY that _____, personally known to me to be the _____ of the John Q. Hammons Revocable Trust of Springfield, Missouri, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act as such _____, and as the free and voluntary act of the John Q. Hammons Revocable Trust of Springfield, Missouri, for the uses and purposes therein set forth; and on his respective oath stated that he was duly authorized to execute said instrument.

GIVEN under my hand and notarial seal this ____ day of _____, 2004.

Notary Public

EXHIBIT 4

Prepared By:

Jack B. Teplitz
Jack B. Teplitz & Associates
331 Fulton St., Ste. 525
Peoria, Illinois 61602

After recording return to:

Steven Mahrt
Corporation Counsel
Town of Normal
100 E. Phoenix
PO Box 589
Normal, Illinois 61761

MEMORANDUM OF AGREEMENT

John Q. Hammons and the John Q. Hammons Revocable Trust of Springfield, Missouri (the "Redeveloper") and the Town of Normal have entered into a Town of Normal Downtown/Hammons Redevelopment Agreement dated as of _____, 2004 (the "Agreement") with respect to certain real property located in the Town of Normal, the County of McLean, the State of Illinois, more fully described in Exhibit A attached hereto and made a part hereof (the "Hotel Site"). The Agreement provides that the Redeveloper, subject to certain terms and conditions set forth in the Agreement, shall develop a Hotel as described in the Agreement (the "Hotel") on the Hotel Site.

Dated: _____, 2004

TOWN OF NORMAL

REDEVELOPER

By: _____
Its Mayor

By: _____
JOHN Q. HAMMONS

Attest: _____
Its Town Clerk

JOHN Q. HAMMONS REVOCABLE TRUST OF
SPRINGFIELD, MISSOURI

By: _____

Print Name: _____

Title: _____

STATE OF ILLINOIS)
) SS.
COUNTY OF MCLEAN)

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY that _____ and _____, personally known to me to be the Mayor and Town Clerk, respectively, of the Town of Normal, an Illinois municipal corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Mayor and Town Clerk, respectively, appeared before me this day in person and severally acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act as such Mayor and Town Clerk, respectively, and as the free and voluntary act of said municipal corporation for the uses and purposes therein set forth; and on their respective oaths stated that they were duly authorized to execute said instrument.

GIVEN under my hand and notarial seal this ____ day of _____, 2004.

Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY that _____, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary for the uses and purposes therein set forth; and on his respective oath stated that he was duly authorized to execute said instrument.

GIVEN under my hand and notarial seal this ____ day of _____, 2004.

Notary Public

STATE OF ILLINOIS)

) SS.

COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY that _____, personally known to me to be the _____ of the John Q. Hammons Revocable Trust of Springfield, Missouri, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act as such _____, and as the free and voluntary act of the John Q. Hammons Revocable Trust of Springfield, Missouri, for the uses and purposes therein set forth; and on his respective oath stated that he was duly authorized to execute said instrument.

GIVEN under my hand and notarial seal this _____ day of _____, 2004.

Notary Public