

GROUND LEASE

BY AND BETWEEN

TOWN OF WESTPORT
(LANDLORD)

AND

DC KEMPER-GUNN, LLC
(TENANT)

ELM STREET, WESTPORT, CONNECTICUT

This Ground Lease (the “Lease”) is dated as of August ____, 2014 by and between TOWN OF WESTPORT, a municipal corporation (the “Landlord”) and DC KEMPER-GUNN, LLC, a Connecticut limited liability company (the “Tenant”).

In consideration of the mutual benefits and obligations set forth in this Lease, Landlord and Tenant agree as follows.

ARTICLE I DEFINITIONS

1.01. CAPITALIZED WORDS AND PHRASES.

This Lease contains many words and phrases with initial, capitalized letters. These words and phrases are used as specially defined terms in an effort to make the Lease easier to read. An effort has been made to set forth some of the more common defined terms in this Article, but other Articles may also contain defined terms. Whenever a capitalized word or phrase is used in this Lease, it shall have the definition specifically ascribed to it, unless the context of the usage implies otherwise. Some of the definitions listed below may not be used in the main body of the Lease.

1.02. "ADDITIONAL RENT" means any charge, other than the Base Rent, payable by Tenant to Landlord under any provision of this Lease.

1.03. "AFFILIATE" means, with reference to any Person, any director, officer or employee of such Person, any corporation, association, firm or other entity in which such Person has a direct or indirect Controlling Interest or by which such Person is directly or indirectly Controlled or is under direct or indirect common Control with such Person.

1.04. "AFFILIATED BUSINESS LOCATIONS" means all locations at which a Person or any Affiliate or Affiliates conducts a retail trade, business or profession under a common business name, trade name or logo.

1.05. "ANNIVERSARY DATE" is the first day of the Calendar Quarter on or next following the Effective Date. *By way of example, if the Effective Date is August 9, 2014, then the Anniversary Date will be October 1, 2014. Following that example, for purposes of this Lease, the first Anniversary Date would be October 1, 2015, the second Anniversary Date would be October 1, 2016, the third Anniversary Date would be October 1, 2017, etc.*

1.06. "ANNUALIZED BASE RENT" means the sum of the four quarterly payments of Base Rent due during a Lease Year.

1.07. "APPRAISER" means an individual licensed by the State of Connecticut to perform real estate

appraisal services who: (a) has at least five (5) years' commercial appraisal experience in Fairfield County; (b) holds an MAI designation or an equivalent designation if the MAI designation no longer exists; and (iii) holds a General Real Estate Appraiser certification from the Connecticut Real Estate Appraisal Commission or an equivalent certification if the General Real Estate Appraiser certification no longer exists.

1.08. "APPROVAL / APPROVED" means the written consent or approval of the Landlord's First Selectman or, in the absence or unavailability of the First Selectman, the other Selectmen, in the order in which such Selectmen were elected.

1.09. "APPROVED PLANS" means, with respect to Post-Occupancy Work, plans Approved by the Landlord.

1.10. "ARCHITECTURAL PLANS" means those certain Architectural Plans dated ___/___/2014 prepared by William Frederick Hoag, 21 Jesup Road, Westport, Connecticut (Kemper-Gunn House, Westport, Connecticut) depicting the exterior features and appearance of the House and including a detailed description of the exterior materials to be incorporated in the course of performing the Renovation Work.

1.11. "ASSESSOR" means the individual serving as the Assessor of the Town.

1.12. "BASE RENT" means the amount due from the Tenant under Section 3.01 calculated on either an annual or a quarterly basis as the context requires.

1.13. "BLS" means U. S. Department of Labor's Bureau of Labor Statistics.

1.14. "CALENDAR QUARTER" means and includes the following periods: January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31.

1.15. "CERTIFICATE OF OCCUPANCY" means an unconditional certificate of occupancy issued by the Building Official of the Town.

1.16. "CERTIFIED PUBLIC ACCOUNTANT" means a certified public accountant licensed to

practice in Connecticut provided that he or she is compensated for his or her services with respect to this Lease on an hourly fee basis and not on a commission basis.

1.17. “CHANGE OF CONTROL” means a transfer, whether in one transaction or a series of transactions, of more than fifty percent (50%) of the capital account, profits interest, stock, membership or partnership units or management rights of a business entity and includes, by way of example and without limitation, a sale to a third party, but excludes a gift, assignment or other transfer to a family member or members or to a trust or trusts for the benefit of a family member or members.

1.18. “CHURCH LANE FOUNDATION” means the House’s foundation on the Church Lane Property.

1.19. “CHURCH LANE PROPERTY” means 35 Church Lane, Westport, Connecticut.

1.20. “CODE COMPLIANCE WORK” means all work that is required to be completed on the House in order for the House to be compliant with the State Building Code and to obtain a Certificate of Occupancy, except for the Renovation Work.

1.21. “COMMISSION” means the Westport Historic District Commission or, if there is no Historic District Commission, then the organization established under Connecticut law with the most nearly equivalent purview and authority.

1.22. “COMPREHENSIVE BUILDING PLANS” means the building plans prepared by Tenant’s architect, including a floor plan and depicting the Renovation Work, the Code Compliance Work and all work to be performed prior to the Occupancy Date with respect to the House’s structural and mechanical systems. *See Explanatory Note at Section 2.06.*

1.23. “CONSENT” of Landlord means the written consent or approval of the Landlord’s First Selectman or, in the absence or unavailability of the First Selectman, the other Selectmen, in the order in which such Selectmen were elected.

1.24. “CONTROL” means legal voting control.

1.25. “CONTROLLING INTEREST” means ownership or the right to direct the disposition of greater than fifty percent (50%) of a business entity’s capital account, profits interest, stock, membership or partnership units or management rights.

1.26. “CPI” means the Consumer Price Index for All Urban Consumers, Area = New York – Northern New Jersey – Long Island, NY-NJ-CT-PA, Item = All Items, Base Period = 1982-84=100, as published by the U. S. Department of Labor’s Bureau of Labor Statistics. If the Bureau of Labor Statistics no longer publishes the CPI, then the CPI shall be measured by reference to a substitute published reference source designated by the Town’s Finance Director intended to most closely approximate the CPI.

1.27. “CPI CEILING” means three percent (3%).

1.28. “CPI CHANGE” means the positive percentage change in the CPI measured over the Escalation Measuring Period, but in no event to exceed the CPI Ceiling. For the avoidance of doubt, the CPI Change may not be negative, even if the BLS reports that consumer prices declined over the Escalation Measuring Period.

1.29. “CPI ESCALATION” means: (i) the Annualized Base Rent for the prior Lease Year; plus (ii) the product of the CPI Change and the Annualized Base Rent for the prior Lease Year.

1.30. “DEFAULT RATE” is the rate of interest equal to the lesser of: (a) 4% over the Wall Street Prime in effect at the time the Default Rate begins to accrue; or (b) the maximum rate of interest permitted to be charged under law.

1.31. “EFFECTIVE DATE” means the date of this Lease indicated on Page 1.

1.32. “ELM STREET FOUNDATION” means the new foundation to be constructed by Tenant on the Leased Premises.

1.33. “ESCALATION MEASURING PERIOD” means, with respect to any Lease Year, the twelve (12) month period ending two (2) months prior to the last day of the prior Lease Year. *Example No. 1:*

If the sixth Lease Year ends on September 30, 2020, then the Escalation Measuring Period for the seventh Lease Year will commence on August 1, 2019 and end on July 31, 2020. Following that example, in calculating the CPI Escalation for the seventh Lease Year, reference will be made to the BLS's CPI report for July, 2020. As of the Effective Date, the BLS customarily releases CPI data two to three weeks after the last day of the applicable month. Accordingly, the anticipated release date of the BLS's CPI report for July, 2020 is between August 14 and August 21, 2020. Example No. 2: Landlord's Share for the seventh Lease Year will be calculated by reference to the Escalation Measuring Period commencing on August 1, 2019 and ending on July 31, 2020.

1.34. "GENERAL OFFICE USE" means business, professional, insurance, real estate and other offices.

1.35. "HAZARDOUS OR SPECIAL SUBSTANCE" means any substance that may not be dumped in a land fill as general trash, any substance listed under the laws of the State of Connecticut or the United States as a hazardous waste, or any other substance whose use, presence or storage at the Leased Premises requires any person to comply with any environmental reporting, remediation or registration requirement under any law.

1.36. "HOUSE" means the Kemper-Gunn House, a Queen Anne style structure, constructed circa 1885 and located, as of the Effective Date, on the Church Lane Property.

1.37. "INDEPENDENT SMALL BUSINESS" means a business that has no more than five (5) Affiliated Business Locations in the United States as of the date of its lease at the Leased Premises.

1.38. "INITIAL SITE IMPROVEMENTS" means the Site Improvements indicated on the Site Plan.

1.39. "INITIAL TERM" is the period of time beginning with the Effective Date and ending on the last day of the last Calendar Quarter ending before the fiftieth (50th) Anniversary Date. *By way of example, if the Effective Date is August 9, 2014 and the first Anniversary Date is October 1, 2015, then the Initial Term will end on September 30, 2064.*

1.40. "LANDLORD'S SHARE" means ten percent (10%) of the Net Profit realized by Tenant during the applicable Escalation Measuring Period.

1.41. "LAND RECORDS" means the land records on file in the office of the Town Clerk of the Town.

1.42. "LEASED PREMISES" means that portion of the Real Estate containing approximately 0.13 acres, as indicated on the Site Plan and more particularly described in Exhibit A.

1.43. "LEASED PREMISES USE" is: (a) on the first floor, Retail Use; and (b) on the second floor, Retail Use and General Office Use, and (c) on the third floor, any use permitted under the Town's Zoning Regulations, except residential, provided that nothing in this Lease shall be interpreted or construed as granting to Tenant the right to use the Leased Premises in any manner that is not permitted under the Town's Zoning Regulations.

1.44. "LEASE YEAR" means the twelve (12) month period commencing on the Anniversary Date.

1.45. "LOCALLY CONNECTED BUSINESS" means a business that has a principal office in Fairfield County, Connecticut or a Controlling Interest of which is held by residents of Fairfield County, Connecticut.

1.46. "LOWERING DATE" means the date on which the Structural Mover completes the lowering of the House onto the Elm Street Foundation.

1.47. "MAJOR DAMAGE" means, with respect to the Relocation Process, damage to the structural supports, load bearing beams, load bearing walls or columns, roof, exterior facade or exterior siding, the cost of repair or correction of which exceeds fifty thousand dollars (\$50,000).

1.48. "MARKET RENT" means the fair market rental value, expressed in dollars per square foot, of retail or office space in the House, as the case may be. The Market Rent for the retail or office space shall be determined from time to time by written agreement of the Landlord and the Tenant. The process for determining Market Rent shall be initiated by the Tenant delivering a written proposal

indicating Tenant's estimate of the current Market Rent. If the Landlord and the Tenant are unable to reach agreement on the Market Rent within three (3) weeks after the delivery of the Tenant's estimate (the "Discussion Period"), then Market Rent shall be determined pursuant to the Market Rent Resolution Procedure.

1.49. "MARKET RENT RESOLUTION PROCEDURE" means the procedure described in this Section. Within two (2) weeks after the end of the Discussion Period (defined in Section 1.48), Tenant shall retain the services of an Appraiser and Landlord shall direct the Assessor to issue a written opinion as to the Market Rent. Tenant shall give Notice to the Landlord of the Appraiser's name and address. Within six (6) weeks following the end of the Discussion Period (the "Appraisal Period"), a report indicating the proposed Market Rent (an "Appraisal Report") shall be delivered by each of the Assessor (to the Town's First Selectman) and the Appraiser (to the Tenant). The Appraisal Reports shall indicate the proposed Market Rent by reference to specific number of dollars, not a range. Landlord and Tenant shall then arrange for the simultaneous exchange of their respective Appraisal Reports. If the two Appraisal Reports are within ten percent (10%) of each other, then the Market Rent will be the average of the amounts indicated in the two Appraisal Reports. If the two Appraisal Reports are not within ten percent (10%) of each other, then the Appraiser and the Assessor shall select a disinterested Appraiser and the disinterested Appraiser shall evaluate the aforesaid determinations made by the Assessor and Tenant's Appraiser and select which of the two Appraisal Reports is more accurate. The Appraisal Report so selected by the disinterested Appraiser shall be determinative of the Market Rent, binding on both Landlord and Tenant. Tenant shall pay the cost of the Appraiser retained by Tenant. If a disinterested Appraiser is required, then the cost of the disinterested Appraiser shall be divided equally between the Landlord and the Tenant.

1.50. "MUNICIPAL TAXES" means the regularly assessed real estate tax, personal property tax and sewer use charges of the Town imposed upon the House, the Site Improvements and the personal property of the Tenant located on the Leased Premises. Municipal Taxes does not include personal

property tax imposed upon the personal property of any Qualified Subtenant or any other Person occupying the Leased Premises, other than the Tenant.

1.51. "NET PROFIT" means the excess of the rents, fees and other payments collected by the Tenant from Qualified Subtenants and all other Persons occupying the Leased Premises during a Lease Year; over the sum of: (a) the Base Rent, and Additional Rent paid by Tenant to Landlord under this Lease during that Lease Year; (b) the Municipal Taxes and Operating Expenses incurred by Tenant during that Lease Year; (c) Qualified Subtenant Improvement Costs; and (d) interest expenses incurred by Tenant with respect to debt incurred after the Occupancy Date. In no event shall Net Profit include the proceeds of any assignment of this Lease and sale of the House or refinancing of the Leased Premises by Tenant.

1.52. "NET PROFITS STATEMENT" means an unqualified statement by a Certified Public Accountant of the Net Profit.

1.53. "NOTICE" means only written notification given by one party to the other. Notice may only be given by: a form of US Mail in which the recipient is required to sign a receipt (such as certified, return receipt) or a nationally recognized courier service which requires the recipient to sign a receipt (such as Federal Express or UPS Next Day). All Notices will be effective on receipt. Notice must be given to the other party at the party's Notice Address. The Notice Address for each party is the address listed in Section 1.54, or to such other address designated by a party by Notice to the other party, provided, that Landlord shall not be required to give Notice to more than one address, and if more than one address is specified, Landlord may choose any one address of those designated by Tenant.

1.54. "NOTICE ADDRESS" means: (a) with respect to the Landlord, Town of Westport, Attention First Selectman, 110 Myrtle Avenue, Westport, CT 06880; and (b) with respect to the Tenant, DC Kemper-Gunn, LLC, Attention David A. Waldman, 28 Church Lane, Second Floor, Westport, CT 06880.

1.55. “OCCUPANCY DATE” means the date of issuance of a Certificate of Occupancy for the House on the Elm Street Foundation.

1.56. “OCCUPANCY PERIOD” means the period commencing on the Occupancy Date.

1.57. “OPERATING EXPENSES” means and includes all costs, fees and expenses incurred by Tenant with respect to the operation, management, maintenance, repair and replacement of the Leased Premises, including, but not limited to, the following: Utilities; Tenant’s Insurance; customary wages of management employees and management fees for third party managers not exceeding five percent of gross receipts; building maintenance and cleaning; building repairs and replacements; maintenance, repair and replacement of sidewalks, parking spaces and paved areas; lighting; trash removal; expenditures for capital improvements; advertising expenses; real estate broker commissions; landscaping; grounds maintenance; removal of leaves, snow and ice; permitting costs; and capital reserves. For the avoidance of doubt, “Operating Expenses” does not include the following items: fees paid to Affiliates of Tenant and Tenant’s members that exceed market fees that would be paid to an unrelated third party for the same services; depreciation and principal amortization; income taxes; accountants’ fees; attorneys’ fees not incurred in connection with the leasing of space in or the refinancing of the Leased Premises, costs of litigation, including, court costs and witness fees; and costs associated with any application to, or dispute with, the Town, including, by way of example and not of limitation, tax appeals, zoning applications and zoning appeals.

1.58. “PERSON” means a corporation, an association, a partnership, an organization, a limited liability company, a business, an individual or a government or political subdivision thereof or any governmental agency.

1.59. “PRE-OCCUPANCY PERIOD” means the period between the Effective Date and the Occupancy Date.

1.60. “PRE-OCCUPANCY WORK” means and includes the Initial Site Improvements, the Renovation Work indicated in the Architectural

Plans, the Code Compliance Work, the work indicated in the Comprehensive Building Plans and all construction staging, site preparation, excavation and grading incident to any of those elements.

1.61. “POST-OCCUPANCY WORK” means Site Improvements, Renovation Work and Repair and Maintenance Work commenced during the Occupancy Period.

1.62. “PREFERENCE TEST” means the following test applicable to the procurement of subtenants. Tenant acknowledges Landlord’s preference for the House to be occupied by Locally Connected Businesses. Accordingly, throughout the Term, both before and after the Occupancy Date, whenever a vacancy in the House occurs, Tenant shall list the vacant space with a local real estate broker and advertise the availability of the vacant space on a website or other medium dedicated primarily to providing local news content to residents of Fairfield County (“Listing and Advertisement”). Prior to entering into a sublease with any Person for occupancy of vacant space in the House, Tenant shall deliver to Landlord a list of the names and addresses of all Persons that have expressed interest in the vacant space by submitting a Written Offer (“Interested Parties”). For each Interested Party, Tenant shall indicate whether or not, to the best of Tenant’s knowledge, after due inquiry, the Interested Party qualifies as a Locally Connected Business and describe the material terms of the Written Offer. If the material terms of a Written Offer made by two Interested Parties are substantially equivalent and one of the Interested Parties is a Locally Connected Business, then Tenant, if it decides to accept one of the Written Offers, shall accept the Written Offer of the Locally Connected Business. If, within one (1) month of the date of Listing and Advertisement, no Locally Connected Business has submitted a Written Offer that is substantially equivalent to a Written Offer submitted by an Interested Party that does not qualify as a Locally Connected Business (a “Non-Locally Connected Business”), then the Non-Locally Connected Business will be deemed to be qualified under this Preference Test and Tenant may accept the Written Offer of the Non-Locally Connected Business. Landlord acknowledges that, with respect to the initial lease-up of the House, Tenant satisfied the Listing and Advertisement requirement prior to

the Effective Date. Notwithstanding anything in this Lease to the contrary, this Preference Test shall not apply to so-called *leasehold expansions*, that is, under circumstances where Tenant offers a vacant space to a Qualified Subtenant that is occupying space in the House as of the date of the vacancy.

1.63. “QUALIFIED SUBLEASE” means a written sublease with a Qualified Subtenant that: (a) is in a commercially reasonable form; (b) includes provisions referencing this Lease and requiring the Qualified Subtenant to abide by all provisions of this Lease that would customarily apply to subtenants in the context of a sublease of a commercial building; (c) does not purport to grant rights to occupy the Leased Premises for a period extending beyond the Initial Term or the then current Extension Period; (d) provides for payments of base rent (exclusive of additional rent for operating expenses, taxes or insurance) during the first year of the term of the sublease that do not exceed eighty five percent (85%) of the Market Rent; and (e) provides for increases in base rent that do not exceed the CPI Ceiling.

1.64. “QUALIFIED SUBTENANT” means a Person whose business, as of the date the Person enters into a sublease with the Tenant, qualifies as an Independent Small Business that is: (a) a Locally Connected Business; or (b) a Non-Locally Connected Business that is deemed to be qualified under the Preference Test. A Person who meets the requirements of this Section will be deemed a Qualified Subtenant for the duration of his/her occupancy of the Leased Premises.

1.65. “QUALIFIED SUBTENANT IMPROVEMENT COSTS” means costs of improvements and allowances for leasing space in the House to a Subsequent Qualified Subtenant.

1.66. “QUALIFIED WORK” means, with respect to the Occupancy Period, Repair and Maintenance Work that is non-structural in nature, does not materially change the exterior appearance of the House and is not part of a project costing more than \$100,000.00, which amount shall increase by ten percent (10%) every five (5) years following the Effective Date.

1.67. “RAISING DATE” means the date on which the Structural Mover begins raising the House from the Church Lane Foundation.

1.68. “REAL ESTATE” means that certain parcel of land described as Assessor’s Map C-10, Lot 143, containing approximately 2.29884 acres and more particularly described in Exhibit B.

1.69. “RECAPTURE EVENT” means an event described in Section 6.01.

1.70. “RELOCATION PROCESS” means the process of relocating the House from the Church Lane Property to the Leased Premises, commencing on the Raising Date and ending on the Lowering Date.

1.71. “RENOVATION WORK” means work designed to restore the exterior appearance of the House, as presented by Tenant to the Commission.

1.72. “RENT” means all sums payable by Tenant to Landlord under the provisions of this Lease, including all Base Rent and Additional Rent.

1.73. “RENT COMMENCEMENT DATE” means the first anniversary of the Lowering Date.

1.74. “REPAIR AND MAINTENANCE WORK” means, with respect to the Occupancy Period, any and all work intended to repair and maintain physical condition of the House and the Site Improvements.

1.75. “RESTRICTIVE COVENANT” means a covenant recorded by the Town on the Land Records which describes the conditions applicable to Qualified Subtenants.

1.76. “RETAIL USE” means retail stores and shops where goods are sold and/or services are rendered, including, without limitation, Retail Food Establishments and Restaurants, as those terms are defined in the Town Zoning Regulations in effect on the Effective Date.

1.77. “SITE IMPROVEMENTS” means any and all of the following constructed on the Leased Premises: the Elm Street Foundation, exterior

stairs; lawn areas; ramps; light poles; parking areas; bollards; concrete pads; enclosures; sidewalks; and paved areas.

1.78. "SITE PLAN" means that certain Site Plan dated ____/____/2014 prepared by Langan, 555 Long Wharf Drive, New Haven, CT 06511, Project No. 140016515 (Kemper-Gunn House, Westport, Connecticut), Drawing No. CS101.

1.79. "STRUCTURAL MOVER" means the contractor retained by Tenant to raise the House from the Church Lane Foundation, transport the House to the Leased Premises and lower the House onto the Elm Street Foundation.

1.80. "SUBSEQUENT QUALIFIED SUBTENANT" means a Qualified Subtenant that enters into a Qualified Sublease after the date that the House is fully occupied.

1.81. "TENANT'S INSURANCE" means and includes, all insurance policies purchased by the Tenant with respect to the House and the Leased Premises, including, without limitation, the policies described in Section 9.01.

1.82. "TERM" means the period of time during which Tenant is entitled to possession of the Leased Premises in accordance with the provisions of this Lease, but does not include any hold over period.

1.83. "TIME EXTENSION REQUEST" means, with respect to Section 6.01, a Notice prepared by Tenant and delivered to the Town's First Selectman prior to the expiration of the applicable deadline, specifying circumstances beyond Tenant's reasonable control, including, without limitation, instances of Force Majeure, and requesting an extension of the applicable deadline to a specific date, which extended date must be reasonable in light of the circumstances specified in the Notice.

1.84. "TOWN" means the Town of Westport.

1.85. "UTILITIES" means the following utilities or services with respect to the Leased Premises: electricity; water; heating oil; natural gas; propane; telephone; internet; disposal of trash and recyclables; fire suppression; security/alarm; and such new or substitute services, not known or

available as of the Effective Date, as may become available during the Term.

1.86. "WALL STREET PRIME" means the interest rate published by the *Wall Street Journal* as the base rate on corporate loans posted by at least 75% of the nation's 30 largest banks, or a similar substitute rate selected by Landlord if the foregoing rate is no longer published.

1.87. "WRITTEN OFFER" means, with respect to the Preference Test, an offer in writing, delivered by hand, courier, USPS mail, overnight delivery service, facsimile transmission, e-mail or any other means of communication that may, after the Effective Date, be customary for the delivery of like communications by parties to a commercial lease, to an agent, broker, officer, manager, member or owner of Tenant, to sublease vacant space in the House, describing the material terms upon which the Person proposes to take occupancy.

ARTICLE II LEASING OF LEASED PREMISES AND TERM OF LEASE

2.01. LEASING OF LEASED PREMISES. Landlord hereby leases the Leased Premises to Tenant for the Initial Term, subject to the other provisions of this Lease.

2.02. QUIET ENJOYMENT. Upon payment by Tenant of the Rents herein provided, and upon the observance and performance of all the covenants, provisions and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the Leased Premises for the Term without hindrance or interruption by Landlord or any person claiming by or through Landlord, except as expressly provided in this Lease.

2.03. COMMENCEMENT OF TERM. The Term will begin on the Effective Date.

2.04. LEASE COMMENCEMENT MEMORANDUM. Within two (2) weeks after receipt of a written request from the Landlord, the Tenant shall sign a lease commencement memorandum, in the form of Exhibit C, acknowledging and confirming various dates, periods and deadlines relevant to this Lease.

2.05. CONDITION OF LEASED PREMISES UPON DELIVERY TO TENANT. The Leased Premises shall be delivered to Tenant on the Effective Date in as-is condition. As of the Effective Date, the Leased Premises is a paved parking lot.

2.06. DELIVERY OF COMPREHENSIVE BUILDING PLANS. *Explanatory Note: In the course of negotiating the terms of this Lease, and in order to spare Tenant architectural fees in the event of a failure of the negotiations, the Town agreed to allow for delivery of the Comprehensive Building Plans after the Effective Date.* Tenant shall deliver to Landlord a current working version of the Comprehensive Building Plans on or before the Lowering Date and a final, revised version of the Comprehensive Building Plans within two (2) weeks after the Occupancy Date.

ARTICLE III PAYMENT OF RENT

3.01. PAYMENT OF BASE RENT. Throughout the Term, Base Rent shall be payable in four (4) equal quarterly installments on the first day of each Calendar Quarter in advance. The Base Rent for each of the second through sixth Lease Years of the Initial Term shall be Fifteen Thousand and 00/100 Dollars (\$15,000.00) payable in four (4) equal quarterly installments of Three Thousand Seven Hundred Fifty and (00/100) Dollars (\$3,750.00). The first payment of Base Rent shall be due on the Rent Commencement Date. If the Rent Commencement Date is not the first day of the Calendar Quarter, then, on the Rent Commencement Date, Tenant shall pay the pro-rata portion of the Base Rent due for the partial Calendar Quarter between the Rent Commencement Date and the Anniversary Date. Any charge other than Base Rent shall be due in accordance with the Lease provision governing the charge.

3.02. CPI ESCALATION. Commencing with the Lease Year that starts on the sixth Anniversary Date (i. e., the seventh Lease Year) and for each Lease Year thereafter, the Annualized Base Rent shall be equal to the CPI Escalation.

3.03. LANDLORD'S SHARE SUPPLEMENT. Commencing with the Lease Year that starts on the sixth Anniversary Date (i. e., the seventh Lease

Year), if the Landlord's Share (measured by reference to the Escalation Measuring Period ending in the immediately preceding Lease Year) is greater than the amount determined pursuant to Section 3.02, then Tenant shall owe to Landlord, the excess (the "Landlord's Share Supplement") as Additional Rent. Tenant shall pay the Landlord's Share Supplement in one lump sum on the Anniversary Date. For the avoidance of doubt, the first Escalation Measuring Period for which calculation of the Landlord's Share is required shall end two (2) months before the end of the sixth Lease Year and the first date on which payment of a Landlord's Share Supplement may be due is the first day of the seventh Lease Year.

3.04. DELIVERY OF ANNUAL RENT STATEMENTS. For the Escalation Measuring Period ending during the sixth Lease Year and for each Lease Year thereafter throughout the Term, Tenant shall deliver to Landlord a Net Profits Statement and a statement showing the CPI Change (an "Annual Rent Statement"). Each Annual Rent Statement shall be delivered by Tenant within one (1) month after the last day of the applicable Escalation Measuring Period. *By way of example, if the fifth Anniversary Date is October 1, 2019, then the due date of the Annual Rent Statement for the sixth Lease Year (October 1, 2019 – September 30, 2020) will be August 31, 2020 and payments with respect to that Annual Rent Statement will commence on October 1, 2020.*

3.05. AUDIT OF NET PROFITS STATEMENTS. Tenant shall retain, for a period of at least three (3) years, the bills, invoices and other documents used in preparation of each Net Profits Statement. Upon two (2) weeks' Notice, Tenant shall make available for audit by the Town's Internal Auditor or a Certified Public Accountant designated by Landlord the supporting records associated with any one or more of the Tenant's last five (5) Net Profits Statements. The Town's Internal Auditor or a Certified Public Accountant designated by Landlord shall have the right to audit the Net Profits Statements and supporting records at Landlord's business office where its records are kept during regular business hours, provided that the records are kept in Connecticut, New York or made available to the Town's Internal Auditor or Certified Public Accountant in digital format.

3.06. PAYMENT OF OTHER ITEMS OF ADDITIONAL RENT. With respect to any other item of Additional Rent, Tenant shall pay the balance shown on any Landlord statement within one (1) month after receipt or, in the case of Municipal Taxes, by the deadline indicated on the tax bill.

3.07. ADDITIONAL PROVISIONS REGARDING PAYMENT OF RENT. All Rent shall be due and payable without any setoff or deduction to Landlord at the times specified in this Article, above. If any installment of Rent is not paid within ten (10) days of its due date, Tenant shall pay a late charge to Landlord equal to the greater of \$100 or 5% of the overdue payment. If the outstanding balance of Rent owed to Landlord contains any amount that has not been paid within ten (10) days of its due date, then beginning on the eleventh (11th) day, the entire outstanding balance of Rent owed by Tenant shall bear interest at the Default Rate, until the outstanding balance no longer includes any amounts not paid within ten (10) days of their due date. Any liability for unpaid Rent shall survive the termination of the Lease.

**ARTICLE IV
OWNERSHIP, ACCESS, UTILITIES AND
TAXES**

4.01. OWNERSHIP OF THE HOUSE AND THE SITE IMPROVEMENTS. During the Term, Tenant shall enjoy full ownership of the House and the Site Improvements.

4.02. REVERSION OF HOUSE AND SITE IMPROVEMENTS. Notwithstanding any other provisions set forth in this Lease, upon the expiration or earlier termination of this Lease, ownership of the House and the Site Improvements shall revert to Landlord and Tenant shall have no further rights or interest thereto. Unless otherwise specifically provided, a reversion to the Landlord under this Lease shall be without consideration.

4.03. RECORDING OF EASEMENT. On or before the Lowering Date, Landlord shall record on the Land Records an easement providing for Tenant's rights to construct the Site Improvements (with appropriate staging areas for construction purposes), place the House on the Elm Street

Foundation, pass over the Real Estate for pedestrian and vehicular access to the House and connect electricity, natural gas, water and waste lines and cable, telephone and data lines to the House. The location of the staging areas and utility lines shall be indicated on a survey prepared and submitted to the Landlord by the Tenant and subject to the Landlord's Approval, which shall not be unreasonably withheld, conditioned or delayed.

4.04. CONNECTION AND PAYMENT FOR UTILITIES. Tenant shall be responsible, at Tenant's expense, for all costs related to connection of Utilities to the Leased Premises and for all Utilities consumed in the operation of the Leased Premises. The electrical connection from the House to the nearest utility pole shall be buried under ground. Payment for the Utilities is the obligation and responsibility of the Tenant. Accounts for the Utilities will be in the Tenant's name and the Tenant will pay the bills rendered by the utility/service providers by the due dates specified in the respective bills or invoices.

4.05. PAYMENT OF MUNICIPAL TAXES. Tenant shall pay all Municipal Taxes.

**ARTICLE V
RELOCATION OF THE HOUSE AND
CONSTRUCTION MATTERS**

5.01. DEADLINE FOR COMPLETION OF RELOCATION PROCESS AND INITIAL SITE IMPROVEMENTS. Tenant shall complete the Relocation Process and the Initial Site Improvements within six (6) months of the Effective Date, provided, however, that the duration of the Relocation Process and construction of the Initial Site Improvements shall not exceed six (6) consecutive weeks and shall not occur between Thanksgiving Day and December 25.

5.02. DEADLINE FOR COMPLETION OF RENOVATION WORK, CODE COMPLIANCE WORK AND OBTAINING A CERTIFICATE OF OCCUPANCY. Tenant shall use all commercially reasonable efforts to complete all Renovation Work indicated in the Architectural Plans, Code Compliance Work and obtain a Certificate of Occupancy for the House within eighteen (18) months of the Effective Date.

5.03. CONDITIONS APPLICABLE TO THE RELOCATION PROCESS. Tenant shall complete the Relocation Process at Tenant's sole cost and expense using only licensed and insured contractors. Tenant shall ensure that all necessary permits for the Relocation Process are obtained prior to the Raising Date.

5.04. CONDITIONS APPLICABLE SPECIFICALLY TO THE PRE-OCCUPANCY WORK. All Pre-Occupancy Work shall be completed by Tenant at Tenant's sole cost and expense. Tenant shall not commence any Pre-Occupancy Work unless and until: (a) certificates of all insurance coverages required to be carried by Tenant have been delivered to Landlord; and (b) Tenant has delivered to Landlord a contractor's Payment and Performance Bond in favor of Landlord as obligee, on the current AIA forms then in use or other forms reasonably acceptable to Landlord, issued by a surety company licensed as a surety in the State of Connecticut, guaranteeing completion of the Pre-Occupancy Work, free of liens and security agreements. All Pre-Occupancy Work shall be constructed and completed substantially in accordance with the Site Plan and Comprehensive Building Plans. Tenant shall give Notice to the Town of all material changes to the Architectural Plans and acknowledges that all changes to the Architectural Plans that materially affect the historic character of the House will be subject to review by the Commission. Prior to applying for a Certificate of Occupancy, Tenant shall obtain and deliver to Landlord: (i) a certification by Tenant's architect or engineer that the Pre-Occupancy Work has been completed in substantial accordance with the Site Plan and Comprehensive Building Plans, and (ii) Tenant's affidavit that all work, labor and materials have been paid for in connection with the Pre-Occupancy Work.

5.05. CONDITIONS APPLICABLE SPECIFICALLY TO THE POST-OCCUPANCY WORK EXCEPT QUALIFIED WORK. This Section shall apply to all Post-Occupancy Work except for Qualified Work. Tenant shall not commence any Post-Occupancy Work unless and until: (a) Tenant has obtained Landlord's Approval, not to be unreasonably withheld or delayed (with approval deemed granted if Landlord fails to respond to a request for approval within twenty (20) days, provided that the request

includes a statement to that effect); and (b) certificates of all insurance coverages required to be carried by Tenant have been delivered to Landlord. All Post-Occupancy Work shall be constructed in accordance with the Approved Plans. Tenant shall give Notice to the Town of all changes to the Approved Plans that the architect who prepared the Approved Plans deems material. Landlord may withhold its Approval of any plans, changes to Approved Plans or any exterior alteration or improvement to the House that are not approved by the Commission, to the extent such approval is required under applicable laws and regulations. Tenant's architect shall make periodic inspections of the Post-Occupancy Work, and if Tenant's architect determines Tenant's construction is not being done in accordance with the Approved Plans, Tenant shall correct any deficiencies or omissions promptly.

5.06. CONDITIONS APPLICABLE TO ALL PRE-OCCUPANCY WORK AND POST-OCCUPANCY WORK, INCLUSIVE. All Pre-Occupancy Work and Post-Occupancy Work shall be performed only by competent contractors licensed under the laws of the State of Connecticut and shall be performed in accordance with written contracts with those contractors. Each such contract shall require the contractor to indemnify, defend and hold Landlord harmless against all claims, damages, losses and expenses, including attorneys' fees, arising out of the work and shall further require the contractor to name Landlord as an additional insured in all liability insurance policies maintained by the contractor. Prior to the commencement of any Pre-Occupancy or Post-Occupancy Work, Tenant shall deliver or cause to be delivered to Landlord certificates of insurance from each contractor evidencing compliance with the provisions of Section 9.01(c) and a copy of Tenant's contract with each general contractor engaged for the construction of the work, and with each separate contractor engaged by Tenant to perform services in connection therewith for consideration in excess of Fifty Thousand and 00/100 Dollars (\$50,000.00, which amount shall increase by ten percent every five years during the Term). Tenant shall also deliver or cause to be delivered to Landlord copies of Tenant's contracts with any other contractors upon Landlord's written request therefor. Upon completion of construction of any Site Improvements, Tenant shall

furnish Landlord a copy of the as-built plans for such Site Improvements.

ARTICLE VI RECAPTURE EVENTS

6.01. LANDLORD'S RIGHT TO TERMINATE. Landlord shall have the option to terminate this Lease upon the occurrence of any of the following events:

(a) The House suffers Major Damage during the Relocation Process which would preclude Tenant from completing its intended move and renovation of the House; or

(b) Tenant has not completed the Relocation Process and Initial Site Improvements within six (6) months of the Effective Date, provided that Landlord shall not unreasonably withhold or delay its Consent to a Time Extension Request; or

(c) Tenant has not completed the Renovation Work, Code Compliance Work and obtain a Certificate of Occupancy within eighteen (18) months of the Effective Date, provided that Landlord shall not unreasonably withhold or delay its Consent to a Time Extension Request; or

(d) The House is totally destroyed by fire or other casualty or suffers such severe damage by fire or other casualty such that it is condemned as unfit for habitation or occupancy by the official of the Town legally responsible for making that determination.

6.02. NOTIFICATION AND CONSEQUENCES OF TERMINATION. Landlord may exercise the termination right described in Section 6.01 by Notice to Tenant of Landlord's intention to terminate this Lease at any time after the occurrence of a Recapture Event. This Lease will be deemed canceled and of no further force and effect on the date that is two (2) months after the date on which Tenant receives the Notice from Landlord unless Tenant cures the Recapture Event within the two (2) month period. If this Lease is terminated because of the occurrence of a Recapture Event prior to the Occupancy Date, then Landlord may require Tenant to raze, clear and dispose of the House and the Initial Site Improvements and fill in (meaning, restore to

the grade level that existed as of the Effective Date) the Elm Street Foundation at Tenant's cost and expense, which obligation shall survive termination of this Lease.

6.03. EXCEPTIONS. Notwithstanding Section 6.01, a Recapture Event shall not be deemed to have occurred under the following circumstances:

(a) Tenant's cessation of business operations as a result of condemnation, damage to or destruction of the House or Site Improvements during the Occupancy Period, provided that Tenant commences its restoration work within six (6) months after the date that Tenant has received (i) its building permit (which shall be applied for by Tenant within six (6) months after the date the casualty occurs) and (ii) Landlord's Approval of its plans and specifications for the reconstructed House and Site Improvements (which shall be submitted to Landlord within six (6) months after the date the casualty occurs), and reopens the House to the public not later than two (2) years after the work is commenced; or

(b) Tenant's cessation of business operations during the Occupancy Period for a period not to exceed twelve (12) months due to renovations to the House. Tenant shall use good faith reasonable efforts to notify Landlord in advance of any required cessation of business operations due to scheduled renovations to the House.

ARTICLE VII USE OF LEASED PREMISES AND CONDUCT ON THE LEASED PREMISES

7.01. PERMITTED USES OF THE LEASED PREMISES. Tenant and any permitted assignee or Qualified Subtenant shall use the Leased Premises for the Leased Premises Use and for no other purpose. The use of the Leased Premises shall also be in accordance with all of the following affecting the Leased Premises: the Restrictive Covenant, laws, statutes, regulations, codes, municipal ordinances, municipal zoning regulations, special permits (including amendments thereto), court stipulations and court judgments.

7.02. DESIGNATION OF CONTACT PERSON. Tenant shall, at all times during the Term, designate

one individual as a contact person (“Contact Person”) who shall be available to respond to Town officials 24 hours per day, 7 days per week, on issues related to the Leased Premises, including, without limitation, maintenance and repairs, road closures, emergencies and utility work. The Contact Person shall be in possession of (or have immediate access to) at all times, copies of the last three (3) Annual Rent Statements and each Qualified Sublease then in effect. With reasonable frequency during the Pre-Occupancy Period, the Contact Person shall personally observe the Relocation Process and the progress of the Pre-Occupancy Work . At the Landlord’s reasonable request from time to time during the Pre-Occupancy Period, the Contact Person shall make himself or herself available to meet personally with the Town’s First Selectman in Westport to discuss issues related to the Relocation Process and progress of the Pre-Occupancy Work. Tenant shall provide to Landlord the Contact Person’s name, business office mailing address, e-mail address, daytime and evening telephone number(s) and such other means of contact as may be commonly adopted for use following the Effective Date and shall promptly give Landlord Notice of all changes in that information.

7.03. MATTERS RELATED TO THE HISTORIC DESIGNATION OF THE HOUSE. Within three (3) months of the Occupancy Date, Tenant shall apply to the Commission for designation of the House for local historic designation. Nothing herein shall prevent or interfere with Tenant’s ability to install signage on the House that is in compliance with the applicable Town Zoning Regulations. Tenant will refer to the House as *The Kemper-Gunn House* for the duration of the Term.

7.04. TENANT’S GENERAL COMPLIANCE WITH LAWS. Tenant shall, at Tenant’s sole cost and expense, comply with all of the requirements of all statutes, regulations and ordinances now in force or which may hereafter be in force and not being reasonably disputed by Tenant pertaining to Tenant’s use of the Leased Premises and the House and any act therein by Tenant. Specific reference is made to Tenant’s duty to comply with all state, federal and municipal statutes, regulations and ordinances concerning environmental protection and Tenant’s conduct on the Leased Premises. Tenant shall indemnify and hold Landlord harmless from

and against any damage, liability, cost and/or expense which Landlord may suffer by reason of Tenant’s failure to comply with statutes, regulations and ordinances governing Tenant’s conduct on the Leased Premises.

7.05. SIGNAGE. Tenant will not place or maintain, or cause to be placed or maintained, on any portion of the House or any portion of the Real Estate any sign or advertising matter without Landlord’s Consent, not to be unreasonably withheld or delayed. Any failure to respond to a request for consent within twenty (20) days shall be deemed an Approval, provided that the request contains a statement to that effect. The Town shall grant any necessary Approval and/or easement for a free standing monument sign on the Real Estate as reasonably requested by Tenant with respect to the use and occupancy of the House.

7.06. ENVIRONMENTAL COMPLIANCE. With Landlord’s permission, prior to execution of this Lease, Tenant completed such environmental investigations and site assessments (e. g., Phase I and, if recommended, Phase II) as Tenant deemed appropriate to determine the environmental condition of the Leased Premises and establish a baseline for identification of the source of future contamination or pollution. Tenant has delivered to the Landlord a copy of each such site assessment. Following the Effective Date, Tenant will not under any circumstances cause or permit the depositing, spillage or seepage of any Hazardous or Special Substance in any dumpster or in any other area of the House or the Real Estate other than an in an area and in a manner which is in strict compliance with all laws and which is Approved in advance by Landlord. Tenant will not use, store, generate or dispose of any substance in any manner which would cause the Leased Premises to be classified as an Establishment under the laws of the State of Connecticut. Tenant will indemnify Landlord from and against any loss, cost, damage, fines or testing deemed reasonably necessary by Landlord or any other expense incurred by Landlord as a result of any violation of any environmental law or this Section by Tenant or any agent, servant, employee or contractor of Tenant.

7.07. OTHER DUTIES OF TENANT REGARDING MAINTENANCE, REPAIR AND CONDUCT. Tenant

will conform Tenant's conduct to the following standards and will perform the following duties, all in a prompt, diligent and workmanlike manner, at Tenant's sole cost and expense. The Landlord shall have the right, but not the obligation, upon not less than one (1) month's Notice to Tenant to perform any of the duties described in this Section and Tenant shall reimburse Landlord for the cost of performing those duties within one (1) week after receipt of Landlord's invoice.

(a) Tenant will be responsible, at Tenant's sole cost and expense, for all repairs and renovations to the structure and systems of the House, reasonably necessary to maintain the House in good condition.

(b) Tenant will keep the House and Site Improvements in good repair at Tenant's sole cost and expense.

(c) Tenant will be responsible for cleaning and maintaining the House and Leased Premises in a clean and neat condition.

(e) Tenant will remove all trash from the Leased Premises with such frequency as is consistent with the operation of a retail and general office building in a first class manner, which will include placing general trash in the appropriate solid waste handling system and recyclable trash in the appropriate receptacle in order to comply with any environmental laws affecting Tenant's conduct.

(f) Tenant will keep the sidewalks, stairways, walkways and parking spaces located on the Leased Premises free from dirt, rubbish, ice and snow.

(g) Tenant will maintain and keep in good condition and repair all Site Improvements.

(h) Tenant shall cut and maintain the lawn and landscaped areas of the Leased Premises.

(i) Tenant will comply with all laws affecting Tenant's use of the Leased Premises, which laws may include, but are not limited to: the municipal zoning regulations; environmental laws; and any licensing laws regulating the operation of Tenant's business.

7.08. LIMITATIONS ON TENANT'S CONDUCT. Tenant agrees to abide by the following limitations regarding conduct on the Leased Premises.

(a) Tenant will not place any trash anywhere in on the Leased Premises or on the Real Estate except in the designated area for trash storage located outside the House.

(b) Tenant will not cause or permit to emanate from the Leased Premises any objectionable odor, as determined in Landlord's reasonable discretion.

(c) Tenant will not permit the parking of any vehicles in any manner which interferes with the drives, sidewalks and fire lanes and any other areas of the Real Estate desired to be kept clear by Landlord.

(d) Tenant will not use the Leased Premises or permit the Leased Premises to be used for any purpose prohibited by any law, ordinance or regulation.

**ARTICLE VIII
LANDLORD'S RIGHT TO PERFORM WORK**

8.01. LANDLORD'S RIGHT TO PERFORM WORK. Landlord shall have the right to undertake the following activities on the Real Estate: construction of buildings and structures, including, without limitation, parking decks and garages; relocation of buildings and structures; demolition of buildings and structures; changing the grade and/or layout of the Real Estate, other than the Leased Premises; excavation of the Real Estate, other than the Leased Premises; and/or installing or repairing utility lines. Landlord's right to undertake any of the foregoing activities shall be limited such that no such changes to the Real Estate shall interfere with Tenant's use of the Leased Premises or access thereto or visibility of the Leased Premises from Elm Street.

**ARTICLE IX
INSURANCE, INDEMNIFICATION,
WAIVERS, ETC.**

9.01. TENANT'S INSURANCE. During the Term, the Tenant shall procure and maintain, at Tenant's cost, the following insurance coverages on the Leased Premises.

(a) Coverage for all risks of direct physical loss of or damage to the House, and any appurtenances, in an amount not less than one hundred percent (100%) of the full insurable value.

(b) The term "full insurable value" shall mean the actual replacement cost, excluding foundation and excavation costs.

(c) Commercial General liability insurance as follows.

(1) The policy shall contain a cross-liability endorsement stating that, in the event that a claim is brought by one insured against another insured under the policy, or by an employee of one insured against another insured under the policy, each insured shall be considered a separate insured for purposes of the insurance; provided available and at a reasonable cost.

(2) The policy shall be written on the "caused by any occurrence" rather than written on the "caused by accident" basis for bodily injury and property damage liability coverage.

(3) The policy shall be written with a blanket contractual liability endorsement providing automatic coverage for bodily injury or property damage assumed under any type of contract or agreement.

(4) The policy shall be written using a "personal injury" endorsement providing coverage for claims arising out of false arrest, false imprisonment, defamation of character, libel and slander, wrongful eviction and invasion of privacy and such endorsement shall not contain an exclusion of coverage for claims for "personal injury" brought by employees of an insured. The policy shall provide coverage against any claim, direct or indirect, actual or alleged, related to the employment of any person by an insured.

(5) The policy shall be written with combined single limits for bodily injury, personal

property damage and liquor liability (if liquor is being sold) of at least Two Million Dollars (\$2,000,000.00), and a supplemental catastrophic liability policy of Five Million Dollars (\$5,000,000). Landlord shall have the right to increase the insurance coverage requirement under this Section from time to time as may be necessary, in the Landlord's discretion, to maintain adequate insurance coverage measured by reference to policies maintained by similarly situated businesses.

(d) During the course of all Pre-Occupancy Work and Post-Occupancy Work, except for Qualified Work, builder's risk insurance.

(e) Steam boiler insurance on all steam boilers, present boilers, including piping and mechanical and electrical systems, or other such like apparatus as Landlord may deem necessary to be covered by such insurance and in such amount or amounts as Landlord may from time to time reasonably require.

(f) Flood insurance (whenever such insurance shall be obtainable at commercially reasonable standard rates if the Leased Premises is located in a special flood hazard zone) upon all buildings, improvements, fixtures and equipment to their full insurable value.

(g) Such other forms of insurance as from time to time may be reasonably required by Landlord, which at the time are commonly insured against in the case of the premises similarly situated, due regard being, or to be given, to the height and type of building, its construction, use and occupancy.

(h) All insurance required to be maintained under this Lease shall be effected under enforceable policies issued by insurers licensed to do business in Connecticut. Tenant shall give Landlord Notice of any proposed insurer and Landlord shall have the reasonable right of Approval over the insurer selected by Tenant. Each liability insurance policy shall, to the extent possible, name Landlord as an additional insured. Each policy shall be written pursuant to an agreement, to the extent reasonably available, that such policy shall not be cancelled or non-renewed without at least thirty (30) days' notice to the Landlord

(i) Tenant shall give Notice to the Landlord of the payment of premiums for such insurance as Tenant is required to maintain under this Lease and shall provide Landlord with proof of the existence of the required insurance upon request.

9.02. TENANT'S COMPLIANCE. The Tenant shall not carry any stock of goods or do anything in or about the Leased Premises which will in any way impair or invalidate the obligation of any policy of insurance. Tenant shall, at its own cost and expense, comply with all of the rules and regulations of the Fire Insurance Rating Organization having jurisdiction, or any similar body.

9.03. INDEMNIFICATION AND HOLD HARMLESS COVENANTS. Except for acts or omissions of the Landlord or its employees or agents, Tenant shall defend, pay, indemnify and save free and harmless Landlord from and against any and all claims, demands, fines, suits, actions, proceedings, orders, decrees and judgments of any kind or nature by or in favor of anyone whomsoever and from and against any and all costs and expenses, including reasonable attorneys' fees, resulting from or in connection with loss of life, bodily or personal injury or property damage arising, directly or indirectly, out of or from or on account of any occurrence, in, upon, about, at, or from the Leased Premises or occasioned wholly or in part through the use and occupancy of the Leased Premises, the Relocation Process, the Pre-Occupancy Work, the Post-Occupancy Work or by any act or omission of Tenant or any sub-tenant, concessionaire or licensee of Tenant, or their respective employees, agents, contractors or invitees, in, upon, about, at, or from the Leased Premises.

9.04. RISKS TO PERSON AND PROPERTY. Tenant and all those claiming by, through or under Tenant shall store their property in and shall occupy and use the Leased Premises solely at their own risk and Tenant and those claiming by, through or under Tenant release Landlord from any and all claims of every kind, including loss of life, personal or bodily injury, damage to merchandise, equipment, fixtures or other property, or damage to business or for business interruption, arising directly or indirectly, out of or from or on account of such occupancy and use or resulting from any present or future condition

or state of repair, unless arising out of the negligence of Landlord or its agents or employees. Landlord and its agents or employees shall not be responsible or liable at any time to Tenant, or to those claiming by, through or under Tenant, for any loss of life, bodily or personal injury, or damage to property or business, or for business interruption, that may be occasioned by or through the acts, omissions or negligence of any other persons.

9.05. DEFECTS. Landlord and its agents and employees shall not be responsible or liable at any time for any defects in the Leased Premises, the House or the Site Improvements, nor shall Landlord be responsible or liable at any time for loss of life, or injury or damage to any person or to any property or business of Tenant, or those claiming by, through or under Tenant, caused by or resulting from any defects in the Leased Premises, the House or the Site Improvements

ARTICLE X LEASEHOLD FINANCING

10.01. LEASEHOLD MORTGAGES. Tenant shall be responsible for funding the entire cost of, and securing all financing required, in order to complete Relocation Process and the Pre-Occupancy Work in accordance with the Architectural Plans and the Site Plan. Landlord hereby consents to the encumbrance of Tenant's leasehold estate created under this Lease, provided, however, that the fee simple ownership interest of Landlord to the Leased Premises shall be prior, superior and paramount to the lien of any mortgage which may now or hereafter affect the leasehold interest of Tenant in and to the Leased Premises, or any part thereof (a "Leasehold Mortgage"). Tenant acknowledges and understands that, under no circumstances, will any party providing financing for the Pre-Occupancy Work or any Post-Occupancy Work be permitted to encumber in any manner by lien of a mortgage, security agreement or other encumbrance, Landlord's fee simple title to the Leased Premises. All rights acquired under any Leasehold Mortgage shall be subject and subordinate to the terms of this Lease and to all rights and interests of Landlord hereunder, and shall incorporate all relevant terms and requirements contained herein, including, without limitation, a statement that the lender disclaims any interest or lien against Landlord's fee

simple interest in the Leased Premises thereon, a statement that insurance proceeds from casualty or proceeds from condemnation or payments in lieu thereof shall be used for the repair or rebuilding of the House and Site Improvements if so required by this Lease and not to the repayment of Lender (except as expressly set forth in this Lease), and a statement that Landlord shall have no liability whatsoever in connection with the financing under the agreement, notes, and security instruments executed, delivered and/or recorded in connection with such financing. If Tenant, or Tenant's permitted successors or assigns enter into a Leasehold Mortgage, and Tenant provides Landlord with Notice of the Leasehold Mortgage, and the Notice includes a copy of the Leasehold Mortgage or other security instrument recorded on the Land Records and the name and address of the holder of the Leasehold Mortgage, then so long as the Leasehold Mortgage remains unsatisfied of record, the following provisions shall apply, notwithstanding anything to the contrary set forth in this Lease, and any pertinent provisions of this Lease shall be deemed to be amended and modified to the extent necessary so as to provide as follows.

(a) Landlord, upon serving upon Tenant any notice of default pursuant to the provisions of Article XIV, or any other notice under the provisions of or with respect to this Lease, shall also serve a copy of such notice on the holder of the Leasehold Mortgage, at the address provided for Section 10.01(c)(iii), and no notice by Landlord to Tenant hereunder shall be deemed to have been duly given unless and until a copy thereof has been so served; provided, however, that Landlord's obligation to give or provide the holder of any leasehold mortgage with any notice shall be contingent upon such holder providing written notice to Landlord of its existence and setting forth the address to which all such notices are to be delivered.

(b) The holder of a Leasehold Mortgage, upon the occurrence of an Event of Default (defined in Section 14.01), shall have the right, within the period and otherwise as herein provided, to remedy or cause to be remedied the default, and Landlord shall accept such performance by or at the instigation of the Leasehold Mortgage holder as if the same had been performed by Tenant. No Event of Default by Tenant in performing work required to

be performed, acts to be done, or conditions to be remedied, shall be deemed to exist, if steps, in good faith, have been properly commenced by Tenant or by the Leasehold Mortgage holder, or by any other party, person, or entity to rectify the same no more than two (2) months from Landlord's initial notice thereof to the Leasehold Mortgage holder and prosecuted to completion with reasonable diligence and continuity. Tenant constitutes and appoints the Leasehold Mortgage holder as Tenant's agent and attorney-in-fact with full power, and in Tenant's name, place and stead, and at Tenant's cost and expense, to enter upon the Leased Premises and make repairs thereto, maintain the same, remove any violations of law, or of the rules and regulations of governing authorities and to otherwise perform any of Tenant's obligations according to the provisions of this Lease as to the care, maintenance, or preservation of the House and Site Improvements.

(c) In the event of the termination of this Lease prior to the expiration of the Term, whether by summary process, service of notice to terminate, or otherwise, due to an Event of Default by Tenant, or any other default of Tenant, Landlord shall serve upon the holder of the Leasehold Mortgage written notice that the Lease has been terminated together with a statement of any and all sums that would at that time be due under this Lease but for such termination, and of all other defaults, if any, under this Lease then known to Landlord. The Leasehold Mortgage holder shall thereupon have the option to obtain a new or direct lease in accordance with and upon the following terms and conditions.

(i) On the written notice of the holder of the Leasehold Mortgage, within sixty (60) days after service of the aforementioned notice of termination, Landlord shall enter into a new or direct lease of the Leased Premises with the holder of the Leasehold Mortgage, or its designee, as provided in the following clause (ii), provided, however, Tenant shall not be released of any liability arising under this Lease prior to its termination.

(ii) Such new or direct lease shall be entered into at the reasonable cost of the tenant thereunder, shall be effective as of the date of termination of this Lease, and shall be for the remainder of the Term of this Lease (including all extension options, to the extent exercised) and at the

Rent and upon all the agreements, terms, covenants and conditions hereof. Such new lease shall require the tenant to perform any unfulfilled obligation of Tenant under this Lease that is reasonably capable of being performed by such tenant if such tenant has been given notice of such unfulfilled obligation. Upon the execution of such new lease, the tenant named therein shall pay any and all sums that would at the time of the execution thereof be due under this Lease but for such termination, and shall pay all expenses, including reasonable counsel fees, court costs and disbursements incurred by Landlord in connection with such defaults and termination, the recovery of possession of said Leased Premises, and the preparation, execution and delivery of such new lease.

(iii) Any notice or other communication that Landlord shall desire or is required to give to or serve upon the holder of a Leasehold Mortgage shall be in writing and shall be served by certified or overnight mail, addressed to the Leasehold Mortgage holder at its address as set forth in the Leasehold Mortgage, or in the last assignment thereof delivered to Landlord, or at such other address as shall be designated by the Leasehold Mortgage holder by notice in writing given to Landlord by certified or overnight mail. Any notice or other communication that the holder of a Leasehold Mortgage shall desire or is required to give to or serve upon Landlord shall be deemed to have been duly given or served if sent in duplicate by certified or overnight mail addressed to Landlord at Landlord's Notice Address or at such other addresses as shall be designated by Landlord by notice in writing given to the Leasehold Mortgage holder by certified or overnight mail.

(iv) Notwithstanding anything to the contrary set forth in this Lease, the provisions of this Article shall inure only to the benefit of the holders of Leasehold Mortgages which shall be, respectively, a first and second lien. If the holders of more than one Leasehold Mortgage make written requests upon Landlord for a new lease in accordance with the provisions of Section 10.01(c)(i), the new lease shall be entered into pursuant to the request of the holder whose Leasehold Mortgage is prior in lien thereto and thereupon the written requests for a new lease of a holder of a Leasehold Mortgage junior in lien shall

be and be deemed to be void and of no force or effect.

(d) Landlord shall not exercise any default remedies due to a Tenant default which is not susceptible to being cured by the holder of the Leasehold Mortgage.

(e) Until the loan obligations under the Leasehold Mortgage shall have been completely paid and performed, and the Leasehold Mortgage shall have been discharged, neither Landlord nor Tenant shall terminate, amend or modify this Lease, or exclude any parcel from this Lease, without the prior written consent of the holder of the Leasehold Mortgage. Any such termination, amendment, modification or exclusion without the prior written consent of the holder of the Leasehold Mortgage shall not be binding upon such holder, its successors or assigns. The Leasehold Mortgage shall not be terminated under this Section 10(e) unless the holder of the Leasehold Mortgage has complied with Section 10(c) (new lease).

(f) In the event the ownership of the fee and leasehold become vested in the same person or entity, then as long as the Leasehold Mortgage shall remain outstanding, such occurrence shall not result in a merger of title. Rather, the Lease and the Leasehold Mortgage lien thereon shall remain in full force and effect.

(g) Landlord consents to any subsequent sale or transfer of the leasehold estate hereunder as permitted in the Leasehold Mortgage, in any such case without requirement of any further consent or other action of Landlord (but if any such further written consent to same is, nonetheless, requested by the Leasehold Mortgagee, Landlord agrees to provide same promptly upon request) .

(h) If the holder of the Leasehold Mortgage determines to foreclose or cause its designee to foreclose the Leasehold Mortgage or to acquire or cause its designee to acquire the leasehold estate or to succeed or cause its designee to succeed to Tenant's possessory rights with respect to the leasehold estate or to appoint a receiver before it effectuates the cure of any non-monetary breach or default by Tenant hereunder, the cure periods hereunder shall be tolled for any period during

which foreclosure proceedings, or legal proceedings to succeed to Tenant's possessory rights, or proceedings to appoint the receiver are conducted, as the case may be. Any such proceedings shall be commenced promptly after the notice of default is delivered to the holder of the Leasehold Mortgage and shall be diligently prosecuted. Promptly after the holder of the Leasehold Mortgage or a designee of such holder acquires the Leasehold estate pursuant to foreclosure proceedings or otherwise or succeeds to Tenant's possessory rights or promptly after a receiver is appointed, as the case may be, the holder of the Leasehold Mortgage or its designee shall cure said breach or default.

(i) Any and all buildings and improvements owned by Tenant prior to any termination of this Lease after a default of Tenant shall automatically pass to, vest in and belong to the holder of the Leasehold Mortgage, and shall not become the property of Landlord unless and until the final expiration or sooner termination of this Lease not followed by a new Lease as provided herein.

10.02. NO MORTGAGEE OBLIGATIONS. Notwithstanding anything to the contrary set forth in this Lease, in no event shall the holder of a Leasehold Mortgage be obligated to (a) construct any Site Improvements on the Leased Premises, or (b) cure any Event of Default with respect to or satisfy or discharge any lien or encumbrance against Tenant's interest in this Lease or the Leased Premises if such lien or encumbrance is junior in priority to the senior Leasehold mortgage (provided, however, that Landlord shall in no event be required to cure any Event of Default).

10.03. RELEASE OF MORTGAGE. If any holder of a Leasehold Mortgage shall acquire title to Tenant's interest in this Lease, by foreclosure of a mortgage thereon or by assignment in lieu of foreclosure or by an assignment from a nominee or wholly owned subsidiary corporation of such holder, or under a new lease pursuant to this Article, such holder may assign such lease and shall thereupon be released from all liability for the performance or observance of the covenants and conditions in such lease contained on Tenant's part to be performed and observed from and after the date of such assignment, provided that the assignee from the Leasehold Mortgage shall have assumed this Lease and agreed

to perform and observe the covenants and conditions in this Lease contained on Tenant's part to be performed and observed. The liability of the holder of any Leasehold Mortgage shall be limited to its interest in the leasehold estate, and in no event shall such holder have any personal liability.

ARTICLE XI ASSIGNMENT AND SUBLEASING

11.01. ASSIGNMENT, CONSENT AND NOTICE REQUIREMENTS. During the Pre-Occupancy Period, Tenant shall not assign its rights or obligations under this Lease to any Person without Landlord's prior Consent, not to be unreasonably withheld or delayed. During the Occupancy Period, Tenant may assign its rights and obligations under this Lease to any Person upon Notice to Landlord. By accepting the assignment of this Lease in writing, any assignee assumes all obligations of Tenant to Landlord from and after the date of the assignment, and Tenant shall thereupon be released from all liability under this Lease arising prior to the date of the assignment.

11.02. SUBLEASING. Landlord may record a Restrictive Covenant at any time following the Effective Date. Tenant may enter into subleases with respect to the Leased Premises as Tenant sees fit provided that: (a) Tenant shall not enter into a sublease with any Person or permit any Person to occupy any portion of the House unless that Person is a Qualified Subtenant; (b) Tenant shall require each Qualified Subtenant to enter into a Qualified Sublease; and (c) Tenant shall deliver to Landlord a copy of each Qualified Sublease. Landlord will keep confidential the financial information contained in Qualified Subleases to the extent permitted by the Connecticut Freedom of Information Act.

ARTICLE XII CASUALTY DAMAGE

12.01. NOTICE. If the House is damaged or destroyed by fire or other casualty during the Term, Tenant shall give immediate Notice to Landlord.

12.02. OPTION TO TERMINATE. If the House is destroyed or suffers such severe damage by fire or other casualty such that it is condemned as unfit for habitation or occupancy by the Town, then this Lease shall, at the option of Landlord, to be

exercised in accordance, with Section 6.02, terminate and Tenant shall receive all insurance proceeds, but Landlord's right to terminate shall be subject to Section 6.03.

12.03. REPAIR / REBUILDING OF LEASED PREMISES. If the House is damaged by fire or such other casualty, but not to the extent described in Section 12.02, or if Landlord has not exercised its option to terminate pursuant to Section 12.02, then, provided that the casualty has occurred either prior to the final two (2) years of the Term or during such final two (2) years and Tenant has not exercised its option to terminate this Lease as set forth in this Section, then this Lease shall remain in full effect and Tenant shall, with the insurance proceeds, proceed at once to rebuild or repair the House to substantially the condition in which it existed prior to such damage. If the casualty occurs during the final two (2) years of the Term, Tenant shall have the right, at its option, to terminate this Lease by sending Notice of termination to Landlord within one (1) month from the date of the Notice by Tenant to Landlord of the happening of the damage, upon which Notice this Lease shall terminate.

12.04. TENANT'S OBLIGATIONS NOT RELIEVED. No damage or destruction shall relieve the Tenant of its obligations to make all payments required by this Lease with respect to any portion of the House that Tenant continues to use in furtherance of Tenant's business operations unless and until this Lease shall be terminated pursuant to this Article. Tenant's obligations to make payments required by this Lease shall abate with respect to any portion of the Leased Premises damaged as described in Section 12.03 for the period of time that Tenant is unable to use that portion of the House in furtherance of Tenant's business operations.

12.05. ABATEMENT. Wherever in this Article the phrase "this Lease shall terminate" is used, it shall mean "this Lease shall terminate and Rent shall abate for the unexpired portion of this Lease, effective as of the date of the Notice by Tenant to Landlord of the happening of the damage (except that Tenant shall pay Rent for any portion of the Leased Premises used by it prior to the time same is surrendered to Landlord) and Tenant shall as soon as reasonably possible surrender to Landlord the Leased Premises and Landlord may re-enter and take

possession of the Leased Premises discharged from this Lease".

ARTICLE XIII LANDLORD'S LIABILITY LIMITATIONS

13.01. LIMITATIONS REGARDING SECURING CLAIMS. In the event of any alleged default of Landlord, Tenant agrees that Tenant will not seek to secure any claim for damages or indemnification by any attachment, garnishment or other security proceeding against any property of the Landlord other than the Leased Premises, or, if sold, any sales proceeds of the Leased Premises, and if Tenant obtains any judgment against Landlord by virtue of an alleged default of Landlord, Tenant agrees that Tenant will not look to any property of Landlord other than the Leased Premises, or if sold, any sales proceeds, for satisfaction of such judgment. In no event will Tenant be entitled to recover against Landlord, or prosecute or maintain any action for the recovery against Landlord of, any consequential damages against Landlord on account of any act or omission of Landlord which constitutes a breach of this Lease by Landlord.

13.02. TRANSFER OF LANDLORD'S INTEREST IN LEASED PREMISES. Upon any transfer of Landlord's interest in the Leased Premises, the then transferor landlord shall be relieved of any and all liability to Tenant arising from and after the transfer and the transferee landlord shall not be liable to Tenant for any liability arising prior to the transfer. Notwithstanding the foregoing, if any condition shall exist on the date of transfer which would entitle Tenant to terminate this Lease or the continuance of which would entitle Tenant to terminate this Lease after the passage of time, unless the condition is corrected within any time allowed under this Lease or by law, the transfer shall not affect Tenant's right to terminate.

13.03. NO LIABILITY FOR THEFT, ETC. All personal property of Tenant on the Leased Premises shall be kept at Tenant's own risk, and Landlord shall not be responsible for any theft of Tenant's personal property or any property of any subtenant, agent, servant, employee, contractor or invitee of Tenant, unless the theft is committed by an employee or agent of Landlord.

**ARTICLE XIV
DEFAULTS AND ENFORCEMENT OF LEASE**

14.01. EVENTS OF DEFAULT BY TENANT. Tenant will be in default of Tenant's obligations under the Lease upon the happening of any of the following (each an "Event of Default").

(a) Tenant's failure to pay Rent within five (5) business days after Notice to Tenant that the payment has not been received by Landlord on or before its due date.

(b) Tenant's failure to cure within thirty (30) days after Notice to Tenant the noncompliance by Tenant with any other obligation of Tenant under this Lease, except that in the case of an obligation not reasonably capable of being cured within said thirty (30) day period (determined without regard to the cost or ability to pay for compliance), Tenant will not be in default as long as Tenant has commenced the cure of the non compliance reasonably promptly after the Notice and is continuously thereafter diligently proceeding to complete the cure.

14.02. REMEDIES ON ACCOUNT OF DEFAULT. Upon the occurrence of an Event of Default, the Landlord may terminate this Lease, recover possession of the Leased Premises, declare that ownership of the House and Site Improvements has reverted to the Landlord and exercise any other remedy available under the law to a landlord on account of a breach of lease by a tenant.

14.03. COSTS OF ENFORCING LEASE. Landlord shall be entitled to reimbursement from Tenant of the reasonable costs of enforcement of this Lease incurred by Landlord (including a reasonable attorney's fee) in any action or proceeding brought by Landlord to enforce the provisions of this Lease on account of any failure of Tenant to adhere to Tenant's obligations under this Lease, provided that Landlord prevails in such action or proceeding. All such costs shall be deemed Additional Rent.

14.04. JURY WAIVER, FORUM AND VENUE. Landlord and Tenant waive trial by jury in any action, proceeding or counterclaim brought by either of the parties against the other on any matters whatsoever arising out of or in any way connected

with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Leased Premises, and/or claim of injury or damage. In any dispute between the parties relating to the tenancy hereby created, unless the parties shall agree otherwise, the exclusive forum for any such legal action shall be the Connecticut state court hearing landlord and tenant disputes, with venue based on the location of the Leased Premises and not the residence or location of the parties.

**ARTICLE XV
VACATING AT END OF TERM, HOLDING
OVER**

15.01. VACATING LEASED PREMISES AT END OF TERM. At the expiration of the Term, whether by lapse of time or for any other reason, Tenant will surrender the Leased Premises to Landlord, the condition of the House, Site Improvements and Leased Premises, as applicable, upon the surrender shall be broom clean, free of all personal property and in good repair, reasonable wear and tear excepted. All keys to any doors in the House shall be turned over to Landlord upon the surrender, and Tenant shall provide Landlord with any other means for opening any other locks (safes, vaults, etc.) in the House upon the surrender. Without diminishing Tenant's responsibility to remove items from the Leased Premises at the end of the Term, if, prior to Tenant's vacating of the Leased Premises, Tenant fails to remove any item of personal property that it is Tenant's responsibility to remove, all such items will become the property of Landlord.

15.02. HOLDING OVER. If Tenant holds over beyond the end of the Term with the Consent of Landlord, then the provisions of the hold over tenancy shall be the same provisions set forth in this Lease governing the rights and obligations of the parties during the Term, except that: the tenancy shall be on the basis of a month to month tenancy, terminable by Landlord immediately by issuance of a notice to quit possession; there shall be no rights or options in Tenant to extend the Term, increase or decrease the size of the Leased Premises, purchase any portion of the Real Estate, exercise any right of refusal to any leasing or sale of any portion of the Real Estate or any similar rights that may have been in effect during the Term; and the quarterly Base Rent and Landlord's Share Supplement (if

applicable) for the hold over shall be the quarterly Base Rent and Landlord's Share Supplement (if applicable) in effect immediately prior to the end of the Term, which shall be increased in the same manner as the quarterly Base Rent and Landlord's Share Supplement (if applicable) had been increased by any formula or with any regular frequency during the Term. If Tenant has not vacated the Leased Premises on or before the end of the Term and does not have Landlord's Consent to remain in the Leased Premises, the failure to vacate shall not be treated as a hold over for any further term and it is agreed that the use and occupancy damages for which Tenant will be liable during any such period of occupancy will be the amount that would have been payable as Additional Rent had this Lease remained in effect during the period of occupancy plus an amount equal to one and one half times (1.5X) the monthly Base Rent and Landlord's Share Supplement (if applicable) in effect at the end of the Term.

ARTICLE XVI MISCELLANEOUS PROVISIONS

16.01. NO WAIVER OF OBLIGATIONS. The waiver by Landlord or Tenant of any breach by or obligation of the other party of any provision in this Lease shall not be deemed to be a waiver of any other breach or obligation. The acceptance of any Rent by Landlord or the payment thereof by Tenant shall not be deemed to be a waiver of any breach by any party. No payment by Tenant or receipt by Landlord of any payment which is less than the amount due shall be deemed to be a waiver of any right to obtain payment of the full amount due, and Landlord may apply any payment by Tenant to any charge owed by Tenant to Landlord under the provisions of this Lease, and no restrictive endorsement, statement of Tenant or any other attempt by Tenant to restrict the application of the payment in any contrary manner shall be operative or effective, and no endorsement on any check or payment made by or on the behalf of Tenant shall be deemed as any accord and satisfaction for any obligation, other than satisfaction of the charge to which Landlord has applied the payment. No waiver of any breach or obligation of any party shall be effective unless in writing by the party charged with the waiver.

16.02. ENTIRE AGREEMENT. This Lease, including any exhibits and schedules attached to it or referenced by it, constitute the entire agreement between the parties as to this leasing, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between the parties other than those contained in or specifically referenced by this Lease. No subsequent alteration, amendment, change or addition to this Lease shall be binding upon either party unless in writing by the party to be charged.

16.03. SEVERABILITY. The provisions of this Lease are severable, and if any provision shall be determined to be invalid or unenforceable, the provision shall be enforced to the extent permitted by law and, to the extent any provision or portion thereof remains unenforceable or invalid, it shall be severed from this Lease and the remainder of the Lease shall be valid and enforced to the fullest extent permitted by the law.

16.04. HEADINGS NOT TO LIMIT EFFECT OF LEASE. The headings for the articles and sections of this Lease are inserted for ease of reference only and no such heading shall be interpreted to limit the operation of any language contained in the article or section following the heading. All language in this Lease shall be given its full operative effect, regardless of the article or section in which it is located and regardless of its location, proximity or lack of proximity to any other related or unrelated provisions.

16.05. FORCE MAJEURE. In the event that Landlord or Tenant shall be delayed in, hindered in, or prevented from, the performance of any act required under the provisions of this Lease, except for the payment of money, by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, terrorist attacks, insurrection, war or other reason of a like nature not the fault of the party whose act is delayed ("Force Majeure"), then as long as the party whose act is delayed is using reasonable efforts to avoid the delay and the effect of the Force Majeure, then performance of such act shall be excused for the period of the delay.

16.06. LANDLORD'S ENTRY INTO LEASED PREMISES. Landlord and Landlord's agents and

other representatives shall have the right to enter into and upon the Leased Premises at all reasonable hours, upon reasonable advance written or oral notice to Tenant and consistent with the reasonable security requirements of Tenant and Qualified Subtenants, for the purpose of examining the Leased Premises. When entering the Leased Premises, Landlord will take reasonable steps to minimize disruption of the business operations of Qualified Subtenants. Landlord's entry under this Section may be made at any hour and without notice in the case of emergency.

16.07. NO RESERVATION OR OFFER. The submission of this Lease for examination does not constitute a reservation of the Leased Premises, and option to lease the Leased Premises or in any other manner an offer by Landlord, unless and until it is executed by Landlord and delivered to Tenant.

16.08. NO RECORDING, NOTICE OF LEASE. Neither party shall record this Lease or any part therein without the prior Consent of the other party. At Tenant's request, Landlord shall execute a statutory Notice of Lease in recordable form provided that the instrument shall include an appointment of Landlord as Tenant's attorney in fact, coupled with an interest, to execute and record on Tenant's behalf an agreement terminating and releasing the Notice of Lease in the event the Lease is terminated and Tenant fails to promptly provide a termination and release.

16.09. JOINT AND SEVERAL LIABILITY. The references to Tenant and Landlord in this Lease mean all persons or entities comprising Tenant or Landlord at any given time, and if Tenant or Landlord shall consist of more than one person or entity, the obligations of each person or entity shall be joint and several with all other persons or entities comprising Tenant or Landlord, as applicable.

16.10. CHOICE OF LAW. Connecticut law shall apply to all state law matters arising under this Lease.

16.11. BROKERAGE COMMISSION. Tenant represents that no broker showed Tenant the Premises or brought such Premises to the Tenant's attention and that no Broker's commission is payable. If any claim is made by any real estate

agent or broker for a commission based upon the allegation that an agent or broker showed the Leased Premises to Tenant or was otherwise the procuring cause of this Lease, then Tenant will defend the claim and save the Landlord harmless from that claim.

16.12. TOWN OFFICIALS. Wherever in this Lease reference is made to an official of the Town (e. g., First Selectman, Assessor, Building Official, Finance Director), that reference shall be deemed to include any official with a different title who assumes substantially the same duties as the referenced official. Similarly, if, under Connecticut law or the Town's Charter, a title is discontinued, then the reference shall be deemed to include the official serving in the most nearly equivalent position. *By way of example, under a mayoral form of municipal government, "Mayor" would be substituted for "First Selectman".* In addition, upon Notice to Tenant, the Landlord may make a substitution for any Town official referenced in this Lease. *By way of example, the Landlord may substitute "Controller" for "Finance Director".*

16.13. EXAMPLES AND USE OF ITALICS. In order to illustrate the operation and effect of certain provisions of this Lease, italicized examples are sometimes used. Italicized examples are provided for convenience only, not for emphasis. Examples found in this Lease shall not be construed as overriding the meaning of the words in the section or sections in which the examples or italicized words are found.

16.14. ESTOPPEL CERTIFICATE. Landlord shall, at any time and from time to time, within ten (10) days after request from Tenant, deliver a written instrument to Tenant or any other person, firm, corporation or other entity specified by Tenant, duly authorized and executed, certifying (i) that this Lease is unmodified and in full force and effect or, if there has been any modification, that the same is in full force and effect as modified and stating any such modification; whether there is any existing basis to cancel or terminate this Lease and whether, to the knowledge of Landlord, Tenant is in default hereunder or whether, to the knowledge of Landlord, any condition, event or state of facts has occurred which, with the giving of notice or the passage of time or both would constitute a default by Tenant

(and if such condition, event or state of facts exists, specifying the nature thereof); (ii) whether Tenant is current in the payment of rent under this Lease; (iii) the current amount of rent under this Lease and the date to which such rent has been paid; and (iv) other factual matters relating to the status of this Lease and Tenant's performance hereunder.

ARTICLE XVII EXTENSION OPTIONS

17.01. THE EXTENSION OPTIONS. Landlord grants Tenant a total of five (5) options to extend the Initial Term with respect to the entire Leased Premises (each an "Extension Option"). The first four (4) Extension Options shall be for consecutive ten (10) year periods and the last Extension Option shall be for a consecutive eight (8) year period (each an "Extension Period"). The Extension Options may be exercised only one at a time. An attempt by Tenant to exercise two or more Extension Options at once, will be deemed to be an exercise of one Extension Option. If the Tenant exercises the first Extension Option, then the ten (10) year period of that Extension Option shall be referred to as the "First Extension Period". Subsequent Extension Periods shall be referred to as the "Second Extension Period", "Third Extension Period", et cetera. The following terms and conditions shall apply to each Extension Option.

(a) Manner of Notice. Tenant shall deliver to Landlord Notice of the exercise of each Extension Option not later than twelve (12) months prior to the expiration of the Initial Term or the then current Extension Period, as applicable, time being of the essence. For the purposes of this Lease, "Extension Notice" shall mean a Notice delivered pursuant to this Section 17.01(a). If an Extension Notice is not delivered by the applicable deadline, then Landlord shall give Notice to Tenant that if Tenant fails to exercise the applicable Extension Option within ten (10) days after receipt of Landlord's Notice, the applicable Extension Option shall automatically expire. Any exercise by Tenant of an Extension Option during within such ten (10) day period shall be deemed a valid exercise of such Extension Option.

(b) Effect of Default. Tenant's right to exercise the Extension Options shall be suspended at

the election of Landlord during any period in which an Event of Default under Article XIV has occurred and remains uncured, but the period of time within which an Extension Option may be exercised shall not be extended. Notwithstanding Tenant's due and timely exercise of an Extension Option, if, after such exercise and prior to the effective date of the Extension Option, an Event of Default occurs under Article XIV that is not cured within the applicable grace period, if any, Landlord shall have the right to cancel Tenant's exercise of the Extension Option by delivery of Notice to Tenant.

(c) Rent. The provisions of Article III shall continue to apply during the Extension Periods such that Base Rent and Additional Rent shall be calculated during the Extension Periods in the same manner as they are calculated during the Initial Term.

ARTICLE XVIII RIGHT OF FIRST OFFER

18.01. FIRST OFFER NOTICE. If Landlord subdivides the Real Estate and the Leased Premises becomes a separate parcel of real property and Landlord decides that the Leased Premises is available for sale to third parties and before Landlord accepts an offer to purchase the Leased Premises, Landlord shall give Tenant Notice (the "First Offer Notice") of such availability and such other information as is required by Section 18.02.

18.02. PURCHASE TERMS. The First Offer Notice shall state the price for which Landlord is willing to sell the Leased Premises to a third party and include a fully completed draft contract of sale containing the sale price and all other terms pursuant to which Landlord is willing to sell the Leased Premises (the "Purchase Contract"). The Purchase Contract may provide for, among other provisions: (a) the delivery by Tenant of a deposit upon contract-signing equal to ten percent (10%) of the purchase price; (b) the delivery by Tenant of the balance of the purchase price in cash or certified funds at closing; and (c) the delivery by the Landlord of a standard warranty deed, subject only to those exceptions or matters of record described in the Purchase Contract. The Landlord may, in its discretion, attach to the Purchase Contract a proposed form of warranty deed and, if so attached,

such proposed form of warranty deed shall be deemed a material term of the Purchase Contract.

18.03. MANNER OF EXERCISE. Tenant shall exercise its First Offer Option by delivering Notice to Landlord within one (1) month immediately following Landlord's delivery of the First Offer Notice that it accepts the terms in the First Offer Notice (the "Tenant's Exercise Notice"). Tenant's Exercise Notice shall include a signed copy of the Purchase Contract and a check for the deposit required under the Purchase Contract. Landlord will countersign the signed Purchase Contract and return a fully-executed original of the Purchase Contract to Tenant within two (2) weeks after Landlord's receipt thereof. If there is any material variation between the terms of the Purchase Contract included with the First Offer Notice and the terms of the Purchase Contract returned by Tenant with Tenant's Exercise Notice (the "Returned Purchase Contract"), that variation will be deemed and interpreted as constituting a non-exercise of the Tenant's First Offer Option. Any failure to make a deposit required under the Purchase Contract shall likewise be deemed and interpreted a non-exercise of the Tenant's First Offer Option. In the absence of Landlord's Consent, the insertion or inclusion by Tenant in the Returned Purchase Contract (including, without limitation, by means of addendum or rider) of any contingency related to financing of the purchase (which is not already set forth in the Purchase Contract) will be deemed a material variation of the terms of the Purchase Contract. Within the time period set forth in the Purchase Contract, Tenant shall close upon the purchase of the Leased Premises in accordance with the terms of the Purchase Contract. If the Leased Premises is conveyed to Tenant under this Section, any prepaid rent shall be apportioned and applied on account of the purchase price. Tenant's failure to close upon the purchase of the Leased Premises in accordance with the terms of the Purchase Contract shall be deemed and interpreted as a non-exercise of the Tenant's First Offer Option unless such failure to close is due solely to the Landlord's inability to convey title free and clear of encumbrances other than those described in the Purchase Contract or otherwise represents a material breach by Landlord or failure of any condition set forth in the Purchase Contract beyond any applicable cure period.

18.04. EFFECT OF NON-EXERCISE. If Tenant fails to exercise the First Offer Option or defaults under the Purchase Contract, Landlord, in its sole discretion may terminate the First Offer Option by Notice to Tenant. In such event: (a) Landlord shall have no further obligation to offer, negotiate or sell the Leased Premises to Tenant on the terms indicated in the First Offer Notice; (b) Landlord shall have the right, for a period of two (2) years, to sell the Leased Premises to a prospective purchaser by entering into a purchase agreement with such purchaser for a price not less than ninety five percent (95%) of the price indicated in the First Offer Notice without such rights being subject to Tenant's First Offer Option (but any further sale shall be subject to Tenant's First Offer Option); and (c) this Lease shall remain in full force and effect. Nothing in Clause (b), above, shall, however, be interpreted as unreasonably interfering with Landlord's ability to negotiate in good faith with the prospective purchaser and to agree to modifications and concessions with respect to the purchase agreement in response to the results of the prospective purchaser's inspections of the Leased Premises or other information brought to the Landlord's attention by the prospective purchaser after the date that the Landlord's attorney delivers a draft purchase agreement to the prospective purchaser.

ARTICLE XIX LANDLORD REPRESENTATIONS AND WARRANTIES

19.01. LANDLORD'S REPRESENTATIONS AND WARRANTIES. Landlord warrants and represents to Tenant the following: (a) there are no pending or, to Landlord's actual knowledge, threatened condemnation proceedings or other governmental, municipal, administrative or judicial proceedings affecting the Leased Premises; (b) there are no pending or, to Landlord's best knowledge, threatened actions or legal proceedings affecting the Leased Premises; (c) there are no unpaid special assessments for sewer, sidewalk, water, paving, gas, electrical or power improvements or other capital expenditures or improvements, matured or unmatured, affecting the Leased Premises; (d) this Lease and the consummation of the transaction contemplated in this Lease are the valid and binding obligations of Landlord and do not constitute a default (or an event which, with the giving of notice

or the passage of time, or both, would constitute a default) under, nor are they inconsistent with, any contract to which Landlord is party or by which it is bound; and (e) there are no outstanding notices of, nor to Landlord's actual knowledge, are there any violations of any laws, orders, rules, or requirements with respect to the Leased Premises.

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IN WITNESS WHEREOF, each party has caused this Lease to be executed on the date below written, the Effective Date being as of the date indicated on Page 1, if different than the date of execution for either party.

TENANT: DC KEMPER-GUNN, LLC

Signature _____

Name _____

Title _____

Date _____

LANDLORD: TOWN OF WESTPORT

Signature _____

Name _____

Title _____

Date _____

State of Connecticut

ss City / Town of _____

County of Fairfield

Personally appeared _____, signer and sealer of the foregoing instrument, who acknowledged himself to be the _____ of _____ and the execution to be his free act and deed and the duly authorized free act and deed of _____ before me, this ____ of _____, 200__.

Commissioner of the Superior Court/Notary Public

State of Connecticut

ss City / Town of Westport

County of Fairfield

Personally appeared _____, signer and sealer of the foregoing instrument, who acknowledged the same to be his free act and deed and the free act and deed of _____, before me, this ____ day of _____, 200__.

Commissioner of the Superior Court/Notary Public

EXHIBIT A – DESCRIPTION OF LEASED PREMISES

{To Be Attached}

EXHIBIT B – DESCRIPTION OF REAL ESTATE

{To Be Attached}

EXHIBIT C

LEASE COMMENCEMENT MEMORANDUM

With respect to that certain Ground Lease dated August ____, 2014 (the “Lease”), the **TOWN OF WESTPORT** (the “Landlord”) and **DC KEMPER-GUNN, LLC** (the “Tenant”) do hereby acknowledge and confirm the dates indicated in the far right column (labeled “Actual”), below.

Phrase or Concept Defined In (Or Referred To) In the Lease	Lease Section	Explanatory Comment	<i>Example For Purposes of Illustration Only</i>	Actual
Effective Date	1.31	The date shown on Page 1 of the Lease	<i>August 9, 2014</i>	
Anniversary Date	1.05	First day of the Calendar Quarter on or next following the Effective Date	<i>October 1, 2014</i>	
First Anniversary Date	1.05	--	<i>October 1, 2015</i>	
First Lease Year begins on	1.44	The Anniversary Date	<i>October 1, 2014</i>	
First Lease Year Ends On	1.44	The day before the first Anniversary Date	<i>September 30, 2015</i>	
Lowering Date	1.46	The day the Structural Mover completes the lowering of the House onto the Elm Street Foundation	<i>September 3, 2014</i>	
Occupancy Date	1.55	The date of issuance of a Certificate of Occupancy for the House on the Elm Street Foundation	<i>October 8, 2015</i>	
Rent Commencement Date	1.73	The first anniversary of Lowering Date	<i>September 3, 2015*</i>	
First full quarterly payment of Base Rent due	3.01	First day of the Calendar Quarter next succeeding the Rent Commencement Date	<i>October 1, 2015</i>	
Last day of the Initial Term	1.39	Last day of the last Calendar Quarter ending before the fiftieth Anniversary Date	<i>September 30, 2064</i>	
First day on which Base Rent is increased due to the CPI Escalation	3.02	First day of seventh Lease Year	<i>October 1, 2020</i>	
First period for which Tenant must calculate and report Net Profit	1.33 3.03	Escalation Measuring Period ending two months before the end of the sixth Lease Year	<i>August 1, 2019 – July 31, 2020</i>	

First Annual Rent Statement due	3.04	One month before the end of the sixth Lease Year	<i>August 31, 2020</i>	
First payment of Landlord's Share Supplement due	3.03	First day of the seventh Lease Year	<i>October 1, 2020</i>	

* Using the *Example For Purposes of Illustration Only*, on this day a payment of Base Rent is due for the period from September 3, 2015 through September 30, 2015. See Section 3.01.

TENANT: DC KEMPER-GUNN, LLC

Signature _____

Name _____

Title _____

Date _____

LANDLORD: TOWN OF WESTPORT

Signature _____

Name _____

Title _____

Date _____