PUTNAM COUNTY LEGISLATURE

Resolution #107
Introduced by Legislator: Carl L. Albano on behalf of the Physical Services Committee at a Regular Meeting held on May 3, 2016.

APPROVAL/AMEND RESOLUTION # 240 OF 2015/EXECUTION OF CHARITABLE DONATION AGREEMENT

WHEREAS, pursuant to Resolution # 240 of 2015, the Putnam County Legislature approved a Lease Agreement, in the form attached thereto, between Butterfield Realty LLC and the County of Putnam for 6,000 square feet of space at The Lahey Pavilion, located 1756 Route 9D, Cold Spring, New York; and

WHEREAS, the leased premises will be the future location of a new and expanded senior center facility serving the senior population in the Town of Philipstown and the surrounding areas within the County; and

WHEREAS, said Lease Agreement, as approved, provided for an initial term of five years, with two five-year renewal options; and

WHEREAS, Resolution # 240 of 2015 authorized the County Executive to execute said Lease Agreement, as approved, upon receipt of confirmation of a $500,000.00 pledge to the County from Roger and Elizabeth Ailes for the senior center facility at the Lahey Pavilion; and

WHEREAS, the Lease Agreement approved pursuant to Resolution # 240 of 2015 has not been executed; and

WHEREAS, the County is now in receipt of a Charitable Donation Agreement between ACI Senior Development Corp., in which Roger Ailes is President, and the County of Putnam, a copy of which is attached hereto as Exhibit "A", and

WHEREAS, said Charitable Donation Agreement provides, among other things, that ACI Senior Development Corp. will contribute to the County the renovations of the leased premises as further described in said agreement; and

WHEREAS, the County and Butterfield Realty LLC have since also agreed to amend the proposed terms of the Lease Agreement which was approved pursuant to Resolution # 240 of 2015, in order to increase the initial lease term to fifteen years with one ten-year renewal option; and

WHEREAS, the County and Butterfield Realty LLC have further agreed that Butterfield Realty LLC shall be responsible for making certain further improvements to The Lahey Pavilion, as same are delineated in the amended Lease Agreement which is attached hereto as Exhibit "B"; and

WHEREAS, the Putnam County Legislature has reviewed the revisions to the proposed Lease Agreement between Butterfield Realty LLC and the County of Putnam and agrees with same; and

Vote:
State Of New York
ss:

County of Putnam

I hereby certify that the above is a true and exact copy of a resolution passed by the Putnam County Legislature while in session on May 3, 2016.

Dated: May 5, 2016

Signed: _____

Diane Schonfeld
Clerk Of The Legislature Of Putnam County

PUTNAM COUNTY LEGISLATURE

Resolution #107
Introduced by Legislator: Carl L. Albano on behalf of the Physical Services Committee at a Regular Meeting held on May 3, 2016.

WHEREAS, the Putnam County Legislature has also reviewed the Charitable Donation Agreement between ACI Senior Development Corp. and the County, and the Putnam County Legislature likewise agrees with the terms and conditions contained therein; now therefore be it

RESOLVED, that Resolution # 240 of 2015 is hereby amended as specified hereinafter, and be it further

RESOLVED, that the Putnam County Legislature approves the Charitable Donation Agreement between ACI Senior Development Corp. and the County, which shall be in the form and content attached hereto as Exhibit "A", and the County Executive shall be authorized to execute same; and be it further

RESOLVED, that in accordance with the terms of said Charitable Donation Agreement, the senior center facility to be located at The Lahey Pavilion shall be named the "Roger Ailes Senior Center", and a sign to that affect will be placed in the lobby of the facility; and be it further

RESOLVED, that the Putnam County Legislature also approves the revisions to the Lease Agreement between Butterfield Realty LLC and the County of Putnam for 6,000 square feet of space at The Lahey Pavilion, located 1756 Route 9D, Cold Spring, New York, which are reflected in the instrument attached hereto as Exhibit "B", and be it further

RESOLVED, that upon the passage of proposed Local Law, per Resolution #106 of 2016, which authorizes the County to enter into said Lease Agreement with Butterfield Realty LLC for a term in excess of five years, the County Executive shall be authorized, with the advice and the assistance of the County Attorney, to execute said Lease Agreement, which shall be in the form and content attached hereto as Exhibit "B".

BY ROLL CALL VOTE: SEVEN AYES. ONE NAY – LEGISLATOR LOBUE. ONE ABSTENTION – LEGISLATOR WRIGHT. MOTION CARRIES.

Vote:
State Of New York
ss:

County of Putnam

I hereby certify that the above is a true and exact copy of a resolution passed by the Putnam County Legislature while in session on May 3, 2016.

Dated: May 5, 2016

Signed: Diane Schonfeld

Diane Schonfeld
Clerk Of The Legislature Of Putnam County

REVISED 4/14/16

Exhibit "B"

LEASE dated the _____ day of _____, 2015 between

BUTTERFIELD REALTY LLC **(Landlord)**
3102 Route 9
Cold Spring, NY 10516

and

County of Putnam
40 Gleneida Avenue
Carmel, NY 10512

ARTICLE I - DEFINITIONS

1.01 As used in this lease, (including all Exhibits and Riders attached hereto, all of which shall be deemed to be part of this Lease) the following words and phrases shall have the meaning indicated:

01. Additional Rent:
All amounts that become payable by the Tenant to Landlord hereunder other than the fixed rent

02. Broker.
The person, if any, named herein who brought about this agreement and to whom a commission is expected to be owed.

03. Building:
The building now or hereafter located and known as The Lahey Pavilion, on Exhibit A, attached hereto and made a part hereof.

04. Building Common Areas:
All areas, spaces and improvements in the Building which Landlord makes available from time to time for the common use and benefit of the Tenants and occupants of the Building and which are not exclusively available for use by a single Tenant or occupant.

05. Calendar Quarter:
Any three month period commencing on either a January 1, an April 1, a July 1, or an October 1.

06. Calendar Year:
Any twelve month period commencing on a January 1.

07. Commencement Date:
The Commencement Date shall be the date upon the Landlord's completion of a demising wall separating the Demised Premises, as hereinafter defined, from the remaining space. The parties expect the Commencement Date to be on or about July 1, 2016.

08. Common Areas:
Exterior Common Areas.

09. Demised Premises:
The space that is marked on Exhibit E; the Demised Premises contains approximately 6,000 square feet of floor space. The address of the Demised Premises is 1756 Route 9D, Cold Spring, NY. The space also includes a quarter circle area with a radius of 20 feet for use by Tenant as an outdoor area for the seniors and shown on Exhibit E.

10. Entire Premises:

LEGISLATURE
PUTNAM COUNTY
CARMEL, NY
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Premises, including, without limitation the following: (a) the total costs for the repair, replacement, maintenance, cleaning, lighting, painting, water and sewer charges, policing and operation of the Exterior Common Areas; (b) the cost for casualty, liability and fidelity insurance; (c) the management fees for managing the Premises or, if a managing agent is employed by Landlord, a sum in lieu thereof which is not in excess of the then prevailing rate for management fees of other retail facilities in the area. It is intended and agreed that the Operating Expenses referred to herein shall be only those expenses actually and reasonably expended on or in connection with the premises and/or for the benefit of the Tenants therein. All items will be calculated and stated in accordance with generally accepted accounting principles, consistently applied. Landlord will provide Tenant, upon request, with an annual statement of Operating Expenses.

23. Permitted Uses:

Putnam County Senior Community Center Facility and related offices. The Senior Community Center Facility shall remain a center open to the general public for all Putnam County seniors and can only be changed with the written permission of the Landlord. The Senior Center Facility shall incorporate the Timme Memorial Architectural Archway into the center, at Tenant's expense.

24. Person:

A natural person or persons, a partnership, a corporation or any other form of business or legal association or entity.

25. Price Index:

Consumer Price Index for all urban consumers for New York and Northeastern New Jersey, for all items published by the Bureau of Labor Statistics, U.S. Dept. of Labor or its successor index affecting Putnam County.

26. Promotion Dues:

Intentionally deleted.

27. Ready for Occupancy:

Tenant, at its sole cost and expense, shall obtain building permits for its interior work and all other necessary permits including sign permits and any necessary certificates of occupancy, to such extent as shall be applicable to Tenant as a county governmental entity.

28. Real Estate Taxes:

The taxes, assessments, and special assessments imposed upon the Building and land associated with the Building by any federal, state, municipal or other governments or governmental bodies or authorities and any expenses incurred by Landlord in contesting such taxes or assessments and/or the assessed value of the Building and land associated with the Building, which expenses shall be allocated to the period of time to which such expenses relate. If at any time during the Term the methods of taxation prevailing on the hereof shall be altered so that in lieu of, or an addition to, or as a substitute for, the whole or any part of such Real Estate Taxes, assessments and special assessments now imposed on real estate, there shall be levied, assessed or imposed (a) a tax, assessment, levy, imposition, license fee or charge wholly or partially as a capital levy or otherwise on the Rents received therefrom, or (b) any other such additional or substitute tax, assessment, levy, imposition or charge, then all such taxes, assessments, levies, impositions, fees and charges or the part thereof so measured or based shall be deemed to be included within the term "Real Estate Taxes" for the purpose hereof.

29. Rent:

The Fixed (Base) Rent and all additional rent provided for in this lease. Rent shall commence 60 days after the Commencement Date and continue for fifteen (15) ~~five (5)~~ years until the Expiration Date, subject to any exclusions described in Section 2.03.

30 Rules and Regulations:

Those rules and regulations shown on Exhibit C annexed hereto and those reasonable rules and regulations that may be

promulgated by the Landlord from time to time

31. Successor Landlord:
As defined in Article 8.

32. Superior Lease:
Any Lease to which this Lease is, at the time referred to, subject and subordinate.

33. Superior Lessor:
The Lessor of a Superior Lease or its successor in interest, at the time referred to.

34. Superior Mortgage:
Any mortgage to which this lease is, at the time referred to, subject and subordinate.

35. Superior Mortgagee:
The holder of a Mortgage at the time referred to.

36. Tenant's Property:
As defined in Article 15.02.

37. Tenant's Trade Name:
County of Putnam or any other name approved by the Landlord, which approval shall not be unreasonably withheld.

38. Tenant's Work:
The facilities, materials and work which may be undertaken by or for the account of Tenant to equip, decorate, and furnish the Demised Premises for Tenant's Occupancy.

39. Term:
The period commencing at 12:01 a.m. on the Commencement Date and ending at 11:59 p.m. on the Expiration Date, or of the date when this Lease is earlier terminated, pursuant to the provisions herein.

ARTICLE 2 - DEMISE AND TERM

2.01 Landlord hereby Leases to Tenant, and Tenant hereby hires from Landlord, the Demised Premises, for the Term, except that Landlord reserves and Tenant shall have no right to use (a) the exterior faces of all perimeter walls, (b) the roof, and (c) the land, improvements. If, as of the Date of this Lease, the Parties have not established a Commencement Date, a projected date shall be established, and a definite date shall then be established by Landlord, upon 15 days prior written notice to Tenant, based upon the availability of the Demised Premises for Tenant's occupancy. In the event the definite Commencement Date shall fall on a day other than the first day of a calendar month, the first month of the term shall be a partial month

2.02 Intentionally Omitted.

2.03 Provided the Tenant has never been throughout the term of the lease in default under the terms of this Lease it shall have the option to renew this Lease for an additional term of ten (10) years. ~~two five (5) year terms.~~ Tenant shall exercise this option by no later than twelve (12) months before the end of the the initial term of the lease ~~n current term~~ by giving written notice to Landlord of its intent to renew the Lease for the additional ~~five~~ ten year option period. ~~The option is for two five (5) year renewal terms.~~ The rent during the option renewal terms is provided in Exhibit B herein attached

ARTICLE 3 – RENT – ADDITIONAL RENT AND OCCUPANCY

3.01 Tenant shall pay the Fixed Rent in equal monthly installments in advance on the first day of each and every calendar month during the Term. Rent payments will begin 60 (sixty) days after the Commencement Date. If the Commencement Date occurs on a day other than the first of a calendar month, the Fixed Rent for the partial calendar month at the commencement of the Term shall be prorated.

3.02 The Fixed Rent shall be increased annually - See Exhibit B attached.

3.03 The Rent shall be paid in lawful money of the United States to Landlord at its office, or such other place, or to the Landlord's agent at such other place, as Landlord shall designate by notice to Tenant. Tenant shall pay the Rent promptly when due without notice or demand therefore and without any abatement, deduction or set off for any reason whatsoever, except as may expressly be provided in this Lease. If Tenant makes any payment to Landlord by check, same shall be by Tenant and Landlord shall not be required to accept the check of any other person, and any check received by Landlord shall be deemed received subject to collection. If any check is mailed by Tenant, Tenant shall post such check in sufficient time prior to the date when payment is due so that such check will be received by Landlord on or before the date when payment is due. Tenant shall assume the risk of lateness or failure of delivery of the mails, and no lateness or failure of mails will excuse Tenant from its obligations to have made the payment in question when required under this Lease. In the event that rent is not received on time, within 10 days after it is due, Tenant shall be obligated to pay Landlord a 3% late fee of the then rent, for each month rent is late. This fee shall also be considered as additional rent. There is a $35.00 returned check fee.

3.04 No payment by Tenant or receipt or acceptance by Landlord of a lesser amount than the correct Rent shall be deemed to be other than a payment on account, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance or pursue any other remedy in this Lease or at law provided.

3.05 If Tenant is in arrears in a payment of Rent, Tenant waives Tenant's right, if any, to designate the items to which any payments made by Tenant are to be credited, and Landlord may apply any payments made by Tenant to such items due under this Lease as Landlord sees fit, irrespective of and notwithstanding any designation or request by Tenant as to the items to which any such payments shall be credited.

3.06 Intentionally Omitted.

3.07 All payments other than the rent to be made by Tenant pursuant to this Lease shall be deemed additional rent and, in the event of any non-payment thereof, Landlord shall have all rights and remedies provided for herein or by law for non-payment of rent.

3.08 Base rent shall be as follows: Year 1: $77,700.00 (Seventy-Seven Thousand, Seven Hundred Dollars) Base rent does NOT include any Additional Rent as originally agreed to such as, but not limited to, common lighting, water and sewer charges, real estate taxes, etc.

3.09 Tenant shall pay two (2) installments of Base Rent plus CAM ($10,700.00 x 2 = $21,400.00) simultaneously with the signing of this lease (the "initial payment"). Said initial payment shall be applied as follows: one installment shall constitute the first month's rent and CAM, the remaining installment shall be applied to the Security Deposit, in the amount of $10,700.

3.10 Additional Rent shall also be comprised of Tenant's Proportionate Share, in the amount of 14.1176%, of all Common Area Maintenance and insurance charges over those paid in the base year of this lease. A projection of base year payments is annexed hereto as Exhibit B. Tenant will pay as Additional Rent, its proportionate share of common area maintenance ("CAM"), real estate taxes, in accordance with lease include insurance premiums for the Property. Landlord shall provide reasonable estimates on all items of Additional Rent, or shall use the bills received in prior years, to calculate an

estimate for annual CAM charges and Tenant will make payment on said estimates on a monthly basis in equal installments to Landlord

3.11 In the event that the cost of Insurance increases or decreases during any applicable lease year, Landlord shall reconcile the amount already paid for Insurance within thirty days after the bill has been paid. A copy of the invoice received shall be provided to Tenant along with a request for additional money or refund for overpayment. Notwithstanding the foregoing, if any increase in the cost of insurance is not directly attributable to use of the Demises Premises by tenant, then Tenant shall not be responsible for such increase.

3.12 Tenant agrees to pay as Additional Rent in each successive year of this lease to include percentage of real estate taxes. The Additional Rent which the Tenant will be liable for at the commencement of the lease agreement shall be equal to 52.0833% of the total tax amount applicable to the tax year in which the Lease commences, which shall be payable in equal monthly installments.

In the event that Real Estate Taxes increase or decrease during any applicable Lease Year, Landlord shall reconcile with the Tenant at the time that tax payments are actually made. Tenant's portion of real estate taxes shall be payable no later than thirty (30) days after written notice is received from the Landlord.

CAM shall be capped at 3.5% increases annually. The Landlord's management fee shall be capped at 3% of the sum of rent plus CAM.

The Additional Rent shall be adjusted annually, in accordance with the actual amount of taxes due and payable on the property. The Landlord shall provide the Tenant with the new monthly amount due and owing each month for Additional Rent by no later than March 1st of each year of the Lease term, and said amount shall become due and owing in equal monthly installments commencing on the 1st day of April of each such year.

3.13 Tenant agrees to pay, as Additional Rent, for the water consumed by tenant at the Demised Premises, including sewer charges or any other charge imposed in connection with the use of said water as calculated by the water meter for tenant's space; it being understood that Landlord shall not be obligated to furnish or pay for any such water or sewer. Payments shall be made within ten (10) days after demand therefore is made by Landlord or Village of Cold Spring. If water and/or sewer are not separately metered, Tenant shall be charged Tenant's Proportionate Share of such charges. Tenant shall make its own arrangements with the public utility company supplying electricity to the Demises Premises at its sole cost and expense. Tenant will pay its proportionate share of exterminating services, cleaning and refuse and common area maintenance.

ARTICLE 4 - USE OF DEMISED PREMISES AND COMMON AREAS

4.01 Tenant shall use and occupy the Demised Premises for the purpose of conducting the Permitted Uses under the Tenant's Trade Name, and Tenant shall not use or permit or suffer the use of the Demised Premises or any part thereof for any other purpose.

4.02 Except when and to the extent that the Demised Premises shall be untenantable by reason of damage of fire or other casualty or in the event of illness or other personal casualty or catastrophe, Tenant shall (a) continuously and uninterruptedly keep the entire Demised Premises open for business and fully stocked and keep Tenant's display windows and signs illuminated during all business hours on all business days as set forth in Exhibit C and (b) use for office, storage or other non-selling purposes only such space as is reasonably required for the proper operation of Tenant's business in the Demised Premises. No contention of Landlord that Tenant has vacated, abandoned or deserted the Demised Premises will be defeated merely by reason of Tenant having left all or any part of its trade fixtures or other personal property in the Demised Premises.

4.03 Tenant shall not (a) use the Common Areas, including parking spaces, or any other premises outside the Demised

Premises for the sale or display of any merchandise, for solicitation or demonstrations or for any other business, occupation, undertaking or activity, (b) use or permit or suffer the use of any portion of the Demised Premises for any unlawful purpose or any activity of a type which is not generally considered appropriate for similar retail facilities, (c) burn trash or, except a otherwise directed by Landlord, store any trash or garbage in any area other than inside the Demised Premises (and Tenant shall attend to the daily disposal of trash in the dumpster provided by Landlord, and charged to Tenant as part of CAM), (d) park trucks or other delivery vehicles so as to unreasonably interfere with the use of any part of the Common Areas, (e) suffer, permit or commit any waste or any nuisance or other act or thing in the Demised Premises which may disturb any other Tenant or Occupant in the Entire Premises, (f) permit vibrations or music or other sounds in the Demised Premises to be transmitted to or heard in any other premises in the Building or in any part of the Common Areas.

4.04 Tenant shall provide a suitable identification sign or signs of any size, design and character as Landlord shall approve and as shall be approved by the Village of Cold Spring, and Tenant shall install same at a place designated by Landlord. Tenant shall maintain such sign or signs in good condition and repair. Other than such permitted sign (s), Tenant shall not place or install, or permit, or suffer to be placed, installed or maintained, any sign upon or outside of the Demised Premises or in any part of the Entire Premises unless approved by Landlord. Tenant shall not place, install or maintain, or permit or suffer to be placed, installed or maintained, on the exterior of the Demised Premises any awning, canopy, banner, flag, pennant ,aerial, antenna or the like; nor shall Tenant place or maintain on the glass or any window or door of the Demised Premises or inside the Demised Premises any sign, decoration, lettering, advertising matter, shade or blind or other thing of any kind other than a neatly lettered sign of reasonable size placed on the floor of display windows identifying articles offered for sale and services provided.

4 0 5 If any governmental license or permit, or necessary Certificate of Occupancy, shall be required for the proper and lawful conduct of Tenant's business in the Demised Premises or any part thereof, Tenant shall duly procure and thereafter maintain such license or permit and submit the same to Landlord for inspection. Tenant shall at all times comply with the terms and conditions of each such license or permit.

ARTICLE 5 - PREPARATION OF AND CHANGES TO ENTIRE PREMISES

5.0 1 Tenant takes the premises in "as is" condition and shall make all renovations at Tenant's expense, except as provide in Section 1.01 (18). Should Tenant find a substantial environmental issue in the Demised Premises while it performs tenant fit up, such as a need for asbestos removal or encapsulation, or lead abatement, Tenant shall immediately notify Landlord and Landlord will be responsible for creating a reasonable solution to alleviate the environmental issue. For the Demised Premises, except as otherwise provided herein, Tenant shall separate out the utility/mechanical systems, including but not limited to electric service, domestic water, fire alarm, telecommunication systems and security system, to the extent same is economically feasible to separate. Tenant is benefiting from the existing utility/mechanical systems and therefore spending up to $50,000 (fifty thousand dollars) in aggregate to separate all of the systems herein, excluding Tenant fit up, will be considered economically feasible.. In the event that said services/utilities are separated, then Tenant shall be responsible for the inspection, operation, maintenance, repair and/or replacement of same within the Demised Premises. In the event that said services/utilities are not economically feasible to separate, as same shall be determined by Tenant, then Landlord shall be responsible for such inspection, operation, maintenance, repair and/or replacement and Tenant shall pay its pro-rata share, based upon leased square footage, for the expenses associated with same, unless such inspection, operation, maintenance, repair and/or replacement costs are disproportionately attributable to use and/or neglect of other Tenant(s).

5.02 Except as expressly provided to the contrary in this Lease, the taking possession by Tenant of the Demised Premises shall be conclusive evidence as against Tenant that the Demised Premises was in good and satisfactory condition at the time such possession was taken

5.03 If the Landlord is unable to give possession of the Demised Premises on the Commencement Date because of the holding-over or retention of possession by Tenant, undertenant or occupant, Landlord shall not be subject to any liability for failure to give possession, the validity of this Lease shall not be impaired under such circumstance, and the Term shall

not be extended, but the Rent due as of the Rent Commencement date shall be abated if Tenant is not responsible for the inability to obtain possession.

5.04 Landlord reserves the right, at any time and from time to time, to increase, reduce or change the number, type, size, location, elevation, nature and use of any of the Common Areas and the Building and any other buildings and other improvements in the Entire Premises, including without limitation, the right to move and/or remove same, provided same shall not unreasonably block or interfere with Tenant's means of ingress or egress to and from Demised Premises or unreasonably obstruct the view of Tenant's sign or display window and further provided that any such alterations to the Common Areas are an improvement and of equivalent quality and character.

ARTICLE 6 - COMMON AREAS

6.01 Subject to provisions of Article 5.04, Landlord will operate, manage, equip, light, repair and maintain, or cause to be operated, managed, equipped, lighted, repaired and maintained, the Common Areas for their intended purposes. Landlord reserves the right at any time and from time to time, to construct within the Common Area fountains, planters, pools and sculptures, and to install benches and the like not shown on Exhibit A, provided same shall not unreasonably block or interfere with Tenant's means of ingress or egress to and from the Demised Premises or unreasonably obstruct the view of Tenant's sign or display windows , and further provided same are in compliance with the Americans with Disabilities Act, and all other applicable state and local regulations and ordinances.

6.02 Tenant and its subtenants and concessionaires, and their respective officers, employees, agents, customers and invitees, shall have the non-exclusive right, in common with Landlord and all others to whom Landlord has granted or may hereafter grant such right but subject to the Rules and Regulations, to use the Common Areas Landlord reserves the right, at any time and from time to time, on reasonable notice to Tenant, to close temporarily all or portions of the Common Areas when in Landlord's reasonable judgment any such closing is necessary or desirable (a) to make repairs or changes or to effect construction within the Entire Premises, (b) to prevent the acquisition of public rights in such area, (c) to discourage non-customer parking, or (d) to protect or preserve natural persons or property, Landlord may do such other acts in and to the Common Areas as in its reasonable judgment may be desirable to improve or maintain same, provided same shall not unreasonably block or interfere with Tenant's means of ingress or egress to and from the Demised Premises or unreasonably obstruct the view of Tenant's sign or display windows.

6.03 Tenant agrees that it, any subtenant or concessionaire and their respective officers, employees, contractor and agents will park their automobiles and other vehicles only where and as permitted by Landlord. Tenant will, if and when so requested by Landlord, furnish Landlord with the license numbers of any vehicles of Tenant, any subtenant or concessionaire and their respective officers, employees and agents, excluding, however, guests and/or clientele of Tenant. During business hours, the number of parking spaces shall be as required by the Village of Cold Spring Code (6,000 x 4/1000 = 24 parking spaces). During off business hours, including weekends, Tenant is permitted the use of the unused parking spaces, within reason.

ARTICLE 7 - SECURITY

7.01 Tenant will deposit with Landlord the sum of $10,700 (Ten Thousand Seven Hundred Dollars and No Cents which shall be held by Landlord in an interest bearing account which shall earn interest at a rate that is equivalent to the prevailing interest rate , as security for the faithful performance and observance by Tenant of the terms, provisions and conditions of this lease; it is agreed that in the event Tenant defaults in respect to any of the terms, provisions and conditions of this lease, including but not limited to, the payment of rent and additional rent, as set forth, that Landlord may use, apply or retain the whole or any part of the security so deposited to the extent required for the payment of any rent and additional rent or any other sum as to which Tenant is in default or for any sum which Landlord may expend or may be required to expend by reason on Tenant's default in respect of any of the terms, covenants and conditions of this lease, including but not limited to, any damage or deficiency in the re-letting of the premises, whether such damages or deficiency accrued before or after summary proceedings or other re-entry by Landlord. In the event that Tenant shall fully and

faithfully comply with all of the terms, provisions, covenants and conditions of this lease, the security, together with accrued interest, shall be returned to Tenant within 30 days after the delivery of the entire possession of the Demised Premises to the Landlord. In the event of a sale of the Land and Building or leasing of the Building of which the Demised Premises form a part, Landlord shall have the right to transfer the security to the new owner or leasee and Landlord shall thereupon be released by Tenant from all liability for the return of such security; and Tenant agrees to look to the new Owner or leasee solely for the return of said security,, and it is agreed that the provisions hereof shall apply to every transfer or assignment made of the security to a new Owner. Tenant further covenants that it will not assign or encumber or attempt to assign or encumber the monies deposited herein as security and that neither Landlord nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance.

ARTICLE 8 - SUBORDINATION

8.01 This Lease and all rights of Tenant hereunder, are and shall be subject and subordinate to all ground Leases and underlying Leases of the land and/or building now or hereafter existing and to a Mortgage which made now or hereafter affect the land and/or building and/or of such Leases, whether or not such Mortgages or Leases shall also cover other lands and/or buildings, to each and every advance may or hereafter to be made under such mortgages, and to all renewals, modifications, replacements and extensions of such Leases and such mortgages and spreaders and consolidation of such Mortgages.

8.02 If any act or omission of Landlord would give Tenant the right, immediately or after lapse of a period of time, to cancel or terminate this Lease, or to claim a partial or total eviction Tenant shall not exercise such right (a) until it has given written notice of such act or omission to Landlord and each Superior Mortgagee and each Superior Lessor whose respective name and address shall previously have been furnished in writing to Tenant, and (b) until a reasonable period for remedying such act or omission shall have elapsed following the giving of such notice and following the time when such Superior Mortgagee or Superior Lessor, shall have become entitled under such Superior Mortgage or Superior Lease, as the case may be, to remedy the same (which reasonable period shall in no event be less than the period to which Landlord would be entitled under this Lease or otherwise, after similar notice, to effect such remedy), provided such Superior Mortgagee or Superior Lessor shall with due diligence give Tenant notice of intention to, and commence and continue to, remedy such act or omission.

8.03 If any Superior Lessor or Superior Mortgagee shall succeed to the rights of Landlord under this Lease, whether through possession or foreclosure action or delivery of a new Lease or deed, then at the request of such party so succeeding to Landlord's rights ("Successor Landlord") and upon such Successor Landlord's written agreement to accept Tenant's atonement, Tenant shall attorn to and recognize such Successor Landlord as Tenant's Landlord under this Lease and shall promptly execute and deliver any instrument that such Successor Landlord may reasonably request to evidence such atonement. Upon such atonement this Lease shall continue in full force and effect as a direct Lease between Successor Landlord and Tenant upon all of the terms and conditions and covenants as are set forth in this Lease.

8.04 Intentionally omitted

ARTICLE 9 - QUIET ENJOYMENT

9.01 Tenant shall peaceably and quietly have, hold and enjoy the Demised Premises without hindrance, ejection or molestation by Landlord or any person lawfully claiming through or under Landlord, subject, nevertheless to the provisions of this Lease and to Superior Leases and Superior Mortgages.

ARTICLE 10 - ASSIGNMENT, SUBLETTING AND MORTGAGING

10.01 Tenant shall not, whether voluntarily, or involuntarily, or by operation of law or otherwise, (a) assign or otherwise transfer this Lease, or offer or advertise to do so, (b) sublet the Demised Premises or any part thereof, or offer or advertise to do so, or allow the same to be used, occupied or utilized by anyone other than Tenant, or (c) mortgage, pledge, encumber

or otherwise hypothecate this Lease in any manner whatsoever, without in each instance obtaining the prior written consent of Landlord, which consent shall not be unreasonably withheld. Tenant shall reimburse Landlord for all reasonable expenses of reviewing Tenant's request and for review or preparation of all proposed documents including specifically the fees of Landlord's attorney.

10.02 If at any time (a) the original Tenant named herein, (b) the then Tenant, (c) any Guarantor, or (d) any person owning a majority of the voting stock of, or directly or indirectly controlling, the then Tenant which shall be a corporation or partnership, any transfer of voting stock or the general partners' interest in such partnership, as the case may be, immediately before such transfer, as a result of which said person ceases to own a majority of such shares of voting stock or general partners interest, as the case may be, except as the result of transfers by inheritance, shall be deemed to be an assignment of this Lease as to which Landlord's consent shall have been required, and in any such event Tenant shall notify Landlord. For the purposes of this Article, the words "voting stock" shall refer to shares of stock regularly entitled to vote for the election of directors of the corporation. Landlord shall have the right at any time and from time to time during the Term to inspect the stock record books of the corporation to which the provisions of this Article 10.02 apply, and Tenant will produce the same on request of Landlord.

10.03 If the Lease is assigned, whether or not in violation of this Lease, Landlord may collect Rent from the assignee. If the Demised Premises or any part thereof are sublet or used or occupied by anybody other than Tenant, whether or not in violation of this Lease, Landlord may, after default by Tenant, and expiration of Tenant's time, due to such default, collect Rent from the subtenant or occupant. In either event Landlord may apply the net amount collected to the Rent, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of any of the provisions of Article 10.01 or Article 10.02, or the acceptance of the assignee, subtenant or occupant as Tenant, or a release of Tenant from the performance by Tenant of Tenant's obligations under this Lease. The consent by Landlord to any assignment, mortgaging, subletting or use or occupancy by others shall not in any way be considered to relieve Tenant from obtaining the express written consent of Landlord to any other or further assignment, mortgaging or subletting or use or occupancy by others not expressly permitted by this Article 10. References in this Lease to use or occupancy by others (that is, anyone other than Tenant) shall not be construed as limited to subtenants and those claiming under or through subtenants but shall be construed as including also licensees and others claiming under or through Tenant, immediately or remotely.

10.04 Any permitted assignment or transfer shall be made only if and shall not be effective until, the assignee shall execute, acknowledge and deliver to Landlord an agreement in form and substance satisfactory to Landlord whereby the assignee shall assume Tenant's obligations under this Lease and whereby the assignee shall agree that all of other provisions in this Article 10 shall, notwithstanding such assignment or transfer, continue to be binding upon it in respect to all future assignments and transfers. Notwithstanding any assignment or transfer, whether or not in violation of the provisions of this Lease, and notwithstanding the acceptance of Rent by Landlord from an assignee, transferee, or any other party, the original Tenant and any other person(s) who at any time was or were Tenant shall remain fully liable for the payment of the Rent and for Tenant's obligations under this Lease.

10.05 The liability of the original named Tenant and any other Person(s) who at any time was or were Tenant for Tenant's obligations under this Lease shall not be discharged, released or impaired by an agreement or stipulation made by Landlord extending the time of, or modifying any of the obligations of this Lease, or by any waiver or failure of Landlord to enforce any of the obligations of this Lease.

10.06 Without limiting any of the provisions of Article 25, if pursuant to the Federal Bankruptcy Code (similar law hereafter enacted having the same general purpose), Tenant is permitted to assign, this Lease notwithstanding the restrictions contained in this Lease, adequate assurance of future performance by assignee expressly permitted under such Code shall be deemed to mean the deposit of cash security in an amount equal to the sum of one year's Fixed Rent plus the Additional Charges for the Calendar Year preceding the Year in which such assignment is intended to become effective, which deposit shall be held by Landlord for the balance of the Term, without interest, as security for the full performance of all of Tenant's obligations under this Lease. It is understood and agreed that this is a Lease of Real Property in a shopping center as such Lease is described in Section 365 (b) (3) of the Bankruptcy Code.

10.07 If this Lease is (a) assigned, or otherwise transferred, or (b) through a sublet the Demised Premises or any part thereof sublet, then any Rent paid by such assignee or subleasee, in excess of the Rent provided by this Lease, shall be for the benefit of and shall be immediately paid to the Landlord

10.08 Tenant to reimburse Landlord a maximum of $3,500 to cover Landlord's expense for lease assignment.

ARTICLE 11 - COMPLIANCE WITH LAWS

11.01 Tenant shall comply with all Legal requirements which shall, in respect of the Demised Premises or the use and occupation thereof or the abatement of any nuisance in, on or about the Demised premises, impose any violation, order or duty on Landlord or Tenant; and Tenant shall pay all the costs, expenses, fines, penalties, and damages which may be imposed upon Landlord or any Superior Lessor by reason of or arising out of Tenant's failure to fully and promptly comply with and observe the provisions of this Article 11.01. However, Tenant need not comply with any such law or requirement of any public authority so long as Tenant shall be contesting the validity thereof, or the applicability thereof to the Demised Premises in accordance with Article 11.02, including exemptions applicable to Tenant pertaining to any such laws and/or requirements resulting from Tenant's status as a county governmental entity acting in a governmental capacity.

11.02 Tenant may contest, by appropriate proceedings prosecuted diligently and in good faith, the validity or applicability to the Demised Premises, of any Legal Requirement, provided that (a) Landlord shall not be subject to any fine or to any civil or criminal penalty or to prosecution for a crime, and neither the Demised Premises nor any part thereof shall be subject to being condemned or vacated, by reason of noncompliance or otherwise by reason of such contest; (b) before the commencement of such contest, Tenant shall indemnify Landlord against the cost thereof and against any liability for damages, interest, penalties and expenses (including reasonable attorney's fees and expenses), resulting from or incurred in connection with such contest or noncompliance, (c) such noncompliance or contest shall not constitute or result in any violation of any Superior Lease or Superior Mortgage; and (d) Tenant shall keep Landlord advised as to the status of such proceedings. Without limiting the application of the above, Landlord shall be deemed subject to prosecution for a crime if Landlord, or its managing agent, or any officer, director, partner, shareholder or employee of Landlord or its managing agent, as an individual is charged with a crime of any kind or degree whatsoever, whether by service of a summons or otherwise, unless such charge is withdrawn before Landlord or its managing agent, or such officer, director, partner, shareholder or employee of landlord or its managing agent (as the case may be) is required to plead to answer thereto.

ARTICLE 12 - INSURANCE AND INDEMNITY

12.01 Landlord shall maintain or cause to be maintained fire and extended coverage insurance in respect of the building and other improvements in the Entire Premises normally covered by such insurance (except for the property Tenant is required to cover with insurance under Article 12.02 and similar property of other tenants and occupants in the Entire Premises and except for buildings and other improvements covered by self-insurance or buildings and other improvements which are on land neither owned by nor leased to landlord) for the benefit of landlord, and Superior Lessors, and Superior Mortgagees and any other parties Landlord may at any time and from time to time designate, as their interest may appear, but not for the benefit of Tenant, and shall maintain Rent insurance as required by any Superior Lessor or any Superior Mortgagee. The fire and extended coverage insurance will be in the amounts required by any Superior Lessor or any Superior Mortgagee but not less than the amount sufficient to avoid the effect of the co-insurance provisions of the applicable policy or policies. Landlord may also maintain any other forms and types of insurance maintained or caused to be maintained by it under blanket policies.

12.02 Tenant shall maintain the following insurance: (a) comprehensive general public liability insurance in respect of the Demised Premises and the conduct and operation of business therein, with Landlord as an additional named insured, and at Landlord's request with any Superior Lessors or Mortgagees as additional named insured(s), with limits of not less than $2,000,000 for bodily injury or death to any one person and $2,000,000 for bodily injury or death to any number of persons in any one occurrence, and $100,000 for property damage, including water damage and sprinkler leakage, legal liability (if

applicable); (b) fire and extended coverage insurance in respect of Tenant's stock in trade, fixtures, furniture, furnishings, removable floor coverings, equipment, signs and all other property of Tenant in the Demised Premises in any amounts required by any Superior Lessor or any Superior Mortgagee but not less than 80% of the full insurable value of the property covered and not less than the amount sufficient to avoid the effect of the co-insurance provisions of the applicable policy or policies; (c) plate glass insurance; (d) automobile coverage at $1,000,000 limits; and (e) any other insurance required for compliance with the Insurance Requirements. Tenant shall deliver to Landlord and any additional named insured(s) certificates for such policies, PAID for IN-FULL for one year at least 7 days before the Commencement Date. Tenant shall procure and pay for renewals of such insurance from time to time before the expiration of any existing policy. All such policies shall be issued by companies of recognized responsibility licensed to do business in New York and all such policies shall contain a provision whereby the same cannot be canceled unless Landlord and any additional insured(s) are given at least ten (10) days prior notice of such cancellation.

12.03 Tenant shall not do, permit or suffer to be done any act, matter, thing or failure to act in respect of the Demised Premises or use or occupy the Demised Premises or conduct or operate Tenant's business in any manner objectionable to any insurance company or companies whereby the fire insurance or any other insurance then in effect in respect to the Entire Premises or any part thereof shall become void or suspended or whereby any premiums in respect of insurance maintained by landlord shall be higher than those which would normally have been in effect for the occupancy contemplated under the Permitted Uses. In case of a breach of the provisions of this Article 12.03, in addition to all other rights and remedies of landlord hereunder, Tenant shall (a) indemnify Landlord and the Superior Lessors, and Mortgagees harmless from and against any loss which would have been covered by insurance which shall have become void or suspended because of such breach by Tenant and (b) pay to Landlord any and all increases of premiums on any insurance, including, without limitation, Rent Insurance, resulting from any such breach

12.04 Tenant shall indemnify and hold harmless Landlord and all Superior Lessors and Mortgagees and Landlord's partners, joint venturers, directors, officers, agents, servants and employees from and against any and all claims arising from or in connection with (a) the conduct or management of the Demised Premises or of any business therein, or any work or thing whatsoever done, or any condition created (other than by Landlord) in the Demised Premises during the Term or during the period of time, if any, prior to the Commencement Date the Tenant may have been given access to the Demised Premises; (b) any act, omission, or negligence of Tenant or any of its subtenants or licensees, or its or their partners, joint venturers, directors, officers, agents, employees or contractors; (c) any accident, injury or damage whatever (unless caused by Landlord's negligence) occurring in the Demised Premises; and (d) any breach or default by Tenant in the full and prompt payment and performance of Tenant's obligations under this Lease; together with all costs, expenses and liabilities incurred in or in connection with each claim or action or proceeding brought thereon, including, without limitation, all reasonable attorney's fees and expenses. In case any action or proceeding is brought against Landlord and/or any Superior Lessor or Mortgagee and/or its or their partners, joint venturers, directors, officers, agents and/or employees by reason of any such claim, Tenant, upon notice from Landlord or Superior Lessor, or Mortgagee, shall resist and defend such action or proceeding.

12.05 Neither Landlord nor any Superior Lessor or Mortgagee, shall be liable or responsible for, and Tenant hereby releases Landlord and each Superior Lessor and Mortgagee, from all liability and responsibility to Tenant and any person claiming by, through or under Tenant, by way of subrogation or otherwise, for any injury, loss or damage to any person or property in or around the Demised Premises or to Tenant's business irrespective of the cause of such injury, loss or damage, unless caused by Landlord's negligence.

12.06 Landlord and Tenant shall each cause insurance policies carried by Landlord and/or Tenant insuring the Demised Premises against loss by fire, liability and caused covered by standard extended policy carried by Landlord and/or Tenant and insuring the Demised Premises and its fixtures and contents against loss by fire, liability and causes to be written in a manner so as to provide that the insurance company waives all right to recovery by way of subrogation against the Landlord or the Tenant in connection with any loss, damage or liability covered by such policies. To the extent that such policies so provide, the parties do hereby waive the right of subrogation.

12.07 Intentionally Omitted

12.08 Tenants Indemnity – Tenant hereby indemnifies and agrees to save Landlord, its officers, directors, employees and agents harmless from and against any and all claims, suits, proceedings actions, causes of action, responsibility, liability, demands, judgments and executions, including, without limitation, attorney's fees and expenses (hereinafter referred to as "Claims") which either (i) result from any default, breach, violation, or non-performance of this Lease or any provision of this lease by tenant; or (ii) result from occurrences of injury to or death of any person or damage to property arising out of any work, repair, construction, reconstruction, restoration, maintenance or other work to be done hereunder, any act or omission by Tenant or any of its partners, directors, officers, agents, employees or contractors, unless such Claims are caused by the act or omission of Landlord, or its employees, agents or contractors, or Tenant's use and occupancy of the Premises under this Lease. In case any action or proceeding is brought against Landlord and/or its partners, directors, officers, agent and/or employees by reason of any such claim, tenant, upon notice from Landlord shall resist and defend such action or proceeding, at Tenant's sole cost and expense.

ARTICLE 13 - RULES AND REGULATIONS

13.01 Tenant and its employees and agents shall faithfully observe and comply with the Rules and Regulations in Exhibit C annexed hereto and such reasonable changes therein as Landlord may from time to time hereafter make and communicate to Tenant, which in the Landlord's judgment, shall be necessary for the reputation, safety, care or appearance of the Entire Premises, or the preservation of good order therein, or the operation or maintenance of the Building or its equipment and fixtures, or the Common Areas.

ARTICLE 14 – ALTERATIONS & MAINTENANCE

14.01 Except for decorative or cosmetic changes, Tenant shall not make any alterations or additions, or make any holes or cuts in the exterior walls, ceilings, roofs, or floors, or change the exterior color or architectural treatment of the Demised Premises without on each occasion first obtaining the consent of Landlord, which consent shall not be unreasonably be withheld. Tenant shall submit to Landlord plans and specifications for such work at the time Landlord's consent is sought. Tenant shall fully and promptly comply with and observe the Rules and Regulations in force with respect to the making of alterations. Any review or approval by Landlord of any plans and/or specifications with respect to any alterations is solely for Landlord's benefit, and without any representation or warranty whatsoever to Tenant in respect to the adequacy, correctness or efficiency thereof otherwise.

14.02 To the extent that Tenant is required to do so under applicable law, Tenant shall obtain all necessary governmental permits and certificates for the commencement and prosecution of permitted alterations and for final approval thereof upon completion, and shall cause alterations to be performed in compliance with all applicable Legal Requirements and Insurance Requirements. Alterations shall be diligently performed in a good and workmanlike manner, using new materials and equipment at least equal in quality and class to the better of (a) the original installations of the Building, or (b) the then standards for the Building established by Landlord. Alterations shall be performed by Tenant's personnel or contractors. Alterations shall be made in such manner as not to un-reasonably interfere with or delay and as not to impose any additional expense upon Landlord in the construction, maintenance, repair or operation of the Building. Throughout the making of alterations, Tenant shall carry, or cause to be carried, workmen's compensation insurance in statutory limits and general liability insurance, with completed operation endorsement, for any occurrence in or about the Building, under which Landlord and its managing agent and any Superior Lessor whose name and address shall previously have been furnished to Tenant shall be names as parties insured in such limits as Landlord may reasonably require, with insurers reasonably satisfactory to Landlord. Tenant shall furnish Landlord with reasonably satisfactory evidence that such insurance is in effect at or before the commencement of alterations and, on request, at reasonable intervals thereafter during the making of alterations.

14.03 Tenant's duty to repair, maintain and replace – notwithstanding anything in this Lease to the contrary, the Tenant

shall repair and maintain, at its sole cost and expense, the Demised Premises including, without limitation heating and air conditioning equipment, lighting fixtures, electrical and water conduits and air ducts which are located inside and which exclusively service the Demises Premises, in good working order throughout the term of this Lease and any renewals hereof. In addition to the foregoing, the Tenant, for and in consideration of the rent due pursuant to this agreement, agrees to replace any equipment, fixtures, , piping or the like used exclusively within the Demises Premises as the same may be necessary or required, as determined by the judgement of the Tenant. Notwithstanding the foregoing, Landlord shall be responsible for the inspection, operation, maintenance, repair and/or replacement of the heating and air conditioning equipment, including the furnace, and any other mechanicals, which are located within the Demised Premises but which are used/shared in common with the other portion(s) of the building. Tenant shall pay it pro-rata share, based upon leased square footage, for the expenses associated with same, unless such inspection, operation, maintenance, repair and/or replacement costs are disproportionately attributable to use and/or neglect of other Tenant(s).

ARTICLE 15 – LANDLORD'S AND TENANT'S PROPERTY

15.01 All fixtures, improvements and appurtenances attached to or built into the Demised Premises at the commencement of or during the Term, whether or not by or at the expense of Tenant, shall be and remain a part of the Demised Premises, shall be deemed to be property of Landlord and shall not be removed by Tenant, except as provided in Article 15.02.

15.02 All trade fixtures and other equipment and/or appliances, whether or not attached to or built into the Demised Premises, which are installed in the Demised Premises by or for the account of Tenant without expense to Landlord and can be removed without structural damage to the Building, and all other movable personal property owned by Tenant and located in the Demised Premises (collectively, Tenant' Property shall remain the property of Tenant and may be removed by Tenant at any time during the Term; provided that if any of the Tenant's Property is removed, Tenant shall repair or pay the cost of repairing any damage to the Demised Premises the Building or the Exterior Common Areas resulting from the installation and/or removal thereof. Any equipment or other property for which Landlord shall have granted any allowance or credit to Tenant shall not be deemed to have been installed by or for the account of Tenant, Tenant without expense to Landlord, shall not be considered as the Tenant's Property and shall be deemed the property of Landlord. All duct work, ceilings, electric distribution and lighting shall not be considered trade fixtures.

15.03 At or before the Expiration Date or the date of any earlier termination of this Lease, or within 30 days after such an earlier termination date, Tenant shall remove from the Demised Premises all of the Tenant's Property (except such items thereof as Landlord shall have expressly permitted to remain, which property shall become the property of Landlord if not removed), and Tenant shall repair any damage to the Demised Premises, the Building and the Exterior Common Areas resulting from any installation and/or removal of the Tenant's Property. Any items of the Tenant's Property which shall remain in the Demised Premises after the Expiration Date or after a period of 30 days following an earlier termination date, may, at the option of Landlord, be deemed to have been abandoned, and in such case items may be retained by Landlord as its property or disposed of by Landlord, without accountability, in such manner as Landlord shall determine at Tenant's Expense.

15.04 The Lease Agreement will be deemed executory only to the extent of the monies available to the Tenant for the performance of its terms, and no further liability will be incurred by the Tenant beyond the monies available during the entire term of the Lease Agreement. However, should the Tenant terminate the Lease Agreement prior to the expiration of the initial ~~five (5)~~fifteen (15) year term, then in that event liquidated damages equal to one (1) year's base rent in the amount calculated at such time shall be due to the Landlord. See Exhibit B.

ARTICLE 16 - REPAIRS AND MAINTENANCE

16.01 Landlord shall make necessary structural repairs to the Demised Premises (but excluding plate glass, store fronts, showcases and signs, all of which shall be the responsibility of Tenant) and shall keep in good condition and repair the foundations below and roof above Demised Premises. Landlord shall not be required to make any such repairs where

caused or occasioned by any negligence of Tenant, any subtenant or concessionaire of Tenant, or any of their officers, employees, agents, customers, invitees or contractors. Landlord shall not be required to commence any obligated repair until notice shall be received from Tenant specifying the nature of the problem requiring the repair. The provisions of this Article 16.01 shall not apply in the case of damage by fire or other casualty or eminent domain, in which case the obligations of the parties shall be as provided in other Articles of this Lease.

16.02 Except for repairs required to be performed by Landlord under Article 16.01, Tenant shall make all repairs and replacements to and shall keep clean, neat, safe, sanitary, in good order, repair and condition (including all painting and decorating necessary to maintain at all times a clean and sightly appearance) and free of vermin, the Demised Premises, including, without limitation, any equipment, facilities and fixtures therein, and any installations above the ceiling or below the floor of the Demised Premises which serve the Demised Premises. In making repairs, Tenant shall use materials of first-quality. The provisions of Article 16.02, shall not apply in the case of damage by fire or other casualty or by eminent domain, in which case the obligations of the parties shall be as provided in other Articles of this Lease.

16.03 Except as otherwise expressly provided in this Lease, Landlord shall have no liability to Tenant, nor shall Tenant's covenants and obligations under this Lease be reduced or abated in any manner whatsoever, by reason of any inconvenience, annoyance, interruption or injury to business arising from Landlord's making any repairs or changes which Landlord is required or permitted by this Lease, or required by Law, to make in or to any portion of the Entire Premises.

16.04 The parties agree that Tenant will have a full and fair opportunity before the commencement of the lease term to inspect and/or test the Demised Premises, and that the Demised Premises are being leased "AS IS."

ARTICLE 17 - UTILITIES, HEAT, VENTILATION & AIR CONDITIONING

17.01 Tenant shall heat and air condition, and shall provide all necessary hot water for, the Demised Premises. The HVAC system will remain as currently configured, except as provided in Article 1.01(18), and will be used to service both the Tenant and any tenant occupying the space in the remaining portion of the Lahey Pavilion. The energy costs for operating the system will be shared on a square footage basis among all the tenants of the building. Landlord shall make arrangements for and shall cause all propane to be furnished to the building, subject to reimbursement by Tenant on the square footage basis hereinbefore stated. Except as hereinbefore provided, Landlord shall not be liable to Tenants in damages or otherwise for any failure of Tenant to make arrangements for or to obtain any utilities or services or for any failure of Tenant to heat or air condition, or to provide hot water for, the Demised Premises. Tenant shall not be released or excused from the performance of any of its obligations under this Lease for any such failure or for any interruption or curtailment of any such utilities or services, and no such failure, interruption or curtailment shall constitute a constructive or partial eviction. Tenant shall not permit or suffer any utility facility to be overloaded.

17.02 Tenant shall pay directly to the utility companies, promptly as and when due all separately metered or assessed charges for utilities and services used or consumed in or in connection with the Demised Premises, including, without limitation, water, sewer, electricity, steam and heated and/or chilled water.

ARTICLE 18 - MECHANIC'S LIENS AND OTHER LIENS

18.01 Nothing contained in this Lease shall be deemed, construed or interpreted to imply any consent or agreement on the part of the Landlord to subject Landlord's interest or estate to any liability under any mechanic's or other lien law. If mechanic's or other lien or any notice of intention to file a lien is filed against the Entire Premise, or any part thereof, or the Demised Premises or any part thereof, for any work, labor, services or materials claimed to have been performed or furnished for or on behalf of Tenant or anyone holding any part of the Demised Premises through or under Tenant, Tenant shall cause same to cancel and discharge of record by payment, bond or order of a court of competent jurisdiction within 15 days after notice by Landlord to Tenant.

ARTICLE 19 - ACCESS AND NAME

19.01 Except for the space within the inside surfaces of all walls, hung ceilings, floors, windows and doors bounding the Demised Premises, all of the Building, including, without limitation, exterior Building Walls and any space in or adjacent to the Demised Premises used for shafts, stacks, pipes, conduits, fan rooms, ducts, electric or other utilities, sinks or other Building facilities and the use thereof, as well as access thereto through the Demised Premises for the purpose of operation, maintenance and decoration and repair, except as provided in Article 17, are reserved to Landlord. Landlord also reserves the rights, and Tenant shall permit Landlord, to install, erect, use and maintain pipes, ducts and conduits in and through the Demised Premises, so as not to diminish Tenant's useable floor area. Tenant shall have no access to attic space.

19.02 Landlord and its agents shall have the right to enter and/or pass through Demised Premises at reasonable time or times and upon reasonable notice to Tenant, when Tenant is opened for business (except in cases of emergency): (a) to examine the Demised Premises and to show them to actual and prospective Superior Lessors, Superior Mortgages or prospective purchases of the Building, and (b) make such repairs, alterations, additions and improvements in or to the Demised Premises and/or to the Building or its facilities and equipment as Landlord is required or desires to make, Landlord shall be allowed to take all materials into and upon the Demised Premises that may be required in connection therewith, without any liability to Tenant and without any reduction of Tenant's obligation hereunder. During the period of 3 months prior to the Expiration Date, Landlord and its agents may exhibit the Demised Premises to Prospective Tenants, at reasonable times. Tenant shall provide Landlord with a key to the Demised Premises.

19.03 If during the last month of the Term, Tenant has removed all or substantially all of the Tenant's Property from the Demised Premises, Landlord may, without notice to Tenant, immediately enter the Demised Premises and alter, renovate and decorate the same without liability to Tenant and without reducing or otherwise affecting Tenant's obligations hereunder.

19.04 Landlord may adopt any name for the Entire Premises or the building and may change the name and/or address of the Entire Premises or the Building at any time.

ARTICLE 20 - NON-LIABILITY OF LANDLORD

20.01 Neither Landlord nor any partner, joint venturer, director, officer, agent, servant or employee of Landlord shall be liable to Tenant, and Tenant shall indemnify and hold Landlord harmless for any loss, injury expense, or damage to Tenant or to any other Person, or to its or their property irrespective of the cause of such injury, damage or loss, unless and only to the extent, said injury, loss or damage is caused by or resulting from the negligent and/or intentional acts and/or omissions of Landlord, its agents, servants or employees in the operation or maintenance of the Entire Premises. Further, neither Landlord nor any partner, joint venturer, director, officer, agent, servant, or employee of Landlord shall be liable (a) for any such damage caused by other Tenants or Persons in, upon or about the Entire Premises, or caused by operations in construction of any private, public or quasi-public work even if negligent, for consequential damages arising out of any loss of use of the Demised Premises or any equipment or facilities therein by Tenant or any person claiming through or under Tenant.

20.02 Notwithstanding any provision to the contrary, Tenant shall look solely to the estate and property of Landlord in and to the Entire Premises (or the proceeds received by Landlord on a sale of such estate and property but not the proceeds of any financing or refinancing thereof) in the event of any claim against Landlord arising out of or in connection with this Lease, the relationship of Landlord and Tenant or Tenant's use of the Demised Premises or the Common Areas, and Tenant further agrees that any liability of Landlord arising out of this Lease shall be limited to such estate and property of Landlord or sale proceeds). No other properties or asset of Landlord or any partner, joint venturer, director, officer, agent, servant or employee of Landlord shall be subject to levy, execution or other enforcement procedures for the satisfaction of any judgment (or other judicial process) or for the satisfaction of any other remedy of Tenant arising out of, or in connection with this Lease, the relationship of Landlord and Tenant or Tenant's use of the Demised Premises or the Common Areas and if Tenant shall acquire a lien on or interest in any other properties or assets by judgment or otherwise, Tenant shall

promptly release such lien on or interest in such other properties and assets by executing, acknowledging and delivering to Landlord an instrument to that effect prepared by Landlord's attorneys.

ARTICLE 21 - DAMAGE OR DESTRUCTION

21.01 Tenant shall give prompt notice to Landlord in case of any damage to the Demised Premises by fire or other casualty. If (a) the Demised Premises shall be damaged by fire or other casualty to the extent of more than 25% of the cost of replacement thereof, or (b) the Building shall be damaged by fire or other casualty to the extent of more than 25% of the aggregate cost of replacement of the Building or (c) the Building shall be damaged by fire or other casualty and either the loss shall not be covered by Landlord's insurance or the net insurance proceeds (after deducting all expenses in connection with obtaining same) shall, by reasonable anticipation, be insufficient to pay for the repair or restoration work to be done by Landlord, or (d) the Demised Premises shall be damaged by fire or other casualty to the extent of more than 10% of the cost of replacement thereof during the last year of the Term, then in any such event Landlord may terminate this Lease by notice given within 90 days after such event, and upon the date specified in such notice, which date shall not be less than 30 days not more than 60 days after the giving of said notice, this Lease shall terminate. If the Demised Premises shall be damaged by fire or other casualty to the extent of more than 10% of the cost of replacement thereof during the last year of the Term, Tenant may terminate this Lease by notice given before Landlord commences any repair or restoration work and in any event within 30 days after such damage and this Lease shall terminate upon the giving of such notice. If any damage by fire or other casualty shall render the Demised Premises untenantable, in whole or in part, a proportionate abatement of the Fixed Rent based upon Floor Space rendered untenantable, shall be allowed from the date when damage occurred until substantial completion of the repair or restoration work to be done by Landlord in the Demised Premises, or, in the event Landlord or Tenant elects to terminate this Lease, until said date of termination. If this Lease shall not be terminated after damage by fire or other casualty, Landlord shall, promptly after receipt of the insurance proceeds for such damage or as soon as practicable in the event that insurance proceeds shall not be available, proceed with the restoration of the Demised Premises and the Building substantially the condition in which the same existed prior to the damage with such changes as Landlord may desire to make; and Tenant shall promptly proceed with the restoration or replacement of Tenant's stock in trade, trade fixtures, furniture, furnishings, removable floor coverings, equipment, signs and all other property of Tenant and decorations in and around the Demised Premises.

21.02 Notwithstanding any of the foregoing provisions of this Article 21, if solely by reason of some intentional act or omission on the part of the Tenant or any of its subtenants or its or their partners, directors, officers, servants, employees, agents or contractors, either (a) Landlord or any Superior Lessor or any Superior Mortgagee shall be unable to collect all of the insurance proceeds (including, without limitation, Rent insurance proceeds) applicable to damage or destruction of the Demised Premises or the Building by fire or other casualty, or (b) the Demised Premises or the Building shall be damaged or destroyed or rendered completely or partially untenantable on account of fire or other casualty, then without prejudice to any other remedies which may be available against Tenant, there shall be no abatement or reduction of the Rent. Further, nothing contained in this Article 21 shall relieve Tenant against any liability that may exist as a result of any damage or destruction by fire or other casualty.

ARTICLE 22 - EMINENT DOMAIN

22.01 If the whole of the Demised premises shall be taken by any public or quasi-public authority under the power of condemnation, eminent domain or expropriation, or in the event of conveyance of the whole of the Demised Premises in lieu thereof, this Lease shall terminate as of the day possession shall be taken by such authority. If 25% or less of the Floor Space of the Demised Premises shall be so taken or conveyed, this Lease shall terminate only in respect of the part so taken or conveyed as of the day possession shall be taken by such authority. If more than 25% of the Floor Space of the Demised Premises shall be so taken or conveyed, this Lease shall terminate only in respect of the part so taken or conveyed as of the day possession shall be taken by such authority, but either party shall have the right to terminate this Lease upon notice given to the other party within 30 days after such taking possession. If more than 25% of the Floor Space of the Building shall be so taken or conveyed, Landlord, may by notice to Tenant, terminate this Lease as of the day possession shall be

taken. If so much of the Parking facilities shall be so taken or conveyed that the number of parking spaces necessary, in Landlord's reasonable judgment, for the continued operation of the Building or the Entire Premises shall not be available, landlord may, by notice to Tenant, terminate this Lease as of the day possession shall be taken on no less than sixty (60) days prior notice. If this Lease shall continue in effect as to any portion of the Demised premises not so taken or conveyed, the Rent shall be computed as of the day possession shall be taken on the basis of the remaining Floor Space of the Demised Premises. Except as specifically provided herein, in the event of any such taking or conveyance there shall be no reduction in Rent. If this Lease shall continue in effect, landlord shall, at its expense, but only to the extent of the net award or other compensation (after deducting all expenses in connection with obtaining same) available to Landlord for the improvements taken or conveyed (excluding any award or other compensation for land or for the unexpired portion of the term of any Superior Lease), make all necessary alterations so as to constitute the remaining Building a complete architectural and tenantable unit, and Tenant shall make all alterations or replacements to its stock-in-trade, trade fixtures, furniture, furnishings, removable floor coverings, equipment, signs and all other property of Tenant and decorations in and around the Demised Premises. All awards and compensation for any taking or conveyance, whether for the whole or part of the Entire premises, the Demised premises or otherwise, shall be property of landlord, and Tenant hereby assigns to Landlord all of Tenant's right, title, and interest in and to any and all such awards and compensation, including, without limitation, any award on compensation for the value of the expired portion of the Term. Tenant shall be entitled to claim, prove and receive in the condemnation proceeding such award or compensation as may be allowed for its trade fixtures and for loss of business, good will, and depreciation or injury to and cost of removal of stock in trade, but only if such award or compensation shall be made by the condemning authority in addition to, and shall not result in a reduction of, the award or compensation made by it to Landlord.

22.02 If the temporary use or occupancy of all or any part of the Demised Premises shall be taken during the Term, Tenant shall be entitled, except as hereinafter set forth, to receive that portion of the award or payment for such taking which represents compensation for the use and occupancy of the Demised Premises, for the taking of Tenant's Property and for moving expenses, and Landlord shall be entitled to receive that portion which represents reimbursement for the cost of restoration of the Demised Premises. This Lease shall be and remain unaffected by such taking and Tenant shall continue to be responsible for all of its obligations hereunder insofar as such obligations are not affected by such taking and shall continue to pay the Rent in full when due. If the period of temporary use and occupancy shall extend beyond the Expiration Date, that part of the award or payment which represents compensation for the use and occupancy of the Demised Premises (or a part thereof) shall be divided between Landlord and Tenant so that Tenant shall receive (except as otherwise provided below) so much thereof as represents compensation for the period up to and including the Expiration Date and Landlord shall receive as much thereof as represents compensation for the period after the Expiration Date. All monies to be paid to Tenant as, or part of, an award or payment for temporary use and occupancy for a period beyond the date to which the Rent has been paid shall be received, held and applied by the First Superior Mortgagee (or if there is no Superior Mortgagee, by Landlord) as a trust fund for payment of the Rent becoming due hereunder.

ARTICLE 23 - SURRENDER

23.01 On the Expiration Date, or upon any earlier termination of this Lease, or upon any re-entry by Landlord upon the Demised Premises, Tenant shall quit and surrender the Demised Premises to Landlord "broom-clean" and in good order, condition and repair, except for ordinary wear and tear and such damages or destruction as Landlord is required to repair or restore under this Lease, and Tenant shall remove all of Tenant's property there from except as otherwise expressly provided in this Lease.

23.02 If Tenant remains in possession of the Demised Premises after the expiration of the Term, Tenant shall be deemed to be occupying the Demised Premises as a Tenant from month to month at the sufferance of Landlord subject to all of the provisions of this Lease, except that the monthly Fixed Rent shall be the Fixed Rent in effect during the last month of the term.

23.03 No act or thing done by Landlord or its agents shall be deemed an acceptance or surrender of the Demised Premises, and no agreement to accept such surrender shall be valid unless in writing and signed by Landlord.

ARTICLE 24 - DEFAULT

24.01 This Lease and the Term and estate granted are subject inter alia to the limitation that whenever Tenant shall make an assignment for the benefit of creditors, or shall file a voluntary petition under any bankruptcy or insolvency law, or an involuntary petition alleging an act of bankruptcy or insolvency is filed against Tenant, or whenever a petition shall be filed by or against Tenant seeking any reorganization, arrangement composition, readjustment , liquidation, dissolution or similar relief under any present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Tenant or of all or any substantial part of its properties, or whenever a permanent or temporary receiver of Tenant or of, or for, the property of Tenant shall be appointed, or if Tenant shall plead bankruptcy or insolvency as a defense in any action or proceeding, then Landlord, (a) at any time after receipt of notice of the occurrence of any such event, or (b) if such event occurs without the consent of Tenant, at any time after the event continues for thirty (30) days may give Tenant a notice of intention to end the Term at the expiration of thirty (30) days from the service of such notice of intention, and upon the expiration of said thirty (30) days from the period, this Lease and the term hereby granted whether or not the Term shall theretofore have commenced, shall terminate with the same effect as if that day were the last day of the Lease term hereof, but Tenant shall remain liable for damages as provided in this Lease.

24.02 FURTHER LIMITATION: This Lease and the Terms and estate hereby granted are subject to the further limitation that, (a) whenever Tenant shall default in the payment of any monthly installment of Annual Fixed Rental, or in the payment of any other sums payable from Tenant to Landlord under this Lease as additional rent, on any day upon which the same shall be due and payable and such default shall continue for ten (10) days after the giving of written notice thereof by Landlord, or (b) whenever Tenant shall do or permit anything to be done, whether by action or inaction, contrary to any of Tenant's obligations hereunder, and if such situation shall continue and shall not be remedied by Tenant within twenty (20) days after Landlord shall have given to Tenant a written notice specifying the same, or in the case of a happening of default which cannot with due diligence be cured within a period of twenty (20) days and the continuance of which for the period required for cure will not subject Landlord to the risk of criminal liability or termination of any superior Lease or foreclosure of any Superior Mortgage, if Tenant shall not duly institute within such twenty (20) day period and promptly and diligently prosecute to completion all steps necessary to remedy the same, or (c) whenever any event shall occur or any contingency shall arise whereby this Lease or any interest therein or the estate hereby granted or any portion thereof or the unexpired balance of the Term hereof would, by operation of Law or otherwise, devolve upon or pass to any person, firm or corporation other than Tenant, except as expressly permitted in this Lease, then in any such event covered by subsections a, b, or c, of this paragraph at any time thereafter, Landlord may give to Tenant a notice of intention to end the Term of this Lease at the expiration of seven (7)days from the date of service of such notice of intention, and upon the expiration of said seven (7) days this Lease and the Term and estate hereby granted, whether, or not the Term shall theretofore have commenced, shall terminate with the same effect as if that day were the last day of the lease term hereof, but Tenant shall remain liable for damages as provided. During the pendency of any proceedings brought by Landlord to recover possession by reason of default, Tenant shall continue all money payments required to be made to landlord, and Landlord may accept such payments for use and occupancy of the premises, in such event Tenant waives its right in such proceedings to claim as a defense that the receipt of such money payments by Landlord constitutes a waiver by Landlord of such default.

ARTICLE 25 - RE-ENTRY BY LANDLORD - DEFAULT PROVISIONS

25.01 If this Lease shall terminate for any reason whatsoever, Landlord or Landlord's agents and employees may without further notice, immediately or at any time thereafter, enter upon and re-enter the Premises, or any part thereof, and possess or re-possess itself thereof by either summary dispossess proceedings, ejectment, or by any suitable action or proceeding at law or by agreement, and may dispossess and remove Tenant and all other persons and property from the Premises without being liable to indictment, prosecution or damages therefore, and may repossess the same, and remove any persons therefrom, to the end that landlord may have, hold and enjoy the Premises and the right to receive all rental income again as and of its first estate and interest therein. The words "enter" or "re-enter", "possess" or "repossess" as herein used, are not

restricted to their technical legal meaning. In the event of any termination of this Lease under the provisions of this Article, or re-entry under this paragraph or in the event of the termination of this Lease, or of re-entry by summary dispossess proceedings, ejectment or any suitable action or proceedings at law, or by agreement, or by force or otherwise, by reason of default hereunder on the part of the Tenant, Tenant shall thereupon pay to Landlord the Annual Fixed Rental and any additional rent due up to the time of such termination of this lease or of such recovery of possession of the premises by Landlord, as the case may be, and shall also pay to Landlord damages as provided herein.

ARTICLE 26 - DAMAGES

26.01 If this Lease is terminated under the provisions of Article 24; or if Landlord shall re-enter the Premises under the provisions of Article 25, or in the event of the termination of this Lease, or of reentry by summary dispossess proceedings, ejectment or by any suitable action or proceeding at law, or by agreement, or by force or otherwise, by reason of default hereunder on the part of Tenant, Tenant shall pay to Landlord as damages, on demand, a sum equal to the Annual Fixed Rent and the Additional Rent (conclusively presuming the Additional Rent to be the same as was payable for the year immediately preceding such termination) payable hereunder which would have been payable by Tenant had this Lease not so terminated, or had Landlord not so re-entered the Premises, payable monthly but otherwise upon the terms therefore specified herein following such termination or such re-entry and until the expiration of the Term, provided, however, that if Landlord shall relet the Premises or any portion or portions thereof during said period, Landlord shall credit Tenant with the net rents received by Landlord from such reletting, such net rents to be determined by first deducting from the gross rents as and when received by Landlord from such reletting, the expenses incurred or paid by Landlord in terminating this Lease or in re-entering the Premises and in securing possession thereof, as well as the reasonable expenses of reletting, including altering and preparing the Premises or any portion or portions thereof for new tenants, brokers' commissions, advertising expenses, attorneys' fees, and all other expenses properly chargeable against the Premises and the rental therefrom: it being understood that any such reletting may be for a period shorter or longer than the remaining Term of this Lease, but in no event shall Tenant be entitled to receive any excess of such net rents over the sums payable by Tenant to Landlord hereunder, nor shall Tenant be entitled, in any suit for the collection of damages pursuant to this Subsection, to a credit in respect of any net rents from a reletting, except to the event that such net rents are actually received by Landlord. If the Premises or any part thereof should be relet in combination with other space, then proper apportionment shall be made of the rent received from such reletting and of the expenses of reletting.

26.02 If the Premises or any part thereof be relet by Landlord for the unexpired portion of this Term, or any part thereof, before presentation of the proof of such damages to any court, commission, or tribunal, the amount of rent reserved upon such reletting shall, conclusively, be fair and reasonable rental value of the Premises, or part thereof, so relet during the term of reletting. Landlord however, shall have no liability for its inability to mitigate the damages by seeking to relet the Premises and it shall in no event and in no way be responsible or liable for any failure to relet the Premises or any part thereof or for failure to collect any rent due upon any such reletting.

26.03 Suit or suits for recovery of such damages or any installments thereof may be brought by Landlord at any time and from time to time at its election, and nothing contained herein shall be deemed to require Landlord to postpone suit until the date when the term would have expired if it had not been so terminated under the provisions of Article 24, or under any provision of law, or had Landlord not re-entered the Demised Premises. Nothing herein contained shall be construed to limit or preclude recovery by Landlord against Tenant of any sums or damages, in addition to the damages particularly provided above, that Landlord may lawfully be entitled to by reason of any fault hereunder on the part of the Tenant.

26.04 Nothing herein contained shall be construed to limit or prejudice the right of Landlord to provide for and obtain as damages by reason of the termination of this Lease or re-entry on the Demised Premises for the default of Tenant under this Lease an amount equal to the maximum allowed by any statue or rule of law in effect at this time then governing the proceedings in which such damages are to be proved whether or not such amount be greater than, equal to, or less than any of the sums referred to in Article 26.01.

26.05 In addition, if this Lease id terminated under the provisions of Article 24, or if Landlord shall re-enter the Demised

Premises under the provisions of Article 25, Tenant covenants that: (a) the Demised Premises then shall be in the same condition as that in which Tenant has agreed to surrender the same to Landlord at the Expiration Date; (b) Tenant shall have performed prior to any such termination any obligation of Tenant contained in this Lease for making of any alteration or for restoring or rebuilding the Demised Premises or the Building, or any part thereof; and (c) for the breach of any covenant of Tenant set forth above in this Article 26.05, Landlord shall be entitled immediately, without notice or other action by Landlord, to recover, and Tenant shall pay as and for liquidated damages therefore, the reasonable cost of performing such covenant (as estimated by an independent contractor selected by Landlord).

26.06 In addition to any other remedies Landlord may have under this Lease, and without reducing or adversely affecting any of Landlord's right and remedies under this Article 26, if any damages payable hereunder by Tenant to Landlord are not paid within thirty (30) days after due, the same shall bear interest at the rate of 1 1/2% per month or the maximum rate permitted by law, whichever is less, from the due date thereof until paid, and the amounts of such interest shall be Additional Charges hereunder.

ARTICLE 27 - AFFIRMATIVE WAIVERS

27.01 Tenant, on behalf of itself and any and all persons claiming through or under Tenant, does hereby waive and surrender all right and privilege which it, they or any of them might have under or by reason of any present or future law, to redeem the Demised Premises or to have a continuance of this Lease after being dispossessed or ejected from the Demised Premised by process of law or under the terms of this Lease or after the termination of this Lease as provided in this Lease.

27.02 Landlord and Tenant hereby waive trial by jury in any action, proceeding or counterclaim brought by either against the other on any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant and Tenant's use or occupancy of the Demised Premises and use of the Common Areas, including without limitation any claim or injury or damage, and any emergency and other statutory remedy with respect thereto.

ARTICLE 28 - NO WAIVERS

28.01 The failure of either party to insist in any one or more instances upon the strict performance of any one or more of the obligations of this Lease, or to exercise any election herein contained, shall not be construed as a waiver or relinquishment for the future of performance of such one or more obligations of this Lease or of the right to exercise such election, but the same shall continue and remain in full force and effect with respect to any subsequent breach, act or omission. The receipt by Landlord of Fixed Rent, Percentage Rent or Additional Charges with knowledge of Breach by Tenant of any obligation of this Lease shall not be deemed a waiver of such breach.

ARTICLE 29 - CURING TENANT'S DEFAULTS

29.01 If Tenant shall default in the performance of any of Tenant's obligations under this Lease, Landlord, without thereby waiving such default, may (but shall not be obligated to) perform same for the account and at the expense of Tenant, without notice in a case of emergency, and in any other case only if such default continues after the expiration of 20 days from the date Landlord gives Tenant written notice of the default. Bills for any expense incurred by Landlord in connection with any such performance by it for the account of Tenant, and bills for all reasonable costs, expenses and disbursements of every kind and nature whatsoever, including reasonable attorneys' fees and expenses, involved in collection or endeavoring to collect the Rent or any part thereof or enforcing or endeavoring to enforce any rights against Tenant or Tenants obligations hereunder, under or in connection with this Lease or pursuant to law, including any such cost, attorneys' fees, expense and disbursement involved in instituting and prosecuting summary proceedings or in recovering possession of the Demised Premises after default by Tenant or upon the expiration of the Term or sooner termination of this Lease, may be sent by Landlord to Tenant monthly, or immediately, at Landlord's option, and such amounts shall be due and payable in accordance with the terms of such bills. In addition, all reasonable costs, attorneys' fees, expenses and disbursements incurred by Landlord in connection with the institution and prosecution of summary proceedings or any action or proceeding to recover possession or damages, or otherwise enforce its rights arising from this

Lease, shall be recoverable from Tenant in said action or proceeding.

ARTICLE 30 - BROKER

30.01 Both parties represent that NO BROKERS were instrumental in bringing about or consummating this Lease, and that they no conversations or negotiations with any (other) broker concerning the leasing of the Demised Premises. Each party agrees to indemnify and hold harmless the other against and from any claims for any brokerage commissions and all costs, expenses and liabilities in connection therewith, including, without limitation, attorney's fees and expenses arising out of any conversations or negotiations had by Tenant with any (other) broker.

ARTICLE 31 - NOTICES

31.01 Any notice, statement, demand, consent, approval or other communication required or permitted to be given, rendered or made by either party to the other, pursuant to this Lease or pursuant to any applicable Legal Requirement, shall be in writing (whether or not so stated elsewhere in this Lease) and shall be deemed to have been properly given, rendered or made only if delivered in person or if sent (1) by registered or certified mail, return receipt requested, posted in a United States post office station or letter box in the continental United States, or (2) by Express Mail, or (3) overnight courier or delivery service which provides written proof of delivery, addressed to the other party at the address hereinabove set forth and shall be deemed to have been given, rendered or made on the day of delivery in person or if sent, on the third business day after the day of delivery in person or if sent, on the next business day after the day so sent. Either party may, by notice as aforesaid, designate a different address of or addresses for notices, statements, demands, consents, approvals or other communications intended for it. Notices from Landlord's attorney to Tenant shall be deemed equally as effective as if they were from Landlord directly. All notices statements, demands, consents, approvals or other communications, as specified herein, to Tenant shall also be addressed to the County Executive and shall also be sent to the Putnam County Attorney, 48 Gleneida Avenue, Carmel, New York 10512.

ARTICLE 32 - ESTOPPEL CERTIFICATES

32.01 Each party shall, at any time and from time to time, as required by the other party, upon not less than twenty (20) days prior notice execute and deliver to the requesting party a statement certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), certifying the dates to which the Fixed Rent and Additional Charges have been paid, stating whether or not, to the best knowledge of the party giving the statement, the requesting party is in default of performance of any of its obligations under this Lease and if so, specifying each such default of which the party giving the statement shall have knowledge, and stating whether or not, to the best knowledge of the party giving the statement, any event has occurred which with the giving of notice or passage of time, or both, would constitute such a default of the requesting party, and if so, specifying each such event; and such statement delivered pursuant hereto shall be deemed a representation and warranty to be relied upon by the party requesting the certificate and by others with whom such party may be dealing, regardless of independent investigations. Tenant also shall include in any such statement such other information concerning this Lease as Landlord may reasonably request. Failure of the Tenant to execute and deliver the statement within the twenty (20) days notice period shall be a default of this Lease. Upon such default, Landlord, among other remedies, shall have the benefit of the provisions of Article 32.02 below.

32.02 In the event Tenant shall fail or refuse to execute and deliver to landlord the statement required in Article 32.01 above, Tenant hereby irrevocably appoints landlord as its attorney-in-fact with full power and authority to execute and deliver such statement in the name of Tenant, or Landlord may treat such failure on the part of Tenant as a default.

ARTICLE 33 – OPTION TO PURCHASE

33.01 Tenant shall have the Option to Purchase the Demised Premises designated as an approximate 6000 square foot section of the Lahey Pavilion, ("Space") on the Site Plan, along with a then determined area of real property directly

appurtenant thereto. The Tenant may elect to do so and shall notify Landlord of said intention after the expiration of the initial ~~five (5)~~ fifteen (15) year Lease Term and prior to the expiration of the ~~second~~ option period. Tenant can exercise the Option to Purchase only during a period of time when it has an existing and valid lease for the Demised Premises, is current with all Rent and Additional Rent payments and is not in default. Tenant must provide Landlord with a minimum of one hundred and twenty (120) days written notice prior to the expiration of the ~~then current~~ option term.

33.02 If Tenant desires to purchase the Demised Premises, it shall give written notice of its intent to the Landlord. In the event Tenant exercises its option to purchase the Demised Premises, the purchase price (the "Purchase Price") shall be the fair market value of same at the time Tenant so elects to purchase the Demised Premises all things considered, including the then remaining term of the Lease. The Landlord and Tenant shall have thirty (30) days to agree upon the Purchase Price following receipt by Landlord of Tenant's notice.

33.03 Once the Purchase Price is determined, the parties shall execute a contract of sale mutually agreeable to the parties which contract of sale shall provide that: (i) the Property shall be delivered free and clear of any and aliens, (ii) shall provide a closing within (90) days of the date of execution thereof, and (iii) shall contain such other commercially reasonable terms as are then customary in the sale of a commercial property in Putnam County. If the parties are unable, despite using good faith reasonable efforts, to agree upon a contract of sale and the terms thereof within ninety (90) days following the receipt of Tenant's notice to purchase, upon expiration of such ninety (90) day period, the Tenant shall have no further right to purchase the Building and Tenant's rights granted pursuant to this Article 33 shall be null and void and of no further force and effect and Landlord shall thereafter be free to sell the Building to any third party Purchaser.

33.04 In the event the Landlord and Tenant are unable to agree on the Purchase Price, The Purchase Price shall be determined as hereinafter set forth. For all purposes of this Lease, the Purchase Price shall be determined by the following procedure:

a. If Landlord and Tenant have not agreed upon the Purchase Price within the thirty (30) day period as set forth above, each shall, within fifteen (15) days thereafter, designate an independent appraiser of recognized competence for sale of real estate comparable to the Demised Premises ("Initial Appraisers") by written notice served upon the other.

b. The Initial Appraisers shall confer and attempt to agree upon the Purchase Price during the ensuring thirty (30) day period and any such agreed Purchase Price shall be conclusive for purposes hereof. If either Landlord or Tenant fails to designate an appraiser as set forth in Subparagraph (a) above, the determination of the Purchase Price by the appraiser designated by the other shall be conclusive for purposes hereof.

c. If the Initial Appraisers cannot so agree within such thirty (30) day period, they shall each prepare a written determination of the Purchase Price and jointly designate a disinterested appraiser ("Additional Appraiser"). The Additional Appraiser shall make a written determination of the Purchase Price within thirty (30) days from the date of his designation. Thereafter, the three (3) appraisals shall be averaged and such average shall be conclusive as the Purchase Price for purposes hereof. Each Appraisers so chosen shall have a minimum of fifteen (15) years' experience in appraising commercial real estate in Putnam County.

d. If the Initial Appraisers do not designate the Additional Appraiser within the appropriate time period, he shall be designated promptly by the President of The American Institute of Real Estate Appraisers, or its then successor organization or, if no such organization exists, the President of the Real Estate Board of New York, Inc. or is successor organization.

e. All costs of Appraisal, other than the costs of the Initial Appraisers which shall be borne by the party choosing each such appraiser, shall be totaled and shared equally between Landlord and Tenant.

f. In determining the Purchase Price, the appraisers shall consider all things relative to the Space and the transaction including, but not limited to, the Rent being paid by Tenant in the Space, the condition of the Space, the impact that a sale of the Space would have on real estate taxes and other charges against the Building, the remaining term of the

Lease and the sale price of other comparable real estate taxes in the area.

g. Tenant may not assign this Option to Purchase to any affiliate or any entity controlling Tenant, controlled by Tenant or under common control with Tenant.

33.05 Should the Tenant exercise its Option to Purchase:

a. The Tenant shall be responsible for obtaining any and all required approvals, including condominium approval for the Premises.
b. The Landlord shall transfer to the Tenant an easement for the purpose of ingress and egress, which such location shall be determined, but shall be to the parties' mutual satisfaction.
c. The Landlord shall transfer to the Tenant an easement required for the parking area. which shall be to the parties' mutual satisfaction.

ARTICLE 34 - RECORDING OF LEASE

34.01 Tenant shall not record this lease and attempt to do so shall constitute a default. However, at the request of the Landlord, Tenant shall promptly execute, acknowledge and deliver to Landlord a memorandum of Lease with respect to this Lease sufficient for recording. Such memorandum shall not be deemed to change or otherwise affect any of the obligations or provisions of this Lease. Whichever party records such memorandum of Lease shall pay all recording costs and expenses, including taxes due upon such recording.

ARTICLE 35 - MISCELLANEOUS

35.01 Tenant expressly acknowledges and agrees that Landlord has not made and is not making, and Tenant, in executing and delivering this Lease, is not relying upon, any warranties, representations, promises or statements, except to the extent that the same are expressly set forth in this Lease or in any other written agreement(s) which may be made between the parties concurrently with the execution and delivery of this Lease. All understandings and agreements heretofore had between the parties are merged in this Lease and any other written agreement(s) made concurrently herewith, which alone fully and completely express the agreement of the parties and which are entered into after full investigation. Neither party has relied upon any statement or representation not embodied in this Lease or in any other written agreement(s) made concurrently herewith.

35.02 No agreement shall be effective to change, modify, waive, release, discharge, terminate or effect an abandonment of this Lease, in whole or in part unless such agreement is in writing, refers expressly to this Lease and is signed by the party against whom enforcement of the change, modification, waiver, release, discharge, termination or effectuation of abandonment is sought.

35.03 If Tenant shall at any time request Landlord to sublet or let the Demised Premises for Tenant's account, Landlord is authorized to do so, without releasing Tenant from any of its obligations under this Lease, and Tenant hereby releases Landlord of any liability for loss or damage to any of the Tenant's Property in connection with such subletting or letting.

35.04 Except as otherwise expressly provided in this Lease, the obligation under this Lease shall bind and benefit the successors and assigns of the parties hereto with the same effect as if mentioned in each instance where a party is named or referred to; provided, however, that (a) no violation of the provisions of Article 10 shall operate to vest any rights in any successor or assignee of Tenant and (b) the provisions of this Article 35.04 shall not be construed as modifying the provisions contained in Article 24.

35.05 Except for Tenant's obligations to pay Rent, the times for which are of the Essence of this agreement, the time for Landlord or Tenant, as the case may be, to perform any of its respective obligations hereunder shall be extended if and to the extent that the performance thereof shall be prevented due to any strikes, lockouts, civil commotions, warlike

operations, invasions, rebellions, hostilities, military or usurped power, governmental regulations or controls, inability to obtain labor or materials despite due diligence, acts of God, or other causes beyond the control of the party whose performance is required. Except as expressly provided to the contrary, the obligations of the Tenant hereunder shall not be affected, impaired or excused, nor shall Landlord have any liability whatsoever to Tenant, (a) because Landlord is unable to fulfill, or is delayed in fulfilling, any of its obligations under this Lease due to any of the matters set forth in the first sentence of this Article 35.05, or (b) because of any failure or defect in the supply, quality or character of electricity, water or any other utility or service furnished to the Demised Premises for any reason beyond Landlord's reasonable control.

35.06 Any liability for payments hereunder (including, without limitation, Additional Charges) shall survive the expiration of the Term or earlier termination of this Lease.

35.07 If Tenant shall request Landlord's consent as provided for in this agreement, and Landlord shall fail or refuse to give such consent, Tenant shall not be entitled to any damages for any withholding by Landlord of its consent; Tenant's sole remedy, if any, shall be an action for specific performance or injunction, and such remedy shall be available only in those cases where Landlord has expressly agreed in writing not to unreasonably withhold its consent or where as a matter of law Landlord may not unreasonably withhold its consent.

35.08 Tenant shall not exercise its right under Article 16 or any other provision of this Lease in a manner which would violate Landlord's union contracts affecting the Entire Premises, if any, or create any work stoppage, picketing, labor disruption or dispute or any interference with the business of Landlord or any Tenant or occupant of the Entire Premises

35.09 Irrespective of the place of execution or performance, this Lease shall be governed by and construed in accordance with the laws of the State of New York. If any provision of this Lease or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Lease and the application of that provision to other Persons or circumstances shall not be affected but rather shall be enforced to the extent permitted by law. The table of contents, captions, headings and titles in this Lease are solely for convenience of reference and shall not affect its interpretation. This Lease shall be construed without regard to any presumption or other rule requiring construction against the party causing this Lease to be drafted. If any words or phrases in this lease shall have been stricken out or otherwise eliminated whether or not any other words or phrases have been added, this Lease shall be construed as if the words or phrases so stricken out or otherwise eliminated were never included in this Lease and no implication or inference shall be drawn from the fact that said words or phrases were so stricken out or otherwise eliminated. Each covenant, agreement, obligations or other provision of this Lease on Tenant's part to be performed, shall be deemed and construed as a separate and independent covenant of Tenant, not dependent on any other provision of this Lease. All terms and words in this Lease, regardless of the number or gender in which they are used shall be deemed to include any other number and any other gender as the context may require.

35.10 THE PROVISIONS OF THIS ARTICLE HAVE ALL BEEN EXPLICITLY DISCUSSED, REVIEWED AND NEGOTIATED AND THEY ARE EQUALLY ESSENTIAL TO THIS AGREEMENT AS ANY OF THE OTHER PROVISIONS.

Article 36: INABILITY TO PERFORM

36.1 This Lease and the obligation of Tenant to pay rent hereunder and to perform all of the other covenants and agreements hereunder on the part of Tenant to be performed shall in no way be affected, impaired or excused because Landlord is unable to fulfill any of its obligations under this Lease if Landlord is prevented or delayed from so doing by

reason of strike or labor troubles or any cause whatsoever beyond the reasonable control of Landlord including, but not limited to, government preemption in connection with a National Emergency or by reasons of any rule, order or regulation of any department or subdivision thereof of any government agency or by reason of the conditions of supply and demand which have been ore affected by war or other emergency.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease as of the day and year first above written.

SIGNATURES

Landlord: **BUTTERFIELD REALTY LLC**

By:_____
Paul F. Guillaro

Tenant: **COUNTY OF PUTNAM**

By: _____

By: _____

EXHIBIT B

Demises Premises:	Lahey Pavilion
Lease Term in years:	15 years
Lease Commencement Date:	Approximately July 1, 2016
Rent Commencement Date:	60 days after the Commencement Date
Lease Option:	~~Two fiv~~One Tene-year option ~~terms~~, notice to be provided to Landlord, no less than one year prior to end of the ~~commencement of each option period~~ initial term of the lease.
Lease Option Rental:	Market Rate
Lease Termination Date:	15 years after the Commencement Date
Lease Liquidated Damages:	If Tenant desires to terminate lease, at any time, during initial five years, Tenant shall pay to Landlord, sum equal to one-year of rent and common charges at the rate at the time of termination.
Buildout:	Landlord to provide space as is
First year rent:	$77,700.00 (approximately 6,000 sq.ft. @ $12.95/sq.ft. of rentable space)
Annual Rent increases:	2% per year or CPI (whichever is higher) on each March 1st plus cam charges as calculated annually
First year cam charges: below)	$50,691.56 (approximately 6,000 sq.ft. @ $8.45 estimated as noted Cam shall be capped at 3.5% increases annually once fully established by the end of year two of the original ~~five~~ fifteen year term of the Lease. The Landlord's management fee shall be capped at 3% of the sum of rent plus CAM.

Base Estimated Annual CAM:

Real Estate Taxes (estimated)	$30,000.00
Common area parking, trash container cleaning and cleaning (exterior)	705.88
Electric (common lighting – parking lot)	1,058.82
Snow Plowing (does not include removal off site)	4,981.94

Landscaping (does not include open space)	1,905.88
Irrigation (well power, pump, service contract)	776.47
Sanitation	1,694.12
Pest Control (exterior)	423.53
Insurance	2,823.53
Management	3,850.80
Repairs – grounds/parking lot/parking lights/fence	1,411.76
Repairs – building	1,058.82
Total	50,691.56
CAM per square foot	$8.45

EXHIBIT C

RULES AND REGULATIONS

1. Tenant covenants and agrees with Landlord to obey, in all respects, the following rules and regulations.

2. The delivery, shipping, loading or unloading of merchandise, supplies and fixtures to and from the demised premises shall be subject to such rules and regulations as in the reasonable judgment of the Landlord are necessary for the proper operation of the building or shopping area.

3. All garbage and refuse shall be kept in the kind of container specified by Landlord, and shall be placed outside of the premises prepared for collection in the manner and at the times and place specified by Landlord.

4 Any antenna or aerial installed without the written consent of the Landlord shall be subject to removal without notice at any time.

5. No loud speakers, televisions, phonographs, radios or other devices shall be used in a manner so as to be heard or seen outside of the premises without the prior written consent of the Landlord.

6. Tenant shall keep the premises at a temperature sufficiently high to prevent freezing of water in pipes and fixtures.

7. Tenant shall not place or permit any obstructions or merchandise in common areas.

8. Tenant and Tenant's employees shall park their cars only in those areas designated for the purpose by Landlord. Tenant shall furnish Landlord with State automobile license numbers assigned to Tenant's car or cars and cars of Tenant's employees within five (5) days after such changes occur.

9. The plumbing facilities shall not be used for any other purpose than that for which they are constructed, and no foreign breakage, stoppage or damage resulting from a violation of this provision shall be borne by Tenant.

10. Tenant shall not burn any trash or garbage of any kind in or about the building.

11. Tenant will not utilize any advertising media or devices anywhere upon the land and buildings of the shopping center (other than its approved sign) without Landlord's express written consent.

12. Upon the expiration or other termination of the term of this Lease, Tenant shall quit and surrender to Landlord the demised premises, broom clean, in good order and condition, ordinary wear excepted.

13. The sidewalks, entrances, passages, courts, elevator, vestibules, stairways, corridors or halls shall not be obstructed or encumbered by Tenant or used for any purpose.

14. No auction, fire, bankruptcy or selling-out sales shall be conducted on or about the premises without the prior written consent of the Landlord.

15. Tenant shall not permit any unlawful or immoral practice or business to be carried on or committed upon the demised premises.

16. Tenant shall not use the premises for any purpose or in any manner whatsoever which might create a nuisance or injure the reputation of the premises or of the complex..

17. Tenant will not, at any time, advertise its business on the premises as a discount center, discount store or discount house or advertise in any similar manner, indicating the aforementioned as its policy with regard to its entire business or any part thereof.

18. Tenant agrees that Landlord may from time to time amend, modify, delete or add new and additional reasonable rules and regulations for the use and care of the premises, the building of which the premises are a part and the common use areas. Tenant agrees to comply with all such rules and regulations upon posting of same in such place within the complex as Landlord may designate, provided that such rules and regulations shall apply uniformly to all Tenants of the complex and shall not prevent conduct of Tenant's business and as long as there is no material increase in costs to the Tenant.

_____ Landlord initials

_____ Tenant initials

802772

Revised 4/14/16

Exhibit "A"

CONFIDENT

CHARITABLE DONATION AGREEMENT

This CHARITABLE DONATION AGREEMENT (this "Agreement") is made and entered into as of April __, 2016 (the "Effective Date"), by and between **ACI Senior Development Corp.** ("ACI") and the **County of Putnam** ("Recipient").

LEGISLATURE PUTNAM COUNTY CARMEL, NY 2016 APR 14 PM 2:23

Background

A. ACI is a Delaware not-for-profit corporation exempt from taxation as a charitable organization under section 501(c)(3) of the Internal Revenue Code.

B. Recipient is a political subdivision of the State of New York.

C. Recipient desires to establish a senior citizen center (the "Center") in the Town of Philipstown in Putnam County, which will be operated by the County of Putnam Office for Senior Resources, to support the independence and social engagement of older adults in the surrounding area and to improve their health, general wellness and nutrition.

D. The Putnam County Legislature passed Resolution #__ on _____, 2016 which authorized the lease (the "Lease") by Recipient with Butterfield Realty LLC (the "Landlord") for the real property known as The Lahey Pavilion located at 1756 Route 9D, Cold Spring, New York (the "Premises") to house the Center.. A copy of the Lease is attached hereto as Exhibit A.

E. Landlord has agreed under the Lease to make the renovations to the Premises as set forth in Exhibit B attached hereto (the "Landlord Renovations").

F. ACI, in furtherance of its charitable goals, desires to contribute a partial renovation of the Premises, and Recipient desires to receive such renovation, pursuant to the terms and conditions of this Agreement.

THE PARTIES TO THIS AGREEMENT AGREE AS FOLLOWS:

1. Contributions by ACI.

1.1. ACI hereby agrees to contribute to the County the renovations of the Premises detailed in Exhibit C (the "ACI Renovations"). It is acknowledged that ACI will be hiring Mountainview Construction of Patterson, New York (Raymond Memmel, principal) as the construction manager for the ACI Renovations (the "CM").

1.2. To the extent that the total out of pocket expenses relating to this Agreement, including the ACI Renovations, insurance, legal and other professional costs, paid by ACI do not exceed Five Hundred Thousand Dollars ($500,000), ACI will donate the difference of $500,000 and such amount to the Recipient for the additional renovation and

furnishing of the Premises, including its build-out, technology features and built in furnishings.

2. Obligations of ACI.

2.1. The agreement between ACI and the CM for the ACI Renovations will include the following:

2.1.1. ACI shall require in its contract with CM, or otherwise in writing, for CM to: (i) keep in place during the renovation general liability insurance in the minimum amount of $1 million for each occurrence and $2 million in the aggregate. The general liability insurance policy maintained by CM will name ACI, the County and the Landlord as additional insured; and (ii) to the fullest extent provided by applicable law, to indemnify, defend and hold harmless ACI, the County, and the Landlord from any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of CM's performance of work and/or other services at the Premises.

2.1.2. ACI shall require all contractors and/or subcontractors performing ACI Renovations to: (i) keep in place during the renovation general liability insurance in the minimum amount of $1 million for each occurrence and $2 million in the aggregate. The general liability insurance policy maintained by said contractors and/or subcontractors will name ACI, the County and the Landlord as additional insured; and (ii) to the fullest extent provided by applicable law, to indemnify, defend and hold harmless ACI, the County, and the Landlord from any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of CM's performance of work and/or other services at the Premises.

2.1.3. The CM will use commercially reasonable efforts to use contractors and subcontractors from Putnam County and to employ trade persons residing in Philipstown and surrounding areas within Putnam County.

2.2. ACI shall be required to cooperate with County in a commercially reasonable manner for benefit of seniors.

2.3. ACI shall use commercially reasonable efforts to file for permits for the renovation of the Premises within fifteen (15) days of receiving the Final Plans (as such term is defined below).

2.4. Subject to receipt of the Final Plans (as that term in defined below) by June 30, 2016, ACI shall use commercially reasonable efforts to have the CM commence the

ACI Renovations by November 1, 2016. Subject to the Landlord completing its renovations in a timely manner and to Sections 6.2 and 11 below, the ACI Renovations shall be completed within six months from the commencement of same.

2.5. ACI shall not have any obligations to the County except as specifically set forth in this Agreement, including any responsibility for the operation of the Center.

2.6. If any mechanic's liens are filed against the Premises in connection with the ACI Renovations, ACI hall have no liability for same but will use commercially reasonable efforts to cause same to be cancelled and discharged by the CM, contractor or subcontractor within fifteen (15) days after notice by Landlord or County.

2.7. ACI shall refrain from taking any action(s) which causes the County to be in default of the Lease.

3. Architectural Plans.

3.1. The County, at its sole cost and expense has prepared initial architectural plans for the Premises.

3.2. The County and ACI have agreed on a final form of the architectural plans for the Premises.

3.3. The County will, at its sole cost and expense, prepare final construction drawings for the Premises in a manner and detail which shall be consistent with RFP # 2-2016 issued by the County on March 25, 2016 (or any subsequent RFP which may be necessary by the County) and which will permit the Landlord or ACI to obtain permits for the ACI Renovations and for the CM to supply to subcontractors that intend to bid on the project (the "Final Plans"). The County will consult with ACI on the hiring of an architect to prepare the Final Plans.

3.4. The County will deliver the Final Plans to ACI by June 30, 2016, such date being time of the essence.

3.5. Any changes to the Final Plans may be made only upon the mutual written consent of ACI and the County.

4. Covenants by County. The County hereby Covenants as follows:

4.1. The County will complete renovation and furnishing of the Premises in accordance with the Final Plans plan in a commercially reasonable manner.

4.2. The full 6,000 square feet of the Premises will be used for senior center program services or to directly support the services provided at the Center, including program spaces, kitchen, bathrooms, etc. For the avoidance of doubt, administrative offices will be limited in number and size to the minimum amount required

for the effective operation for the Center as shall reasonably be determined by the County and the Center will not be used as general administrative offices for the Putnam County Office of Senior Resources.

4.3. The Center shall be named the "The Roger Ailes Senior Center." A sign to that effect will be placed in the lobby of the Center or other mutually agreed location at the Center in a size, type and format mutually acceptable to ACI and the County.

5. Survival of Covenants and Indemnification.

5.1. The covenants of the County in Section 4 above shall survive for fifteen (15) years from the effective date of the Lease.

5.2. The County will indemnify and hold harmless ACI from and against any costs or expenses (including reasonable attorneys' and disbursements and reasonable out-of-pocket expenses) incurred by ACI in connection with the enforcement of the County's covenants hereunder.

6. Conditions to Performance by ACI.

6.1. Subject to ACI continuing to act in good faith, the obligations of ACI under Section 1 above are conditioned upon the following:

6.1.1. The Lease is executed by the County and the Landlord.

6.1.2. The County delivering the Final Plans to ACI by June 30, 2016.

6.1.3. The Landlord substantially completing the Landlord Renovations.

6.1.4. The Landlord approving the Final Plans to the extent required under the Lease.

6.1.5. The proper authority issuing permits for the renovation of the Center pursuant to the Final Plans.

6.1.6. The County remaining in compliance with the covenants set forth in Section 4 above.

6.2. ACI's obligations pursuant to Section 1.1 above shall not include additional obligations incurred to address a material unknown factor with respect to the Premises, including environmental hazards and structural defects.

7. No Agency or Attribution. The parties acknowledge that (i) ACI is not an agent of CM; (ii) CM is not an agent of ACI; and (iii) ACI will not control the means and methods of the construction at the Premises and the subcontractors engaged for such

construction. The conduct of the CM or its subcontractors may not be attributed to ACI and ACI shall have no obligations to the County for any acts or negligence of CM or it subcontractors.

8. Limitation of Liability. Except with regards to ACI's failure to comply with its obligations under Section 1 above or fraudulent acts by ACI, the ACI Renovations shall be delivered as is without any warranty and ACI shall have no obligations to the County with respect to the ACI Renovations or the Center, including with respect to construction defects and claims by subcontractors for nonpayment. However, ACI shall remain available to use commercially reasonable efforts to work with the CM and any contractors and subcontractors to resolve any issues with the ACI Renovations for which it receives written notice within six (6) months of substantial completion of the ACI Renovations.

9. Indemnification for Third Party Claims. The County shall indemnify, defend and save harmless ACI and its directors, officers, employees and agents from and against costs, expenses and liabilities incurred in or in connection with bodily injury and property damage claims arising from the County's negligent acts and/or omissions under this Agreement.

10. Equitable Relief. Each party acknowledges that any remedy at law for any breach of any of the obligations contained in this Agreement may be inadequate. Accordingly, each party shall be entitled (without the necessity of showing any actual damage or posting a bond or furnishing other security) to specific performance or any other mode of injunctive and/or other equitable relief to enforce its rights under such section or any other relief a court might award, such rights to be cumulative with and not exclusive of any other remedy.

11. Force Majeure. Neither party shall have any liability for any failure to perform this Agreement if such failure arises out of unforeseeable causes beyond such party's control. Such unforeseeable causes may include acts of civil or military authority, war, terrorism, accidents, explosions, sabotage, riots, strikes, lockouts or other labor disturbances, or acts of God, including fires, floods, storms, earthquakes and natural disasters, or national emergency. If a party is unable to perform any provision of this Agreement for any of the reasons described in this Section 11, such provision shall be suspended for the duration, and to the extent of, such force majeure event. The party experiencing the force majeure event agrees to give the other party notice promptly following the occurrence of a force majeure event, and to use diligent efforts to re-commence performance as promptly as commercially practicable

12. Notice. Any notice or other communication given or made pursuant to this Agreement must be in writing and shall be delivered to the party to whom intended by personal delivery, by email, by nationally recognized courier (Federal Express, UPS, Express Mail, etc.) or by certified or registered mail, postage prepaid, and shall be deemed given when personally delivered or sent by email or two (2) business days after deposit with a courier or five (5) business days after mailing. The addresses to which any such

notice shall be sent shall be as follows (or at such other address as such party may designate by proper notice):

To ACI:

c/o Peter James Johnson
Leahey & Johnson, P.C.
120 Wall Street
New York, New York 10005

Email:
Pjohnsonjr@leaheyandjohnson.com

with a copy to:

Schwartz Sladkus Reich Greenberg
Atlas LLP
270 Madison Avenue, 9th Floor
New York, New York 10016
Attn: Eli D. Greenberg

Email:
egreenberg@ssrga.com

To Recipient:

MaryEllen Odell
Putnam County Executive
40 Gleneida Avenue
Carmel, New York 10512

Email:
MaryEllen.ODell@putnamcountyny.gov

with a copy to:

Jennifer S. Bumgarner
County Attorney
Putnam County Department of Law
48 Gleneida Avenue
Carmel, New York 10512

Email:

jennifer.bumgarner@putnamcountyny.gov

13. Miscellaneous.

13.1. Entire Agreement. This Agreement (including the exhibits hereto) represents the entire agreement between the parties regarding the subject matter hereof and supersedes in all respects any and all prior oral or written agreements or understandings between them pertaining to the subject matter of this Agreement. This Agreement cannot be modified or terminated, nor may any of its provisions be waived, except by a written instrument signed by the party against which enforcement is sought.

13.2. Governing Law. This Agreement has been made and entered into in the State of New York and shall be governed by and construed and enforced in accordance with the internal substantive laws of the State of New York. Any and all disputes and/or legal actions or proceedings arising out of this Agreement shall be venued in Putnam County, New York.

13.3. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective parties, their successors, assigns, heirs, legatees, executors, administrators and legal representatives, but neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any party without the prior written consent of the other party.

13.4. Interpretation. Headings contained in this Agreement have been inserted for reference purposes only and shall not be considered part of this Agreement in construing this Agreement. This Agreement shall not be construed more strictly against one party than another merely by virtue of the fact that this Agreement, or any part of it, may have been prepared by counsel for one of the parties, it being recognized that this Agreement is the result of arm's-length negotiations between the parties and all parties have contributed substantially and materially to the preparation of this Agreement

13.5. Counterparts. This Agreement may be executed and delivered (including by facsimile transmission or by electronic mail with a .pdf scanned attachment) in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

13.6. No Third-Party Beneficiaries. This Agreement is not intended to, and does not, create any rights or benefits of any party other than the parties.

13.7. Relationship of the Parties. This Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between parties hereto. Neither party will have the power to bind the other party or to incur any obligations on its behalf, without the other party's prior written consent.

13.8. Terminology. Unless the context clearly indicates otherwise, as used in this Agreement (1) terms used in the masculine, feminine or the neuter include the others, (2) terms used in the singular or the plural include the other, (3) the terms "include," "includes" and "including" (or similar terms) are intended to convey non-exclusivity, and are to be deemed followed by "without limitation," "but not limited to" or words of similar import, and (4) the term "person" is intended to be interpreted broadly to include any natural person (an individual), any entity, including any corporation, partnership, limited liability company, investment company, business trust, cooperative, joint venture, estate, trust, association or organization, or any governmental or administrative body.

IN WITNESS WHEREOF, the parties have signed and thereby caused this Agreement to be duly executed effective as of the date written above.

ACI Senior Development Corp.

By: _____
Roger Ailes, President

County of Putnam

By: _____
MaryEllen Odell,
Putnam County Executive

802772

EXHIBIT A

LEASE

EXHIBIT B

LANDLORD RENOVATION OBLIGATIONS

The Landlord shall be obligated to renovate the Premises at Landlord's expense as summarized below and in accordance with the terms and conditions of the Lease Agreement attached as Exhibit "A":

1. Asbestos Assessment.
2. Front Entrance.
3. Renovation of demising wall and door.
4. Construction of outdoor patio.
5. Supply and install emergency doors as may be required by applicable codes.
6. Install 200 amp dedicated underground feeder line to 200 amp meter on the Premises.
7 Evaluate heating and air conditioning zones and how to efficiently service each zone.

EXHIBIT C

ACI RENOVATIONS

1. Install 16 new windows. (Windows to be supplied by others.)
2. Plumbing rough in PVC Drains and Pex water.
3. Install up to 20 plumbing fixtures (i.e., toilets, sinks, urinals). (Fixtures to be supplied by others.)
4. New flooring, tile, hardwood, linoleum, carpet.
5. Demo concrete for new plumbing and electric.
6. Demo old walls, bathrooms, ceiling, dumpsters.
7. Demonstration Kitchen.
8. Commercial kitchen. (Appliances, cabinets, fixtures and demonstration kitchen to be supplied by others).
9. Five new bathrooms.
10. New dropped ceiling and soffits.
11. Electrical rough-in and finish.
12. $7,000 fixture allowance.
13. Paint and stain.
14. New front entrance awning.
15. HVAC.
16. Soundproofing, insulation.
17. Install 15 interior doors and hardware. (Doors and hardware to be supplied by others.)
18. Carpentry, woodwork.
19. Sheetrock and taping, 5/8" firecode.
20. Framing new walls.