

LEGAL NOTICE

REQUEST FOR PROPOSALS

The Arlington Town Manager's Office is seeking proposals for the following:

**Lease of Space D at Gibbs School Building
(RFP #13-50).**

The Arlington Town Manager's Office is requesting proposals from qualified individuals and firms for the lease of 4,000 square feet, more or less, of space within a building, located at 41 Foster Street for not less than \$5.60 per square foot, for a period of three years, more or less, commencing July 1, 2014.

Proposals are invited and will be received by the Purchasing Director, Town of Arlington, Massachusetts on or before **2:00 P. M., Thursday, January 23, 2014** at the Town Manager's/Purchasing Office, Town Hall Annex, 730 Massachusetts Avenue, Arlington MA 02476-4908.

Four (4) copies of the Technical Proposal shall be submitted in four (4) sealed envelopes marked RFP #13-50, TECHNICAL PROPOSAL TO LEASE 41 FOSTER STREET, ARLINGTON, MA.
One (1) copy of the Price Proposal shall be submitted in a sealed envelope marked RFP #13-50, PRICE PROPOSAL TO LEASE 41 FOSTER STREET, ARLINGTON, MA.

Proposals delivered after the appointed time and date will not be considered.

A copy of the RFP packet outlining the requirements for submission is now available at the Town Manager's/Purchasing Office, Second Floor, Town Hall Annex, 730 Massachusetts Avenue, Arlington, MA 02476, from 8 a.m. to 4 p.m. Mondays through Wednesdays, 8 a.m. to 7 p.m. Thursdays, and 8 a.m. to noon Fridays. For information please contact Michael Bouton at 781-316-3005 or mbouton@town.arlington.ma.us.

The Arlington Town Manager's Office reserves the right to cancel any request for proposals, to reject in whole or in part, any and all proposals when it is deemed in the best interest of the Town of Arlington to do so.

ARLINGTON TOWN MANAGER'S OFFICE

Adam W. Chapdelaine
Town Manager

December 11, 2013

REQUEST FOR PROPOSALS PACKET

FOR THE LEASE OF

SPACE D – GIBBS SCHOOL

41 FOSTER STREET

TOWN OF ARLINGTON, MASSACHUSETTS

DECEMBER 11, 2013

REQUEST FOR PROPOSALS

FOR LEASE OF SPACE D AT
41 FOSTER STREET
TOWN OF ARLINGTON, MASSACHUSETTS

TABLE OF CONTENTS

I.	Introduction	1
II.	Goals.....	1
III.	Required Submittals.....	2
IV.	General Procedures	3
V.	Evaluation Procedures	5
VI.	Minimum Quality Criteria	6
VII.	Comparative Quality Evaluation Criteria.....	6
VIII.	Rent Evaluation Criterion	7
IX.	Rule for Award of Lease.....	8
X.	Lease Terms	8

Forms

- Disclosure of Beneficial Interests Statement
- Certificate of Non-collusion
- Certificate of Tax Compliance
- References
- Rent Proposal
- Zoning Compliance Statement
- Proposed Changes to Model Lease

Attachments:

- Model Lease
- Floor and Site Plans
- Proposal Cover Sheet

REQUEST FOR PROPOSALS

FOR LEASE OF SPACE D AT THE GIBBS SCHOOL BUILDING TOWN OF ARLINGTON, MASSACHUSETTS

I. Introduction

The Town Manager's Office is making this public offering for a single lessee to rent **4,000 square feet of** space at the Gibbs School Building. The space will be offered for a three-year period, more or less, commencing July 1, 2014.

Transportation access is by Exit 59, State Route 2 (1 mile from site); by Massachusetts Avenue (500 feet from site), MBTA Alewife station (<3 miles from site), and MBTA bus route 77 (1/2 mile from site). The neighborhood includes office, retail, residential, and restaurant uses within walking distance.

The streets bounding the property are developed primarily as residential, single-family homes. The neighborhood is adequately illuminated at night, with civic, social, shopping and dining activity during both the daytime and evening.

The building was constructed in 1928 and was last renovated in 1972.

II. Goals

The Town Manager's Office has established the following goals for the leasing of the available space in the Gibbs School Building:

1. Lease the space for as long as possible, up to a maximum of three (3) years, with an option exercisable by the Town Manager's Office and the tenant for an additional five (5) years;
2. Execute the lease as soon as possible;
3. Execute a lease that includes the fewest changes to the Model Lease;
4. Ensure that the use of the space preserves the integrity of the Gibbs School property, with minimal disruption to the residential and institutional properties in the neighborhood;
5. Lease the space "as is"; any renovations or changes to the space or building must be approved by the Town Manager's Office, and the tenant must pay the cost of such renovations or changes; and,

6. All uses of the space must comply with relevant laws, regulations, and permits granted by appropriate boards and commissions, and must be permitted by the Town as required.
7. The tenant must pay all Operating Expenses, as defined in the Model Lease, in accordance with Section 9, Operating Expenses, of the Model Lease; and,
8. The Fixed Rent, as defined in the Model Lease, must be no less than \$5.60 per square foot of building space to be leased.

III. Required Submittals

To be responsive, each prospective proposer must submit four (4) copies of the proposal, and include all of the information listed below. Each of the four (4) copies of the proposal must be inserted into a single sealed envelope marked RFP #13-50, PROPOSAL TO LEASE SPACE A, GIBBS SCHOOL BUILDING, ARLINGTON, MA; number each envelope #1, #2, #3, and #4.

All of the following information must be included in each copy of the proposal in the following order (if any item is not applicable, include a statement that the item is not applicable):

1. The completed proposal cover page (see attachment).
2. A table of contents with page numbers.
3. The name and address of the proposed lessee, and brief description of the organization, including a copy of its articles of organization, corporate bylaws, and tax status; together with letters of interest, or other financial commitments, from financial organizations, if applicable.
4. If applicable, a certification executed by the secretary of the corporation indicating that the person signing the proposal has been authorized to do so by a vote of the board of directors. The proposal documents must be signed as follows: 1) if the proposer is an individual, by him or her personally; 2) if the proposer is a partnership, by the name of the partnership, followed by the signature of each general partner; and, 3) if the proposer is a corporation, by the authorized officer, whose signature must be attested by the clerk/secretary of the corporation, and the corporate seal affixed.
5. A fully executed copy of the Disclosure of Beneficial Interests Statement, a blank of which is attached (see MGL c. 7, s. 40J).
6. A fully executed copy of the Certificate of Non-collusion form, a blank of which is attached (see MGL c. 268A).

7. A fully executed copy of a Certificate of Tax Compliance form, a blank of which is attached (see MGL c. 62C, s. 49A).
8. The completed References form, a blank of which is attached.
9. The fully executed Rent Proposal form, a blank of which is attached.
10. A fully executed Zoning Compliance Statement, a blank of which is attached; together with a statement indicating that the use proposed by the prospective tenant will comply with all applicable laws, regulations, and permits.
11. A completed Proposed Changes to Model Lease form, a blank of which is attached.
12. An explanation of how the proposal complies with each of the Minimum Quality Criteria listed in **Section VI**, Minimum Quality Criteria, below.
13. An explanation of the level (highly advantageous, advantageous, etc.) at which the proposal complies with each of the Comparative Quality Evaluation Criteria listed in **Section VII**, Comparative Quality Evaluation Criteria, below, including a clear explanation of the tenant's objectives for the use of the property, including specific actions showing how the tenant proposes to integrate its use into the existing uses in the building, and into the character of the surrounding neighborhood, with minimal disruption.
14. A written description of how the tenant proposes to configure the space, together with a copy of the floor plan of the space, which is included in the RFP packet. Mark the plan to show precisely how the tenant proposes to configure the space.
15. A statement indicating the hours of operation, the number of employees on the site at any time, the number of parking spaces required by employees by the time of day, and the number of visitors or customers expected by the time of the day, and their parking requirements. Prospective tenants who are already tenants of the building should use historical data based on the last ten (10) years.

IV. General Procedures

A legal advertisement noticing the availability of this RFP has been placed in The Arlington Advocate on December 19, 2013, and December 26, 2013, and in the state Central Register on December 18, 2013. In addition, notice of the availability of this RFP has been conspicuously posted at the Arlington Town Hall since December 11, 2013.

Those wishing to submit a proposal must obtain a copy of the RFP packet. The RFP packet is now available at the Town Manager/Purchasing Department, Second Floor, Town Hall Annex, 730 Massachusetts Avenue, Arlington, Massachusetts 02476,

between the hours of 8:00 a.m. and 4:00 p.m., Mondays through Wednesdays; 8:00 a.m. and 7:00 p.m. on Thursdays; and 8:00 a.m. and noon on Fridays. Proposers may also request that a copy of the RFP packet be mailed or emailed.

The Town Manager's Office will conduct a tour of the property commencing at 12:00 p.m. on December 30, 2013; the tour will commence at the Foster Street door of the Gibbs School property (note that parking is limited). All those submitting proposals are encouraged to attend the tour. Contact Michael Bouton at 781-316-3005 or mbouton@town.arlington.ma.us for information on the tour.

Proposals are invited and must be received on or before 2 p.m., Thursday, January 23, 2014 at the Town Manager/Purchasing Department, First Floor, Town Hall Annex, 730 Massachusetts Avenue, Arlington, MA 02476. Proposals received later than this time and date will be returned unopened as non-responsive. All times will be ascertained by reference to the date and time clock utilized by the Town Manager/Purchasing Office.

If, at the time of the scheduled opening of the proposals, Town Hall is closed due to uncontrolled events such as fire, snow, ice, wind, or building evacuation, the opening of the proposals will be postponed until 11 a.m. on the next normal business day. Proposals will continue to be accepted until that time.

A proposer may correct, modify, or withdraw a proposal by written notice received by the Town prior to the time and date set for the opening of the proposals. Each modification to proposals must be submitted in a sealed envelope clearly labeled "Modification #13-50." Each modification must be numbered in sequence, and must reference the original RFP.

After the opening of the proposals, a proposer may not change any provision of the proposal in a manner prejudicial to the interests of the Town or fair competition. Minor informalities will be waived, or the proposer will be allowed to correct them. Minor informalities are minor deviations, insignificant mistakes, and matters of form rather than substance, of the proposal, that can be waived or corrected without prejudice to other offerors, potential offerors, or the Town of Arlington. If a mistake and the intended proposal are clearly evident on the face of the proposal document, the mistake will be corrected to reflect the intended correct proposal, and the proposer will be notified in writing; the proposer may not withdraw the proposal. A proposer may withdraw a proposal if a mistake is clearly evident on the face of the proposal document, but the intended correct proposal is not similarly evident.

The lease must be executed within one hundred twenty (120) days after the opening of the proposals. The time for execution of the lease may be extended by mutual agreement of the parties for up to forty-five (45) additional days.

All rents submitted in response to this RFP must remain firm until the execution of the lease.

The Town may cancel this RFP, or reject in whole or in part any and all proposals, if the Town determines that cancellation or rejection serves the best interests of the Town.

The Town also reserves the right to select the winning proposal based on the evaluation of the proposer's overall submittal, and the extent to which the proposal meets the evaluation criteria in this RFP. Thus, the Town may exercise its right to select a proposal that may not have offered the highest rent.

If any changes are made to this RFP, an addendum will be issued. Addenda will be mailed, faxed, or emailed to all proposers on record as having picked up the RFP.

Questions concerning this RFP must be submitted in writing to: Michael Bouton, Management Analyst, Town Hall Annex, 730 Massachusetts Avenue, Arlington, MA 02476. Questions may be delivered or mailed to this address; or faxed to 781-316-3005 (clearly addressed to Michael Bouton); or emailed to mbouton@town.arlington.ma.us. All questions must be received by 4 p.m. on January 8, 2014. Written responses will be mailed, faxed, or emailed after this deadline to all proposers on record as having picked up the RFP.

V. Evaluation Procedures

The Town Manager's Office will screen the proposals for completeness. Proposals deemed to be incomplete will be rejected. The Town Manager's Office will then review each completed proposal to ensure that it meets all of the minimum quality criteria listed in **Section VI**, Minimum Quality Criteria, below. Those proposals that meet all of the minimum quality criteria, and that are determined to be responsive, will be further reviewed using the Comparative Quality Evaluation Criteria listed in **Section VII**, Comparative Quality Evaluation Criteria, below.

The Town Manager's Office will rate each of the first five (5) mandatory Comparative Quality Evaluation Criteria listed below using the listed ratings. Once evaluated and rated with respect to the first five (5) mandatory Comparative Quality Evaluation Criteria, the Town Manager's Office will then decide whether to conduct interviews of proposers. In either case listed immediately below, the Town Manager's Office shall jointly evaluate and assign an overall rating to each proposal. The Town Manager shall either:

Recommend to the Board of Selectmen which proposer to negotiate the lease with, based on the most advantageous overall ratings of the five (5) mandatory Comparative Quality Criteria, and the Rent Evaluation Criterion; or,

Conduct the Optional Interview/Presentation jointly with the Town Manager's Office representative of with the top-ranked proposers; and then recommend to the Town Manager which proposer to negotiate the lease with, based on the overall most advantageous ratings of all six (6) of the Comparative Quality Criteria, and on the Rent Evaluation Criterion.

Proposers are reminded that rent alone is not the final determining factor leading to the execution of the lease.

VI. Minimum Quality Criteria

Following are the Minimum Quality Criteria that proposers must meet. Failure to meet these Minimum Quality Criteria will result in the immediate rejection of the proposal. Proposers must clearly indicate, and explain in detail, compliance with these Minimum Quality Criteria in a *separate chapter of the proposal* (see **Section III**, Required Submittals, Item 12, above).

1. Proposers must meet all of the goals listed in **Section II**, Goals, above. In addition, proposers must comply with the requirements specified in **Section III**, Required Submittals, and **Section IV**, General Procedures, above;
2. Proposers must lease the space “as is”; any renovations or changes to the space or building must be approved by the Town Manager’s Office, and the proposer must pay the cost of such renovations or changes;
3. Proposed uses of the space must comply with relevant laws, regulations, and permits granted by appropriate boards and commissions, and must be permissible by the Town as required;
4. Proposers must pay all Operating Expenses, as defined in the Model Lease, in accordance with Section 9, Operating Expenses, of the Model Lease; and,
5. The proposed Fixed Rent, as defined in the Model Lease, must be no less than \$5.60 per square foot of building space to be leased.

VII. Comparative Quality Evaluation Criteria

Each of the Comparative Quality Evaluation Criteria below may contain ratings of highly advantageous, advantageous, not advantageous, and unacceptable. Proposers must clearly indicate, and explain in detail, the level of compliance with these Comparative Quality Evaluation Criteria in a *separate chapter of the proposal* (see **Section III**, Required Submittals, Item 13, above).

1. PROPOSED NUMBER OF TENANTS
Highly Advantageous – One (1) tenant is proposed for the entire space.
Not Advantageous – Two (2) or more tenants are proposed for the entire space.
2. PROPOSED TERM OF LEASE
Highly Advantageous – A three (3)-year lease term is proposed.
Advantageous – Less than a three (3)-year lease term is proposed.
3. PROPOSED LEASE COMMENCEMENT DATE

Highly Advantageous – A lease commencement date of July 1, 2014.

Not Advantageous – A lease commencement date after July 1, 2014.

4. PROPOSED MODEL LEASE CHANGES

Highly Advantageous – No or very few substantive changes are proposed for the Model Lease.

Advantageous – Many substantive changes are proposed for the Model Lease.

Not Advantageous – An altogether different lease is proposed.

5. PROPOSED COMMUNITY BENEFITS

How will the proposed use provide employment or training opportunities for Arlington residents?

A. How will the proposed use create a customer base for Arlington businesses?

B. How will the proposed use serve Arlington residents for Arlington residents?

C. How will the proposed use benefit or affect the neighborhood and residents in the immediate vicinity of the Central School?

D. Has the proposer demonstrated sufficient financial resources to maintain rental and operating expenses?

6. LEVEL OF DISRUPTION CAUSED BY PROPOSED USE

Highly Advantageous – Proposed use is the same as or very similar to existing uses in the building, and does not potentially cause substantial disruption to existing uses or the neighborhood.

Advantageous – Proposed use, though not similar to existing uses in the building, is demonstrably not potentially a cause of substantial disruption to existing uses or the neighborhood.

Not Advantageous – Proposed use is not similar to existing uses in the building, and does potentially cause substantial disruption to existing uses or the neighborhood.

7. OPTIONAL INTERVIEW/PRESENTATION

Highly Advantageous – Well-designed, concise, original presentation, with specific focus on, and clarification of, the written proposal, made by prospective tenant; concise, “on-point” answers to questions

Advantageous – Average presentation, with general focus on, and clarification of, the written proposal, or average answers to questions, made by prospective tenants.

Not Advantageous – Poor presentation, with very little focus on, and clarification of, the written proposal, or poor answers to questions, made by prospective tenants.

VIII. Rent Evaluation Criterion

Rent will be evaluated based on the highest proposed rent.

IX. Rule for Award of Lease

The proposal selected for award of the lease will be the most advantageous proposal from a proposer who is both responsive and responsible, taking into consideration rent and all other evaluation criteria set forth in this RFP. A *responsive* proposer is one who meets all of the basic requirements as outlined in this RFP, and whose proposal contains the required information and properly executed forms; a *responsible* proposer is one who possesses the capability, integrity, and reliability to enter into a lease with the Town of Arlington.

X. Lease Terms

The selected proposer shall execute a lease that is substantially based on the attached Model Lease.

DISCLOSURE OF BENEFICIAL INTERESTS STATEMENT
PARTY TO REAL PROPERTY TRANSACTION WITH A PUBLIC AGENCY
M.G.L. c. 7(C), s. 38 (FORMERLY M.G.L. c. 7, s.40J)

FOR LEASE OF SPACE D AT
THE GIBBS SCHOOL BUILDING
TOWN OF ARLINGTON, MASSACHUSETTS

The undersigned party to a real property transaction with a public agency hereby discloses and certifies, under pains of perjury, the following information as required by law:

REAL PROPERTY 4,000 square feet, more or less, of space
 Gibbs School Building property
 41 Foster Street
 Arlington, MA 02476

TERM OF LEASE 3 years, more or less,
 plus Town Manger’s Office option for up to 5 additional years

DISCLOSING PARTY Town Manager’s Office Disclosing Party is a Public
 Town of Arlington Entity
 Town Hall Annex
 730 Massachusetts Avenue
 Arlington, MA 02476

ROLE OF PARTY Lessor/Landlord Lessee/Tenant
(check appropriate) Seller/Grantor Buyer/Grantee
 Other (Please describe):

Names and addresses of all persons and individuals who have or will have a direct or indirect beneficial interest in the real property excluding only 1) a stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation or 2) an owner of a time share that has an interest in a leasehold condominium meeting all of the conditions specified in M.G.L. c. 7(C), s. 38, are hereby disclosed as follows (attach additional pages if necessary):

<u>Print Name</u>	<u>Address</u>
_____	_____
_____	_____

_____	_____
_____	_____
_____	_____
_____	_____

None of the aforementioned persons is an official elected to public office in the Town of Arlington, or an employee of the Town of Arlington, or is an employee of the Division of Capital Asset Management and Maintenance, except as follows (insert "none" if none):

Print Name

Address

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

The individual signing this statement on behalf of the above-named party acknowledges that he/she has read the following provisions of Chapter 7(C), Section 38 (formerly Chapter 7, Section 40J) of the General Laws of Massachusetts:

No agreement to rent or to sell real property to or to rent or purchase real property from a public agency, and no renewal or extension of such agreement, shall be valid and no payment shall be made to the lessor or seller of such property unless a statement, signed, under the penalties of perjury, has been filed by the lessor, lessee, seller or purchaser, and in the case of a corporation by a duly authorized officer thereof giving the true names and addresses of all persons who have or will have a direct or indirect beneficial interest in said property with the commissioner of capital asset management and maintenance. The provisions of this section shall not apply to any stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation. In the case of an agreement to rent property from a public agency where the lessee's interest is held by the organization of unit owners of a leasehold condominium created under chapter one hundred and eighty-three A, and time-shares are created in the leasehold condominium under chapter one hundred and eighty-three B, the provisions of this section shall not apply to an owner of a

time-share in the leasehold condominium who (i) acquires the time-share on or after a bona fide arms length transfer of such time-share made after the rental agreement with the public agency is executed and (ii) who holds less than three percent of the votes entitled to vote at the annual meeting of such organization of unit owners. A disclosure statement shall also be made in writing, under penalty of perjury, during the term of a rental agreement in case of any change of interest in such property, as provided for above, within thirty days of such change.

Any official elected to public office in the commonwealth, or any employee of the division of capital asset management and maintenance disclosing beneficial interest in real property pursuant to this section, shall identify his position as part of the disclosure statement. The commissioner shall notify the state ethics commission of such names, and shall make copies of any and all disclosure statements received available to the state ethics commission upon request.

The commissioner shall keep a copy of each disclosure statement received available for public inspection during regular business hours.

This statement is hereby signed under penalties of perjury.

Signature

Print Name

Title

Date Signed

CERTIFICATE OF NON-COLLUSION

**FOR LEASE OF SPACE D AT
THE GIBBS SCHOOL BUILDING
TOWN OF ARLINGTON, MASSACHUSETTS**

Pursuant to Massachusetts General Laws, Chapter 268A, I certify under penalties of perjury that this bid or proposal has been made and submitted in good faith, and without collusion or fraud with any other person. As used in this certification the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Signature of Individual Submitting Proposal

Print Name of Individual Submitting Proposal

Print Name of Business

Date Signed

**BY STATE LAW THIS
NON-COLLUSION FORM
MUST BE SIGNED AND
SUBMITTED WITH THE BID
OR PROPOSAL**

CERTIFICATE OF TAX COMPLIANCE

**FOR LEASE OF SPACE D AT
THE GIBBS SCHOOL BUILDING
TOWN OF ARLINGTON, MASSACHUSETTS**

Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A, I certify under the penalties of perjury that I have complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Social Security Number or
Federal Identification Number

Signature of Individual or Responsible
Corporate Officer

Print Name of Individual or Responsible
Corporate Officer

Date Signed

**BY STATE LAW THIS
CERTIFICATE OF TAX COMPLIANCE
FORM MUST BE SIGNED AND
SUBMITTED WITH THE BID
OR PROPOSAL**

REFERENCES

FOR LEASE OF SPACE D AT THE GIBBS SCHOOL BUILDING TOWN OF ARLINGTON, MASSACHUSETTS

Proposer: _____

Proposer must provide complete contact information for at least three (3) recent references, including current landlord, if applicable.

Reference: _____

Address: _____

Contact: _____

Phone: _____

Description of relationship, including description of premises rented, if applicable:

Dates of relationship: _____

Reference: _____

Address: _____

Contact: _____

Phone: _____

Description of relationship, including description of premises rented, if applicable:

Dates of relationship: _____

Reference: _____
Address: _____
Contact: _____
Phone: _____

Description of relationship, including description of premises rented, if applicable:

Dates of relationship: _____

Reference: _____
Address: _____
Contact: _____
Phone: _____

Description of relationship, including description of premises rented, if applicable:

Dates of relationship: _____

Duplicate and attach additional sheets as necessary

RENT PROPOSAL

REQUEST FOR PROPOSALS (RFP) FOR LEASE OF SPACE D AT THE GIBBS SCHOOL BUILDING TOWN OF ARLINGTON, MASSACHUSETTS

LESSOR: Arlington Redevelopment Board, Town of Arlington
Town Hall Annex
730 Massachusetts Avenue
Arlington, MA 02476

LESSEE: _____

PREMISES: Gibbs School Property
41 Foster Street
Arlington, MA 02474

PROPOSED ANNUAL RENT (IN WORDS) _____

PROPOSED RENT (IN NUMBERS) First Year Annual Rent: \$ _____ x 4,000 sf = \$ _____
/sq ft to be leased Annual Rent
(not less than
\$5.60/sq ft)

PROP. TERM + OPTION _____yrs.+ _____yrs.

PROPOSED COMMENCEMENT DATE _____

PROPOSED TERMINATION DATE June 30, _____

RENT ADJUSTOR Fixed rent is to be adjusted annually in accordance with the procedures set forth in Section 7, Annual Fixed Rent, of the Model Lease.

OPERATING EXPENSES Responsibility of tenant in accordance with Section 9, Operating Expenses, of the Model Lease

Signature Title

Print Name Date Signed

REQUEST FOR PROPOSALS

**FOR LEASE OF SPACE D AT
THE GIBBS SCHOOL BUILDING
TOWN OF ARLINGTON, MASSACHUSETTS**

**MODEL LEASE
(ATTACHED)**

REQUEST FOR PROPOSALS

**FOR LEASE OF SPACE D AT
THE GIBBS SCHOOL BUILDING
TOWN OF ARLINGTON, MASSACHUSETTS**

**TOWN MEETING VOTE TO TRANSFER
GIBBS SCHOOL PROPERTY TO TOWN MANAGER'S OFFICE
(ATTACHED)**

REQUEST FOR PROPOSALS

**FOR LEASE OF SPACE D AT
THE GIBBS SCHOOL BUILDING
TOWN OF ARLINGTON, MASSACHUSETTS**

**SPECIAL PERMIT DECISION FOR
GIBBS SCHOOL PROPERTY
(ATTACHED)**

REQUEST FOR PROPOSALS

**FOR LEASE OF SPACE D AT
THE GIBBS SCHOOL BUILDING
TOWN OF ARLINGTON, MASSACHUSETTS**

**FLOOR AND SITE PLANS FOR
GIBBS SCHOOL PROPERTY
(ATTACHED)**

COVER PAGE

**PROPOSAL FOR LEASE OF
SPACE D AT
THE GIBBS SCHOOL BUILDING
41 FOSTER STREET
TOWN OF ARLINGTON, MASSACHUSETTS**

Submitted by:

(Name, Address, Telephone Number of Firm)

Date Submitted: _____

COVER PAGE

ARLINGTON TOWN MANAGER'S OFFICE &
XXXXX

GIBBS SCHOOL BUILDING LEASE

Commencement Date: July 1, 2014

Date Executed: _____

**ARLINGTON TOWN MANAGER'S OFFICE &
XXXXX**

GIBBS SCHOOL BUILDING LEASE

**TABLE OF CONTENTS
(Inserted for guidance only)**

SECTION 1.	DEFINITIONS AND DATA	1
SECTION 2.	DEMISED PREMISES; TERM OF LEASE	2
SECTION 3.	COMMENCEMENT DATE; INABILITY TO GIVE POSSESSION	3
SECTION 4.	OFFER TO EXTEND	3
SECTION 5.	SECURITY DEPOSIT	3
SECTION 6.	ANNUAL FIXED RENT PAYMENT TERMS	4
SECTION 7.	ANNUAL FIXED RENT	5
SECTION 8.	PAYMENT OF ADDITIONAL RENT	5
SECTION 9.	OPERATING EXPENSES	5
SECTION 10.	REMOVAL OF ORDINARY WASTE	7
SECTION 11.	CARE OF DEMISED PREMISES	7
SECTION 12.	ALTERATIONS AND INSTALLATIONS BY TENANT	8
SECTION 13.	TENANT'S SIGNS	10
SECTION 14.	CONDITION OF DEMISED PREMISES	10
SECTION 15.	USE OF DEMISED PREMISES & COMMON AREAS	10
SECTION 16.	QUIET ENJOYMENT	11
SECTION 17.	LANDLORD'S ACCESS TO DEMISED PREMISES	11
SECTION 18.	COMPLIANCE WITH LAWS, ETC.	12
SECTION 19.	COMPLIANCE WITH TENANT RULES AND REGULATIONS	14
SECTION 20.	LANDLORD'S LIABILITY; INDEMNITY	15
SECTION 21.	STOPPAGE OF SERVICES, INABILITY TO SUPPLY SERVICES	15
SECTION 22.	DAMAGE BY FIRE OR OTHER CASUALTY	16
SECTION 23.	PROPERTY INSURANCE	17
SECTION 24.	TENANT'S LIABILITY INSURANCE	19
SECTION 25.	DEFAULT OF TENANT	20
SECTION 26.	REMEDYING DEFAULTS	23
SECTION 27.	REMEDIES	23
SECTION 28.	NON-RECOURSE	24
SECTION 29.	WAIVER OF TRIAL BY JURY	24
SECTION 30.	WAIVER REQUIREMENTS	24
SECTION 31.	CONDEMNATION	25
SECTION 32.	ASSIGNMENT AND SUB-LETTING PROHIBITED	25
SECTION 33.	BROKERAGE BY TENANT; INDEMNITY	26
SECTION 34.	TRANSFeree LIABILITY	26
SECTION 35.	SURRENDER	27
SECTION 36.	LEASE AS ENTIRE AGREEMENT	27
SECTION 37.	BINDING EFFECT; INDEPENDENT COVENANTS	27
SECTION 38.	ESTOPPEL CERTIFICATES	27
SECTION 39.	SUBORDINATION; RIGHTS OF MORTGAGEE	28
SECTION 40.	METHOD OF GIVING BILLS AND NOTICES	29
SECTION 41.	APPLICABLE LAW	29
SECTION 42.	HEADINGS FOR REFERENCE ONLY	29
SECTION 43.	SEVERABILITY	29
SIGNATURES	29
TENANT RULES AND REGULATIONS	31

**TOWN MANAGER'S OFFICE &
XXXXX**

AGREEMENT OF LEASE, executed as of the ____ day of _____, by and between the TOWN MANAGER'S OFFICE (hereinafter referred to as the Landlord) and the XXXXX, a Massachusetts non-profit corporation (hereinafter referred to as the Tenant).

W I T N E S S E T H T H A T:

SECTION 1. DEFINITIONS AND DATA

(a) Each reference in this Lease to the following terms shall be construed to incorporate the following respective definitions and data:

Additional Rent: Any amounts prescribed in this Lease other than the Fixed Rent or Operating Expenses.

Annual Fixed Rent: See **Section 6** below.

Area of Building: It is agreed that the area of the Building is 63,600 square feet, more or less.

Area of Tenant's Portion of Building: It is agreed that the area of the Tenant's portion of the Building is 4,000 square feet, more or less, or 6% of the Area of the Building.

Building: The building known as the Gibbs School Building, situated on the Land as defined below, and containing 63,600 square feet, more or less.

Business Days: All days except Sundays, Saturdays, days established as "Legal Holidays" on which state offices are closed and such other days that the Tenant presently or in the future recognizes as holidays for the Tenant's general office staff.

Capital Contribution: Annual payment made to the Town to defray costs associated with maintaining the building.

Capital Improvement: Any item that is available to, controlled by, or acquired by the Town, has a useful life of at least five years, and has a purchase cost of at least \$5,000.

Commencement Date: The date on which the initial Annual Fixed Rent commences, being July 1, 2014.

Demised Premises: That portion of the Building containing 4,000 square feet, more or less, plus the Land as defined below, located at 41 Foster Street, Arlington, Middlesex County, Massachusetts; the portion of the Building consists of office and classroom space as marked "4,000 SPACE" on a plan attached hereto and made a part hereof.

Designated Tenant: The single tenant billed and responsible for paying for all Operating Expenses that cannot be billed separately to each tenant.

Execution Date: The date on which this Lease is executed.

Fiscal Year (FY): The Town's fiscal year, from July 1 through June 30.

Landlord: The landlord named herein, or any subsequent owner or lessee, from time to time, of the Landlord's interest in the Demised Premises.

Landlord's Original Address: Town Manager's Office, Town Hall Annex 2nd Floor, 730 Massachusetts Avenue, Arlington, Massachusetts 02476.

Lease: This Agreement of Lease and the Schedules and Exhibits, if any, annexed hereto, which are made a part hereof.

Mortgage: A mortgage, deed of trust, trust indenture, or other security instrument of record creating an interest in, or affecting title to, the Land or Demised Premises, or any part thereof, including a lease-hold mortgage, and any and all renewals, modifications, consolidations, or extensions of any such instrument.

Mortgagee: A person, firm, corporation, or other entity holding any Mortgage.

Operating Expenses: See **Section 9** below.

Security Deposit: See **Section 5** below.

Taking: A taking of property or any interest therein, or right appurtenant or accruing thereto, by condemnation or eminent domain, or by action, proceedings, or agreement in lieu thereof, pursuant to governmental authority.

Tenant: The tenant named herein, or any subsequent assignee under **Section 31** below.

Tenant's Original Address:

Term, or Term of this Lease: Commencing on the Commencement Date (July 1, 2014) and expiring at 11:59 P.M. on June 30, 2017 ("Original Expiration Date"), unless such Term shall sooner terminate, or be extended, pursuant to the provisions of this Lease.

Unavoidable Delays: Delays due to strikes; lock-outs; labor disputes; acts of God; inability to obtain labor or materials; governmental restrictions; emergency acts; orders or regulations of any governmental authority, including without limitation restrictions, acts, orders or regulations aimed at conserving energy; civil commotion; unavoidable casualty; or other causes beyond the reasonable control of the Landlord or the Tenant, as the case may be, whether or not similar in nature to the causes hereinbefore enumerated.

SECTION 2. DEMISED PREMISES; TERM OF LEASE

(a) The Landlord hereby leases to the Tenant and the Tenant hereby leases from the Landlord certain space within the Building, containing 4,000 square feet, more or less, plus the non-exclusive right to use the Land as

defined above (hereinafter referred to as the Demised Premises), located at 41 Foster Street, Arlington, Middlesex County, Massachusetts; said certain space consists of office and classroom space as marked "4,000 SPACE" on the plan attached hereto and made a part hereof.

(b) To have and to hold the Demised Premises, subject to the agreements, terms, and conditions herein contained, for the Term of this Lease as defined in **Section 1** above (being July 1, 2014 through June 30, 2017).

SECTION 3. COMMENCEMENT DATE; INABILITY TO GIVE POSSESSION

(a) The Commencement Date of the Term of this Lease shall be July 1, 2014. If the Landlord shall be unable, in the exercise of all reasonable efforts, to give possession of the Demised Premises on the Commencement Date for any reason, including without limitation a previous tenant's failure to vacate the Demised Premises, or to release its rights to the Demised Premises on time, the Landlord shall not be subject to any liability therefor. Under such circumstances, the Fixed Rent to be paid herein shall not commence until the Demised Premises are available for occupancy, and no such failure to give possession on the Commencement Date shall in any way affect the validity of this Lease or the obligations of the Tenant hereunder, nor shall same be construed in any way to extend the Term of this Lease or change the Commencement Date.

SECTION 4. OFFER TO EXTEND

(a) If this Lease has not been terminated prior to the Original Expiration Date, then the Landlord shall have the option to extend the initial term for one (1) Extension Period: a five (5) year extension to 11:59 P.M. on June 30, 2022. When considering the option to extend, the Landlord shall consider:

- (i) whether the Tenant agrees to extend; and,
- (ii) whether the Tenant is in default hereunder at the time of the offer to extend; and,
- (iii) whether the Tenant is in default hereunder at the time the Term would expire but for such extension; and,
- (iv) whether the Landlord and the Tenant can agree on the Capital Contribution for such Extension Period.

(b) If the Landlord and the Tenant fail to extend, the Term shall expire at the end of the then current Term. The Landlord shall exercise the Option to Extend by giving written notice to the Tenant of the exercise of the option by June 30, 2016. Should the Tenant elect not to extend, written notice of such election shall be provided to the Landlord by September 30, 2016. During the Extension Period all provisions of this Lease shall apply, except that the Landlord and Tenant shall negotiate the Capital Contribution rate for the Extension Period.

SECTION 5. SECURITY DEPOSIT

(a) The Tenant shall pay the Landlord the sum of One Thousand Eight Hundred Sixty-Six and 66/100 (\$1,866.66) Dollars or designate an equivalent amount held by Landlord free of any claim as the "Security Deposit," to be held without interest as security for the payment of Annual Fixed Rent, Additional Rent and any other items due hereunder and for the performance and observance of all the agreements and conditions in this Lease to be performed and observed on the part of the Tenant. In the event of any default or defaults in any such payment, performance or observance, the Landlord may apply the Security Deposit or any part thereof towards the curing of any such default or defaults and/or towards compensating the Landlord for loss or damage arising from any such default or defaults, without prejudice to any other remedy or remedies which the Landlord may have, or the Landlord may pursue any other remedy or remedies in lieu of applying the Security Deposit or part thereof. If the Landlord shall apply the Security Deposit or any part thereof as aforesaid, the Tenant shall upon demand pay to the Landlord the amount so applied by the Landlord to restore the Security Deposit to its original amount. At the expiration or other termination of this Lease and upon delivery of possession of the Demised Premises to the Landlord, if the Tenant shall not then be in default or otherwise liable to the Landlord hereunder, the Security Deposit, or the unapplied balance thereof then held by the Landlord, shall be returned to the Tenant without interest.

In the event of a sale of the Demised Premises, the Landlord shall either transfer the Security Deposit to the purchaser or lessee or shall return the same to the Tenant, and upon such transfer of the Security Deposit to the purchaser or lessee or such return of the same to the Tenant, the Landlord shall thereupon be released by the Tenant from all liability for the return of the Security Deposit; and if the Security Deposit is transferred to the purchaser or lessee, the Tenant agrees to look solely to such party for the return of the Security Deposit. It is agreed that the provisions hereof shall apply to every transfer or assignment made of the Security Deposit to a purchaser or lessee.

SECTION 6. ANNUAL FIXED RENT PAYMENT TERMS

(a) The Tenant shall pay, without any set-off or deduction, the initial Annual Fixed Rent and subsequent Annual Fixed Rents to the Landlord at the Landlord's Original Address, or to such other person or entity, or at such other place as the Landlord may designate by notice to the Tenant. Said Rents shall be paid in equal monthly installments in advance on or before the first day of each calendar month during the Term of this Lease, and shall be apportioned for any fractional month in which the Commencement Date or the last day of the Term of this Lease may fall, except that upon the signing of this Lease by the Tenant, the Tenant shall pay the Landlord the monthly installment of initial Annual Fixed Rent payable for the fractional month at the commencement of the Term, plus for the first full month of the Term of this Lease.

(b) The Tenant shall pay, without any set-off or deduction, the Capital Contribution to the Landlord at the Landlord's Original Address, or to such other person or entity, or at such other place as the Landlord may designate by notice to the Tenant. Said Capital Contribution shall be paid in equal monthly installments in advance on or before the first day of each calendar month during the Term of this Lease, and shall be apportioned for any fractional month in which the Commencement Date or the last day of the Term of this Lease may fall, except that upon the signing of this Lease by

the Tenant, the Tenant shall pay the Landlord the monthly installment of the Capital Contribution payable for the fractional month at the commencement of the Term, plus the first full month of the Term of this Lease.

(i) The Tenant may submit to the Landlord an annual list of requested capital improvements. The Landlord will consider the list and determine whether or not to seek funding authority to appropriate funds towards such capital improvements.

(c) The Landlord reserves the right to provide in any first Mortgage given by it that some or all rents, issues, and profits, and all other amounts of every kind payable to the Landlord under this Lease, shall be paid directly to such Mortgagee for the Landlord's account, and the Tenant covenants and agrees that it will, after receipt by it of notice from the Landlord designating such Mortgagee to whom payments are to be made, pay such amounts thereafter becoming due directly to such Mortgagee, until excused therefrom by notice from such Mortgagee. Prior to such notice from such Mortgagee all such payments to such Mortgagee by the Tenant shall, *pro tanto*, satisfy the Tenant's obligations hereunder in respect of such payments.

SECTION 7. ANNUAL FIXED RENT

(a) The Annual Fixed Rent to be paid for the first fiscal year of the Lease, prorated if the lease commences after July 1, and to be paid in accordance with **Section 6** above, shall be \$XXX,XXX.XX, payable monthly at the rate of \$XX,XXX.XX.

(b) There shall be an annual adjustment (hereinafter called the "Adjustment") in the Annual Fixed Rent effective each anniversary of the Commencement Date calculated by multiplying the Annual Fixed Rent by 1.02, representing an annual 2% increase. For example, in the second fiscal year of the Lease, the Annual Fixed Rent would equal \$XXX,XXX.XX x 1.02, or \$XXX,XXX.XX.

(c) The Town requires an annual Capital Contribution to be paid to offset the costs of maintaining the building. The annual Capital Contribution is equal to \$0.50 per square foot of the Demised Premises, or \$2,000, payable monthly at the rate of \$166.66. This cost remains fixed throughout the life of the Lease and is not subject to the Adjustment.

SECTION 8. PAYMENT OF ADDITIONAL RENT

(a) Except as otherwise specifically provided herein, any sum, amount, items, or charges designated or considered as Additional Rent in this Lease shall, following written notice to the Tenant, on or before the thirtieth (30th) day after giving of such notice to the Tenant, be paid by the Tenant to the Landlord, without any setoff or deduction, at the Landlord's Original Address, or at such other location as the Landlord may designate. Any such notice shall specify in reasonable detail the basis of such Additional Rent. The Landlord and the Tenant may negotiate in writing a schedule for payment of Additional Rent that exceeds the thirty (30) days specified in this **Section 8**.

SECTION 9. OPERATING EXPENSES

(a) This Lease is intended to be a net lease; thus, the Tenant(s) shall be billed for, and directly pay, the Operating Expenses attributed to the Demised Premises during the Term of this Lease in accordance with the provisions of this **Section 9**. The Operating Expenses attributed to the Demised Premises shall be equal to that portion of the Operating Expenses as the Demised Premises is to the Building (6%). Operating Expenses will be billed to the Town and the Town will bill the Tenant for its portion (6%) of the Demised Premises.

(b) Operating Expenses as used in this Lease shall mean any costs and expenses for:

(i) utilities used to supply light, heat, ventilation and air-conditioning to the Building, and power to the machinery and equipment in the Building, such as electricity, oil, or gas;

(ii) water and sewer use;

(iii) janitorial, custodial, and security services, including costs of parking lot attendants and police details;

(iv) maintenance, repair, and replacement of equipment and fixtures, including floors, carpeting, and walls (excluding capital improvements);

(v) maintenance and repair of the Building (excluding capital improvements); however, with respect to the Land the provisions of **Subsection (c) of Section 11**, Care of Demised Premises below, shall apply; and,

(vi) other similar expenses of operation now or hereafter required for the Building and Land (excluding capital improvements).

(c) Except as otherwise set forth in this Lease, the Tenant shall not be responsible for costs and expenses relating to the capital improvements or replacement, or any financing or refinancing, of the Building or Land, including, without limitation, interest, principal, and other payments, ground rents, closing costs, attorneys' fees, points, fees, and commissions, or fines and penalties incurred by the Landlord due to violations by the Landlord of any governmental rule, or the Landlord's advertising and promotional expenditures, or real estate brokerage commissions, other than as arising in connection with the Landlord's exercise of its default remedies under **Section 26** below. It is the understanding of the Landlord and the Tenant that all of the Landlord's costs and expenses associated with the Building and the Land, including management costs associated with the Building and the Land, are included within Operating Expenses (excluding capital improvements).

(d) Notwithstanding the provisions of **Subsection (a)** above of this **Section 9**, and except as otherwise set forth in this Lease, including, but not limited to, the provisions of **Subsection (a)** of **Section 11**, Care of Demised Premises below, Operating Expenses do not include:

(i) finders' fees and real estate brokers' commissions;

(ii) capital improvements;

(iii) the cost of repairs due to casualty or condemnation that are reimbursed by third parties;

(iv) any cost due to the Landlord's breach of this Lease;

(v) any real estate, income, estate, inheritance, or other transfer tax, and any excess profit, franchise, or similar taxes on the Landlord;

(vi) the Landlord's general overhead, and general and administrative expenses;

(vii) advertising and promotional expenditures and costs of signs in or on the Building identifying the owner of the Building;

(viii) costs incurred in connection with upgrading the Building to comply with any governmental law or regulation, unless such upgrading is required by the Tenant's use of the Demised Premises;

(ix) any and all costs of hazardous materials in or about the Building not placed therein by the Tenant;

(x) costs arising from latent defects in the base, shell, or core of the Building, or repair thereof; and,

(xi) any other expenses that, in accordance with generally accepted accounting principles consistently applied, would not normally be treated as operating expenses by landlords of comparable buildings in the area of the Building.

SECTION 10. REMOVAL OF ORDINARY WASTE

(a) As long as the Tenant is not in default beyond grace periods under any of the terms, covenants, or conditions of this Lease on the Tenant's part to be observed or performed, the Landlord shall cause ordinary waste to be removed from the Demised Premises.

SECTION 11. CARE OF DEMISED PREMISES

(a) The Tenant shall act with care in its use and occupancy of the Demised Premises, and the fixtures, and equipment therein, and its use of the Tenant's Special Installations; and, at the Tenant's sole cost and expense, shall make all non-structural and non-capital repairs and replacements to the Demised Premises necessary to keep the same in the same condition they are now in, or may hereafter be put by the Landlord or the Tenant (fire, casualty, taking and normal wear and tear excepted). Without limiting the generality of the foregoing, the repairs and replacements to the Demised Premises for which the Tenant is responsible include: the surfaces of the interior walls; the surfaces of the exterior walls; all electrical, plumbing, sprinkler, sewage, air conditioning, ventilating and heating equipment, and facilities that serve the Demised Premises, and the wiring, pipes, motors, and fixtures used in connection therewith; all doors, door moldings and frames; all automatic door opening installations; all windows, window moldings, and building appliances, meters, fixtures, and equipment appurtenant to, and serving exclusively, the Demised Premises. The Tenant

shall also replace any glass that may be changed or broken with glass of the same quality. The Tenant shall keep the stairwells, corridors, land areas, access walks, and parking areas free of debris, equipment, and personal property of the Tenant, except as the Landlord may otherwise consent in writing in its sole and absolute discretion. The tenants shall have the responsibility at their expense in keeping the Demised Premises free of ice and snow. Notwithstanding anything set forth in this **Section 11(a)** to the contrary, the Tenant shall not be required to make any Capital Improvements, as defined in **Section 1** above, to the Demised Premises.

(b) Except as otherwise provided in **Subsection (a)** above of this **Section 11**, the Landlord shall make, as and when necessary, structural repairs to the Demised Premises. The Landlord's obligations under the immediately preceding sentence shall not occur until after notice by the Tenant to the Landlord of the necessity of any specific repair. If the structural repairs required to be made by the Landlord hereunder would exceed \$50,000 in cost, the Landlord may terminate this Lease on thirty (30) days written notice to the Tenant.

(c) The Tenant, at the Tenant's sole cost and expense, shall make all repairs and replacements, structural or otherwise, necessitated or occasioned by the acts, omissions, or negligence of the Tenant, or any person claiming through or under the Tenant, or by the use or occupancy, or manner of use or occupancy, of the Demised Premises by the Tenant, or any such person.

SECTION 12. ALTERATIONS AND INSTALLATIONS BY TENANT

(a) The Tenant shall not make or perform, or permit the making or performance of, any alterations, installations, improvements, additions or other physical changes in or about the Demised Premises (referred to collectively as "Alterations") without the Landlord's prior written consent, which may be granted or withheld by the Landlord in its sole and absolute discretion, except that the Tenant may paint the Demised Premises and install non-structural partitions within the Demised Premises with the Landlord's written consent, which will not be unreasonably withheld. Notwithstanding the foregoing provisions of this paragraph, or the Landlord's consent to any Alterations, all Alterations, whether made prior to or during the Term of this Lease, shall be made and performed in conformity with, and subject to, the following provisions: all Alterations shall be made and performed at the Tenant's sole cost and expense, and at such time and in such manner as the Landlord may reasonably from time to time designate; Alterations shall be made only by contractors or mechanics approved by the Landlord, such approval not unreasonably to be withheld or delayed; the Tenant shall submit to the Landlord reasonably detailed plans and specifications for each proposed Alteration, and shall not commence any such Alteration without first obtaining the Landlord's approval of such plans and specifications; prior to the commencement of each proposed Alteration, the Tenant shall furnish to the Landlord a duplicate original policy of comprehensive public liability insurance (including property damage coverage) in which the Landlord and its agents shall be named as parties insured, which policies shall be issued by companies, and shall be in form and amounts reasonably satisfactory to the Landlord, and shall be maintained by the Tenant until the completion of such Alteration (the provisions of this paragraph shall not limit the requirements of the Tenant with respect to liability insurance as set forth in other articles of this Lease); all fireproof wood test reports, electrical and air-conditioning certificates, and all other permits, approvals, and certificates

required by all governmental authorities shall be timely obtained by the Tenant and submitted to the Landlord; notwithstanding the Landlord's approval of plans and specifications for any Alteration, all Alterations shall be made and performed in full compliance with all applicable laws, orders, and regulations of federal, state, county, and municipal authorities, and with all directions, pursuant to law, of all public officers, and with all applicable rules, orders, regulations, and requirements of the local Board of Fire Underwriters and the New England Fire Insurance Rating Association, or any similar body having a similar function; all Alterations shall be made and performed in accordance with the Tenant Rules and Regulations set forth herein (see also **Section 18**); all materials and equipment to be incorporated in the Demised Premises as a result of all Alterations shall be of good quality.

(b) Except to the extent specifically provided in **Subsection (d)** below of this **Section 11**, all appurtenances, fixtures, improvements, additions, and other property attached to, or installed in the Demised Premises, whether by the Landlord or the Tenant or others, and whether at the Landlord's expense, or the joint expense of the Landlord and the Tenant, which are of a permanent nature, or which cannot be removed without structural damage to the Building, shall be and remain the property of the Landlord. Any replacements of any property of the Landlord, whether made at the Tenant's expense or otherwise, shall be and remain the property of the Landlord. Notwithstanding the foregoing, the Landlord may require the Tenant to remove at its expense any property that the Tenant has attached to the Demised Premises that, under the terms hereof, would not be removed by the Tenant from the Demised Premises at the expiration of the Term of this Lease, by giving the Tenant written notice at least one hundred twenty (120) days prior to the termination of this Lease, and the Tenant shall remove such property at its expense and restore the Demised Premises to the condition they were in prior to the installation of said property.

(c) All furniture, furnishings and equipment (but not the Building equipment, such as heating, ventilating and air-conditioning equipment), including without limitation, murals, carpets, rugs laid on top of carpets (but not wall-to-wall carpeting), business machines and equipment, partitions which are moveable, and any moveable property, installed by or at the expense of the Tenant shall remain the Property of the Tenant, and are referred to herein as "the Tenant's Special Installations". The Tenant may at its expense remove all or any part of said property at any time during the Term of this Lease, and shall at its expense remove all of said property at the expiration, or other termination of the term hereof, unless the Landlord shall otherwise consent in writing. Upon removal of any or all of said property the Tenant shall then repair all damage caused by said removal, as provided in **Section 11** above.

(d) Notice is hereby given that the Landlord shall not be liable for any labor or materials furnished, or to be furnished, to the Tenant upon credit, and that no mechanic's or other lien, or any such labor or material, shall attach to or effect the reversion or other estate or interest of the Landlord in and to the Demised Premises. Whenever, and as often as, any mechanic's lien shall have been filed against the Demised Premises based upon any act or interest of the Tenant, or of anyone claiming through the Tenant, or if any lien or security interest with respect thereto, shall have been filed affecting any materials, machinery, or fixtures used in the construction, repair, or operation thereof, or annexed thereto, by the Tenant or its successors in interest, the Tenant shall forthwith take such action by

bonding, deposit, or payment as will remove or satisfy the lien or other security interest, and in default thereof after the expiration of thirty (30) days after notice to the Tenant, the Landlord, in addition to any other remedy under this Lease, may pay the amount secured by such lien or security interest, or discharge the same by deposit, and the amount so paid or deposited shall be collectible as Additional Rent. The provisions of this **Subsection 12(d)** shall not be applicable to liens filed with respect to work done for the Tenant's account by the Landlord.

SECTION 13. TENANT'S SIGNS

(a) The Tenant shall not display or erect any lettering, signs, advertisements, awnings, or other projections on the exterior of the Demised Premises, other than currently approved signs, without the Landlord's approval, which approval shall be at the sole and absolute discretion of the Landlord. If approved by the Landlord, signage must also be permitted in accordance with applicable provisions of the Arlington Zoning Bylaw, and of other applicable statutes, bylaws, rules, and regulations.

SECTION 14. CONDITION OF DEMISED PREMISES

(a) The Tenant agrees that it is leasing and accepting the Demised Premises in an "as is" condition as of the Commencement Date, and that the Landlord does not have any obligations of any nature in connection with the preparation of said Premises for the Tenant's occupancy. The Tenant acknowledges that the Tenant has inspected the Demised Premises, and the Tenant is satisfied with the condition of the Demised Premises. The Tenant at its sole cost and expense shall install in, and keep and maintain in, the Demised Premises all safety appliances, permits, and equipment in conformity with any governmental law, rule, or regulation applicable to its use of the Demised Premises.

(b) Notwithstanding anything set forth herein to the contrary, the Tenant shall have no responsibility:

(i) for the containment of asbestos existing in the Demised Premises as of the Commencement Date, except that the Tenant shall take no actions that will cause the asbestos in the Demised Premises (if any) to become friable, and shall give immediate written notice to the Landlord upon discovering friable asbestos in the Demised Premises; or,

(ii) for causing the Building to be put into compliance with the requirements (if any) of the Americans with Disabilities Act or the Massachusetts Architectural Access Board, unless the Tenant elects to comply with said requirements.

SECTION 15. USE OF DEMISED PREMISES & COMMON AREAS

(a) The Tenant shall use and occupy the Demised Premises for normal educational uses consistent with the character and dignity of the Demised Premises and the neighborhood (including Landlord's development and use by other tenants), and for no other purpose. The Tenant may use the Demised Premises for its intended purposes during Business Days. Notwithstanding the foregoing, the Tenant may make occasional use of the Demised Premises without

the Landlord's written permission on weekends and evenings; provided, however, if the Landlord, in the Landlord's sole discretion, determines that such occasional use is disruptive or the source of complaints, then the Landlord may require its written permission to be sought for all uses of the Demised Premises outside the daytime hours on Business Days as described above, which permission may be withheld in its sole and absolute discretion.

(b) The Landlord may designate a portion of the Land for the exclusive use of the Tenant during portions of a Business Day; provided, however, that said area of Land shall be available at other times for use by other tenants and the general public.

(c) The Tenant shall have the right to use the open space and play areas on the site during normal school hours, but not to the exclusion of the public. Nothing in this Lease shall be construed to interfere or infringe upon the Landlord's obligation to maintain the entire open space and play areas for the recreational use of the residents of the Town of Arlington as they had been accustomed to during the time when the Demised Premises was a public school, which recreational use shall at all times continue during the Term of this Lease.

(d) The Tenant shall have normal use of the common areas of the Building.

SECTION 16. QUIET ENJOYMENT

(a) The Landlord covenants and agrees that, upon the Tenant's paying the Annual Fixed Rent and any Additional Rent payable hereunder, and performing and observing the covenants and provisions of this Lease on its part to be performed and observed, the Tenant shall peaceably and quietly enjoy the Demised Premises subject to the provisions of this Lease.

SECTION 17. LANDLORD'S ACCESS TO DEMISED PREMISES

(a) The Landlord during the Term of this Lease may enter the Demised Premises for the purposes of performing its covenants under the Lease.

(b) The Tenant shall permit the Landlord, or any public utility, to erect, use, and maintain pipes, ducts, and conduits in and through the Demised Premises, provided the same are installed at such times, and by such methods, as will not materially interfere with the Tenant's use of the Demised Premises. The Landlord, or any public utility, or their agents, shall have the right, upon reasonable advance written notice, to enter and/or pass through the Demised Premises, or any part or parts thereof, to examine the same, and to show them to Mortgagees, and to prospective purchasers, Mortgagees, or lessees, and for the purpose of operation and maintenance, including but not limited to, necessary repairs, installations, alterations, and replacements that the Landlord may choose to make, provided, however, that the Landlord shall use all reasonable efforts to minimize interference with the Tenant's use and occupancy caused thereby, and shall return all finished surfaces to the same condition they were in immediately prior to such repairs, installations, alterations, and replacements, subject, however, to zoning and building laws then in existence.

(c) The Landlord shall also have the right to have its personnel

enter and/or pass through the Demised Premises, or any part thereof, at any reasonable time, and the Landlord may enter the Demised Premises, or any part thereof, at such other times when such entry shall be required by circumstances of emergency affecting the Demised Premises; provided, however, that the Landlord shall use all reasonable efforts to minimize interference with the Tenant's use and occupancy caused by any such entry.

(d) During the twelve (12) months prior to the expiration of the Term of this Lease, the Landlord may, upon reasonable written notice to the Tenant, exhibit the Demised Premises to prospective tenants, provided, however, that the Landlord uses all reasonable efforts to minimize interference with the Tenant's use and occupancy of the Demised Premises caused thereby. If the Tenant shall have removed all of the Tenant's property therefrom, the Landlord may enter and alter, renovate, and redecorate the Demised Premises, or any part thereof, without diminution or abatement of Annual Fixed Rent or other compensation.

(e) The Landlord shall be allowed to take all material into and upon the Demised Premises that may be required for repairs or alterations without the same constituting an eviction of the Tenant in whole or in part while such repairs or alterations are being made, by reason of loss or interruption of the operations of the Tenant, provided the Landlord proceeds with diligence and continuity to complete the same, and uses all reasonable efforts to minimize the interference with the Tenant's use and occupancy of the Demised Premises caused thereby.

SECTION 18. COMPLIANCE WITH LAWS, ETC.

a) Except as otherwise set forth in this Lease, the Tenant shall, at its sole cost and expense, comply with the requirements of every applicable present or future law, ordinance, bylaw, rule, or order of federal, state, county, and municipal authority, including obtaining any licenses, permits, or approvals therefrom, and with any direction made pursuant to law of any public officer or officers, with respect to the Tenant's use of the Demised Premises, including the making of any Alteration allowed hereunder, structural or otherwise, to the Demised Premises, and with respect to any abatement of nuisance, violation, order, or duty arising from the Tenant's use of the Demised Premises, or from conditions created by or at the instance of the Tenant, or required by reason of a breach of any of the Tenant's covenants or agreements hereunder. If the Tenant receives written notice of any violation of law, ordinance, bylaw, rule, order, or regulation applicable to the Demised Premises, it shall give prompt notice thereof to the Landlord. However, this paragraph shall not require the Tenant to comply with, nor bring the Demised Premises into compliance with any future law, ordinance, bylaw, rule, or order of federal, state, county, and municipal authority, if the Tenant's use thereof is pre-existing and legally "grandfathered".

(b) The Tenant shall not do, or permit to be done, any act or thing upon the Demised Premises that will invalidate, or be in conflict with, the Massachusetts standard form of fire, boiler, sprinkler, water damage, or other insurance policies, if any, covering the Demised Premises, and will not bring, or keep anything on, the Demised Premises, except as provided in **Subsection (d)** below of this **Section 18**, that shall increase the rate of any such insurance policy. The Tenant shall comply, in the conduct of its business, and in the making of any Alterations, with all rules, orders, regulations, or requirements of the local Board of Fire Underwriters and the

New England Fire Insurance Rating Association, or any other body having a similar function, and exercising jurisdiction over the Demised Premises.

(c) If, by reason of any failure of the Tenant to comply with any provision of this Lease, the rate of fire, boiler, sprinkler, water damage, or other insurance, if any (with or without extended coverage), on the Demised Premises, or equipment of the Landlord, shall be higher than it otherwise would be, the Tenant shall pay the same, or pay the Landlord as Additional Rent an amount equal to that part of the premiums for such insurance thereafter paid by the Landlord that shall have been charged because of such failure by the Tenant. In the event that any dispute should arise between the Landlord and the Tenant, a schedule or "make up" of rates for the Demised Premises issued by the New England Fire Insurance Rating Association, or any similar body having a similar function, shall be conclusive evidence of the facts therein stated, and of the several items and charges in the rate for any such insurance then applicable to the Demised Premises.

(d) The Tenant covenants and agrees to comply with all federal, state, and local laws, rules, regulations, ordinances, and by-laws thereunder governing the use, storage, and disposal of hazardous materials and oil (as hereinafter defined), and in connection therewith the Tenant agrees that the Tenant shall:

(i) not store or dispose of any hazardous material or oil on the Demised Premises, except in compliance with all laws, ordinances, and regulations pertaining thereto;

(ii) neither directly nor indirectly transport, or arrange for the transport of, any hazardous material or oil, except in compliance with all laws, ordinances, and regulations pertaining thereto;

(iii) take all such action, including, without limitation, the conducting of engineering tests when reasonably required to confirm that no hazardous material or oil has been released on or from the Demised Premises, and to access, contain and remove any such hazardous material or oil on the Demised Premises required by applicable law, rule, or regulation; such action shall be at the sole cost and expense of the Tenant if it is determined that hazardous material or oil are present upon the Demised Premises as a result of the activities of the Tenant, its agents, clients, contractors, employees, invitees, licensees, servants, or visitors;

(iv) provide the Landlord with written notice:

(aa) upon the Tenant's obtaining knowledge of any potential or known release, or threat of release, of any hazardous material or oil, at or from the Demised Premises;

(bb) upon the Tenant's receipt of any notice to such effect from any federal, state or other governmental authority; and,

(cc) upon the Tenant's obtaining knowledge of any occurrence of any expense or loss by such governmental authority in connection with the assessment, containment, or removal of any hazardous material or oil for which expense or loss the Tenant may be liable.

(e) The Tenant shall indemnify, defend and hold the Landlord harmless

of any claim brought or threatened against the Landlord by any federal, state, or local governmental agency or authority, or any other person (as well as from attorneys' fees and expenses in connection therewith), on account of the release of hazardous material or oil on or from the Demised Premises, by the Tenant, its agents, clients, contractors, employees, invitees, licensees, servants, or visitors, or the failure by the Tenant to comply with the terms and provisions hereof, each of which may be defended, compromised, settled, or pursued by the Landlord with counsel of the Landlord's selection, but at the expense of the Tenant. This indemnification shall survive the expiration or other termination of this Lease.

(f) In the event that the Tenant fails to comply with the requirements of any applicable federal, state or other governmental law with respect to the use, treatment, disposal, or storage of hazardous materials or oil on the Demised Premises the Landlord may, at its election, but without obligation to do so, take any and all actions that the Landlord deems necessary to cure said failure of compliance, and any and all amounts paid as a result thereof, together with interest thereon at the default rate set forth in **Section 26 below** from the date of payment, shall be immediately due and payable by the Tenant to the Landlord as Additional Rent; or the Landlord by the payment of any assessment, claim or charge may, if the Landlord sees fit, be thereby subrogated to the rights of any governmental agency or authority having a claim against the Tenant, but such payment shall not be deemed to relieve the Tenant from any default hereunder, or impair any right or remedy with respect thereto.

(g) The terms "hazardous material(s)", "oil", "release", and threat of release" shall have the same meanings given those terms in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 9601 et seq., the Massachusetts Hazardous Waste Management Act, M.G.L. Chapter 21C, and the Massachusetts Oil and Hazardous Material Release Prevention Act, M.G.L. Chapter 21E, as amended from time to time, and in other applicable federal and state laws as amended from time to time.

SECTION 19. COMPLIANCE WITH TENANT RULES AND REGULATIONS

(a) The Tenant and the Tenant's agents, clients, contractors, employees, invitees, licensees, servants, and visitors shall observe faithfully, and comply strictly with, the Tenant Rules and Regulations annexed hereto at the end of this Lease, and such other and further reasonable rules and regulations as the Landlord may from time to time hereafter adopt, not inconsistent with the provisions or intent of this Lease. In case the Tenant disputes the reasonableness of any additional rule or regulation hereafter made or adopted by the Landlord, the parties hereto agree to submit the question of the reasonableness of such rule or regulation for decision to the Arlington Board of Selectmen, or to such impartial person or persons as the Landlord and the Tenant hereto may designate, whose determination shall be final and conclusive upon the parties hereto. The Tenant may not dispute the reasonableness of any additional rule or regulation unless the Tenant's intention to do so shall be asserted by written notice given to the Landlord within fifteen (15) days after written notice is given to the Tenant of the adoption of any such additional rule or regulation.

(b) The Tenant Rules and Regulations are intended to apply only to

the Tenant; therefore, the Landlord shall not be liable to the Tenant for violation of the Tenant Rules and Regulations by the Landlord's agents, clients, contractors, employees, invitees, licensees, servants, and visitors.

SECTION 20. LANDLORD'S LIABILITY; INDEMNITY

(a) Except for damage or injury arising from any negligence of the Landlord, the Landlord shall not be liable for any damage or injury to person or property of the Tenant, or of any person, done or occasioned by or from the heating, ventilating, or air-conditioning systems; electric wiring; plumbing dampness; water, gas, steam, or other pipes; or sewage; or the breaking of any electric wire; the bursting, leaking, or running of water from any tank, washstand, water closet, waste pipe, sprinkler system, radiator, or any other pipe in, above, upon, or about the Demised Premises, or which may at any time hereafter be so placed; or for any damage to the Tenant's Special Installations, Alterations, or the Tenant's personal property occasioned by fire, explosion, falling plaster, electricity, smoke or wind; or water, snow, or ice being upon or coming through or from the street, roof, subsurface, skylight, trap-door, windows, or otherwise; or for any damage or injuries to persons or property arising from acts or neglect of any tenant or occupant of the Demised Premises, or any owners or occupants of adjacent or contiguous property; or for the loss or theft of any property of the Tenant however caused, including loss of property entrusted to employees of the Landlord; or for any loss, damage, or expense of the Tenant as a result of the Landlord's termination of this Lease under any provisions of this Lease. The Landlord shall not be liable for any latent defects in the Demised Premises.

(b) To the extent permitted by law, the Tenant shall indemnify and save harmless the Landlord and its agents, clients, contractors, employees, invitees, licensees, servants, and visitors, against and from all liabilities, obligations, damages, penalties, claims, costs, and expenses, including reasonable attorneys' fees, paid, suffered, or incurred as a result of any breach by the Tenant, the Tenant's agents, clients, contractors, employees, invitees, licensees, servants, or visitors, of any covenant or condition of this Lease; or as a result of the carelessness, negligence, or improper conduct of the Tenant, the Tenant's agents, clients, contractors, employees, invitees, licensees, servants, or visitors; or as a result of the release of hazardous substances or materials on the Demised Premises arising from, or resulting from, the activities of the Tenant, the Tenant's agents, clients, contractors, employees, invitees, licensees, servants, or visitors; or as a result of any injury or damage to any person or property upon or about the Demised Premises arising out of the use, or occupancy, of the Demised Premises by the Tenant, the Tenant's agents, clients, contractors, employees, invitees, licensees, servants, or visitors. The Tenant's liability under this Lease extends to the acts and omissions of any sub-tenant, and any agent, client, contractor, employee, invitee, licensee, servant, or visitor of any sub-tenant. In case any action or proceeding is brought against the Landlord by reason of any such claim, the Tenant, upon written notice from the Landlord, will, at the Tenant's expense, resist or defend such action or proceeding by counsel, approved by the Landlord in writing, such approval not to be unreasonably withheld.

SECTION 21. STOPPAGE OF SERVICES, INABILITY TO SUPPLY SERVICES

(a) The Landlord reserves the right to temporarily stop the service of heating, air-conditioning, if any, ventilating, elevator, if any, plumbing, electricity, or other mechanical systems or facilities in the Demised Premises, if necessary by reason of accident or emergency, or for repairs, alterations, replacements, additions, or improvements that, in the reasonable judgment of the Landlord, are desirable or necessary, until said repairs, alterations, replacements, additions, or improvements shall have been completed. In the event of such stoppage, the Landlord shall use all reasonable means to expeditiously resume said stoppage. The exercise of such right by the Landlord shall not constitute an actual or constructive eviction, in whole or in part, or relieve the Tenant from any of its obligations under this Lease, including without limitation, the obligation of the Tenant to make repairs, or impose any liability upon the Landlord or its agents by reason of inconvenience or annoyance to the Tenant, or injury to, or interruption of, the Tenant's business, or otherwise; or entitle the Tenant to any abatement or diminution of rent. Except in case of emergency repairs, the Landlord will give the Tenant reasonable advance notice of any contemplated stoppage of any such systems or facilities pursuant to the foregoing, and will use diligence to complete any such repairs, alterations, replacements, additions, or improvements promptly. The Landlord shall also perform any such work in a manner designed to minimize interference with the Tenant's normal business operations, and will work with the Tenant prior to the commencement of said work to define a schedule for the completion of said work.

(b) If the Landlord shall fail to supply, or be delayed in supplying, any service expressly or impliedly to be supplied under this Lease, or shall be unable to make, or be delayed in making, any repairs, alterations, additions, improvements, or decorations, or shall be unable to supply, or be delayed in supplying, any equipment or fixtures, and if such failure, delay or inability shall result from Unavoidable Delays, such failure, delay, or inability shall not constitute an actual or constructive eviction, in whole or in part, nor impose any liability upon the Landlord or its agents by reason of inconvenience or annoyance to the Tenant, or injury to, or interruption of, the Tenant's use, business or occupation, or otherwise, or entitle the Tenant to any abatement or diminution of rent.

SECTION 22. DAMAGE BY FIRE OR OTHER CASUALTY

(a) In the event of loss of, or damage to, the Demised Premises by fire or other casualty, the rights and obligations of the parties hereto shall be as follows:

(i) If the Demised Premises or any part thereof shall be damaged by fire or other insured casualty, the Tenant shall give prompt notice thereof to the Landlord, and the Landlord, upon receiving such notice, shall proceed promptly and with reasonable diligence (unless this Lease is terminated as hereinafter provided in this **Section 22**), subject to Unavoidable Delays and a reasonable time for adjustment of insurance losses, to repair, or cause to be repaired, such damage, to the extent as can be reasonably accomplished from the net proceeds of insurance actually received by, or made available to, the Landlord, in a manner designed to minimize interference with the Tenant's occupancy (but with no obligation to employ labor at overtime or other premium pay rates) and substantially to the same condition the Demised Premises were in immediately prior to such damage, subject, however, to zoning and building laws then in existence. The

Landlord shall have no liability for delays in repairing the Demised Premises as in this Lease provided. If the Demised Premises or any part thereof shall be rendered untenable by reason of such damage, the Fixed Rent and any Additional Rent shall proportionately abate with respect thereto for the period from the date of such damage to the date when such damage shall have been repaired for the portion of the Demised Premises rendered untenable. However, if, prior to the date when all of such damage shall have been repaired, any part of the Demised Premises so damaged shall be rendered tenantable and shall be used or occupied by the Tenant or any person or persons claiming through or under the Tenant, then the amount by which the Fixed Rent and Additional Rent shall abate shall be equitably apportioned for the period from the date of any such use.

(ii) If as a result of fire or other casualty (whether insured against or not) 25% or more of the Demised Premises is rendered untenable, the Landlord or the Tenant, within forty-five (45) days from the date of such fire or casualty, may terminate this Lease by written notice to the other party, specifying a date, not less than twenty (20) nor more than forty (40) days after the giving of such notice, on which the Term of this Lease shall expire as fully and completely as if such date were the date herein originally fixed for the expiration of the Term of this Lease. The Fixed Rent, and Additional Rent as applicable, shall be apportioned as of the date of such fire or other casualty. If this Lease is not so terminated, then the Landlord shall proceed to repair the damage to the Demised Premises, if any shall have occurred, and the Fixed Rent, and Additional Rent as applicable, shall meanwhile be apportioned and abated, all as provided in **Subsection (a)(i)** above of this **Section 22**.

(b) The Landlord shall not be required to repair or replace any of the Tenant's Special Installations or Alterations, or any other personal property of the Tenant, and no damages, compensation, or claim shall be payable by the Landlord for inconvenience, loss of business, or annoyance arising from any repair or restoration of any portion of the Demised Premises.

(c) The provisions of this **Section 22** shall be considered an express agreement governing any instance of damage or destruction of the Demised Premises by fire or other casualty, and any law now or hereafter in force providing for such a contingency in the absence of express agreement shall have no application.

SECTION 23. PROPERTY INSURANCE

(a) Beginning on the Execution Date of this Lease, and continuing until the expiration or earlier termination of the Term of this Lease, the Tenant shall, at its expense, carry insurance on the Demised Premises and the improvements used in connection with, or appurtenant to, the Building, or relating to the Demised Premises, insuring against loss or damage by fire, windstorm, or other casualty included in the perils covered by standard property insurance policies with extended coverage; and insuring against vandalism, malicious mischief, and such other risks of a similar or dissimilar nature as shall be insurable against under present or future forms of property insurance policies that are standard for use in the Commonwealth of Massachusetts; such insurance shall be in amounts sufficient to comply with any co-insurance clause applicable to the location and character of the Building, or to the improvements used in connection with, or appurtenant to

the Building, or relating to the Demised Premises, and in any event, in amounts not less than 80% with respect to fire coverage insurance, or in the case of extended coverage, 100%, of the then repair and replacement cost of the property insured; during any construction periods, the Tenant shall carry or cause to be carried builder's risk coverage in amounts appropriate for the construction work undertaken. The Tenant shall, throughout the Term of this Lease, at its expense, keep the Tenant's Special Installations insured against all loss or damage by fire with extended coverage in an amount sufficient to prevent the Tenant from becoming a co-insurer. Such policy or policies of insurance covering the Demised Premises shall contain endorsements wherein and whereby the Landlord shall be given thirty (30) days' advance written notice of any cancellation or reduction in insurance under, or material amendment of, any policy and/or any endorsement issued after the date of such policy. Such policies shall be with responsible insurance companies satisfactory to the Landlord, and licensed to do business in the Commonwealth of Massachusetts that have a rating of at least "A-" and are within a financial size category of not less than "Class VIII" in the most current Best's rating guide. Prior to Delivery of Possession of the Premises to the Tenant, the Tenant shall deliver to the Landlord duplicate originals of such insurance. All such policies affecting the Demised Premises shall name the Landlord, the holder of any mortgage affecting the Demised Premises, and the Tenant as parties insured thereto, as their respective interests may appear.

(b) As provided in this **Section 23**, in the case of any loss or damage covered by such insurance carried by either the Landlord or the Tenant, the proceeds of such insurance applicable to the Demised Premises, but excluding the proceeds applicable to the Tenant's Special Installations or Alterations, which items are the responsibility of the Tenant as provided in **Section 22(b)** above, and the amounts for which are separately scheduled on any applicable policy, shall be devoted by the Landlord, so far as may be required, to the repair, rebuilding, or restoration of the Demised Premises as required under the terms of this Lease, provided, however, that this Lease shall not have been terminated by the Tenant or the Landlord under the provisions of **Section 22** above. The insurer shall pay such proceeds to the Landlord to hold for disposition in accordance with the terms of this Lease. Any such proceeds not required to repair, rebuild, or restore the Demised Premises, or if this Lease is terminated in accordance with the provisions of **Section 22** above by either the Landlord or the Tenant, shall become and remain the property of the Landlord.

(c) Each policy of property insurance, in which the Landlord or the Tenant is not a named insured, taken out by either the Landlord or the Tenant, relating to the Demised Premises, or to any improvements used in connection with or appurtenant to the Demised Premises, or to the Tenant's Special Installations, shall contain, if available from the insurer, an appropriate clause or endorsement under which the insurer agrees that such policy shall not be invalidated should the insured waive in writing prior to a loss any or all right of recovery against any party for losses payable under such policy. Should any additional premium or fee be exacted for any such clause or endorsement, the party obligated to obtain the same shall be released from such obligation unless the other party shall pay such additional premium or fee. Provided that, and during such time as, such clause or endorsement is obtainable without additional premium or fee, or if not, after such additional premium or fee shall have been paid, the Landlord and the Tenant hereby waive all right of recovery which each might otherwise have against the other, its agents, clients, contractors, employees,

invitees, licensees, servants, or visitors for any loss or damage to the Demised Premises, or improvements used in connection with or appurtenant to the Demised Premises, or the Tenant's Special Installations, as the case may be, by reason of any peril insured against under any such policy, notwithstanding that such loss or damage may result from the negligence or fault of the other, its agents, clients, contractors, employees, employees, invitees, licensees, servants, or visitors.

(d) The Landlord and the Tenant will:

(i) if requested, notify the other as to the provisions of fire and extended coverage insurance policies obtained pursuant to **Subsection (a)** above of this **Section 23**; and,

(ii) notify the other promptly of any change of the terms of any such policy that would affect such provisions.

(e) To the extent that such action will not invalidate any policy of insurance (other than policies of fire and extended coverage insurance) taken out by the Landlord or the Tenant relating to the Demised Premises, other improvements used in connection with and appurtenant to the Demised Premises or the Tenant's Special Installations, as the case may be, and to the extent of actual recovery under such policy, the Landlord and the Tenant hereby waive all right of recovery which each might otherwise have against the other, its agents, clients, contractors, employees, invitees, licensees, servants, and visitors for any loss or damage to the Demised Premises or the Tenant's Special Installations as the case may be, by reason of any peril insured against under any such policy, notwithstanding that such loss or damage may result from the negligence or fault of the other, its agents, clients, contractors, employees, invitees, licensees, servants, or visitors.

(f) The Tenant understands and acknowledges that the Landlord is, and intends to remain, a self-insurer, and does not have, and does not intend to obtain in the future, any physical property insurance covering the Demised Premises.

SECTION 24. TENANT'S LIABILITY INSURANCE

(a) The Tenant shall, at its expense, beginning on the Execution Date of this Lease, and throughout the Term of this Lease, maintain commercial general liability insurance against claims for damages for bodily injury or death occurring upon, in, or about the Demised Premises, such insurance to afford protection in limits of not less than \$1,000,000 in respect to personal injury or death to any one person, and \$2,000,000 in respect to personal injury or death to any number of persons in any one occurrence; and \$1,000,000 for property damage. Such comprehensive general liability insurance may be effected by a policy or policies of blanket insurance which may cover other property in addition to the Demised Premises, provided that the protection afforded thereunder shall be no less than that which would have been afforded under a separate policy or policies relating only to the Demised Premises, and provided further that in all other respects any such policy shall comply with the other provisions of this **Section 24**.

(b) All insurance provided in this **Section 24** shall be effected under valid and enforceable policies issued by insurers, satisfactory to the Landlord, of generally recognized responsibility, licensed to do, and doing,

business in the Commonwealth of Massachusetts, and shall name the Landlord as an insured. Copies of required insurance policies, plus certificates of insurance, shall be delivered by the Tenant to the Landlord within ten (10) days of the execution of this Lease. The Tenant shall submit copies of successor policies and certificates of insurance to the Landlord on an annual basis within thirty (30) days of renewal of policies. The Tenant shall also furnish to the Landlord upon the Commencement Date, and thereafter from time to time at the Landlord's request, a certificate signed by an executive officer of the Tenant certifying that the insurance required under this **Section 24** is in force, that such insurance complies with the provisions of this **Section 24**, and that the premiums thereon have been paid.

(c) All policies of insurance required under this **Section 24** shall, to the extent obtainable, contain an agreement by the insurers that such policies shall not be canceled or changed without at least thirty (30) days' prior written notice to the Landlord.

(d) The insurance policies required by this Lease shall specifically cover the indemnity provisions of this Lease. The Tenant shall be considered in default of this Lease if any of the required insurance coverages expires, lapses, or is otherwise not valid.

SECTION 25. DEFAULT OF TENANT

(a) If at any time subsequent to the date of this Lease, any one or more of the following events (herein referred to as "Default of the Tenant") shall happen:

(i) the Tenant shall default in the due and punctual payment of any charge or amount payable hereunder, and such default shall continue for fifteen (15) days after written notice to the Tenant from the Landlord (for purposes of the Landlord's availing itself of its remedies at law, any charges or amounts payable hereunder shall be deemed "rent"); or,

(ii) the Tenant shall neglect or fail to perform, or observe, any other covenant herein contained on the Tenant's part to be performed, or observed; and the Tenant shall fail to remedy the same within thirty (30) days after written notice to the Tenant from the Landlord specifying such neglect or failure; or, if such Default of the Tenant is of such a nature that the Tenant cannot reasonably remedy the same within such thirty (30)-day period, the Tenant shall fail to commence promptly to remedy the same within such thirty (30)-day period, and to prosecute such remedy to completion with diligence and continuity; or,

(iii) the Tenant shall make an assignment for the benefit of creditors; or,

(iv) the Tenant's leasehold interest in the Demised Premises shall be taken on execution, or by other process of law (other than a Taking), directed against the Tenant; or,

(v) the Tenant shall file a voluntary petition in bankruptcy, or shall be adjudicated bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief for itself, under any present or future federal, state, or other statute, law, or regulation for the relief of

debtors; or shall seek or consent to acquiesce in, the appointment of any trustee, receiver, or liquidator of the Tenant, or of all or any substantial part of its properties; or shall admit in writing its inability to pay its debts generally as they become due; or,

(vi) a petition shall be filed against the Tenant in bankruptcy, or under any other law seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief, under any present or future federal, state, or other statute, law, or regulation, and shall remain undismissed or unstayed for an aggregate of sixty (60) days (whether or not consecutive); or if a debtor in possession (whether or not the Tenant), trustee, receiver, or liquidator of the Tenant, or of all or any substantial part of its properties, or of the Demised Premises, shall be appointed without the consent or acquiescence of the Tenant, and such appointment shall remain unvacated, or unstayed, for an aggregate of sixty (60) days (whether or not consecutive)–

then, in any such cases, the Landlord may at any time thereafter terminate this Lease by written notice to the Tenant, specifying a date not less than ten (10) days after the giving of such notice on which this Lease shall terminate, and this Lease shall come to an end on the date specified therein as fully and completely as if such date were the date herein originally fixed for the expiration of the Term of this Lease; and the Tenant will then quit and surrender the Demised Premises to the Landlord, but the Tenant shall remain liable as hereinafter provided. All costs and expenses incurred by, or on behalf of, the Landlord (including, without limitation, reasonable attorneys' fees and expenses) occasioned by any Default of the Tenant, shall be paid by the Tenant.

(b) If this Lease shall have been terminated as provided in this **Section 25**, or if any execution or attachment shall be issued against the Tenant, or any of the Tenant's property, whereupon the Demised Premises shall be taken or occupied by someone other than the Tenant, then the Landlord may, without notice, re-enter the Demised Premises, either by force, summary proceedings, ejectment, or otherwise, and remove and dispossess the Tenant, and all other persons, and any and all property, from the same, as if this Lease had not been made, and the Tenant hereby waives the service of notice of intention to re-enter or to institute legal proceedings to that end.

(c) In the event of such termination, the Tenant shall pay the Fixed Rent, and other sums payable hereunder, up to the time of such termination; and thereafter the Tenant, until the end of what would have been the Term of this Lease in the absence of such termination, and whether or not the Demised Premises shall have been re-let, shall be liable to the Landlord for, and shall pay to the Landlord, as liquidated current damages:

(i) the Fixed Rent, Capital Contribution, any Additional Rent, and other sums that would be payable hereunder if such termination had not occurred, LESS

(ii) the net proceeds, if any, of any re-letting of the Demised Premises, after deducting all expenses in connection with such re-letting, including, without limitation, all repossession costs, brokerage commissions, legal expenses, attorneys' fees, alteration costs, and expenses of preparation for such re-letting.

(d) the Tenant shall pay such current damages to the Landlord monthly

on the days on which the Fixed Rent would have been payable hereunder if this Lease had not been terminated, and the Landlord shall be entitled to receive the same from the Tenant, on each such day.

(e) At any time after such termination, whether or not the Landlord shall have collected any such current damages, the Landlord shall be entitled to recover from the Tenant, and the Tenant shall pay to the Landlord, on demand, as liquidated final damages, and in lieu of all such current damages beyond the date of such demand, an amount equal to the excess, if any, of:

(i) the Fixed Rent, any Additional Rent, and other sums as hereinbefore provided, that would be payable hereunder from the date of such demand (or, if it be earlier, the date to which the Tenant shall have satisfied in full its obligation under this **Section 25** to pay current damages) for what would be the then unexpired term of this Lease, if the same remained in effect, LESS

(ii) the then fair net rental value of the Demised Premises for the same period.

(f) In the computation of such liquidated final damages the amount by which any installment of Fixed Rent, any Additional Rent, and other sums shall exceed the fair and reasonable rental value of the Demised Premises for the period for which such installment of Fixed Rent, any Additional Rent, and other sums would have been payable, shall be discounted at the rate of 6% per annum to the date of such demand, or to the date to which the Tenant shall have satisfied in full its obligation to pay such current damages, as the case may be. If, before presentation of proof of such liquidated damages to any court, commission or tribunal, the Demised Premises, or any part thereof, shall have been re-let by the Landlord for the period which would otherwise have constituted the unexpired portion of the Term of this Lease, or any part thereof, the amount of rent reserved on such re-letting shall be deemed, *prima facie*, to be the fair and reasonable rental value for the part, or the whole, of the Demised Premises so re-let during the term of re-letting.

(g) If any statute or rule of law governing a proceeding in which such liquidated final damages are to be proved shall validly limit the amount thereof to an amount less than the amount above agreed upon, the Landlord shall be entitled to the maximum amount allowable under such statute or rule of law. Nothing contained in this **Section 25** shall be deemed to limit or preclude the recovery by the Landlord from the Tenant of the maximum amount allowed to be obtained in damages by any statute or rule of law, or of any sums or damages to which the Landlord may be entitled, in addition to the damages set forth in this **Section 25**.

(h) In case of any Default of the Tenant, re-entry, expiration and dispossession by summary proceedings or otherwise, the Landlord may

(i) re-let the Demised Premises or any part or parts thereof, either in the name of the Landlord or otherwise, for a term or terms which may, at the Landlord's option, be equal to or less than, or exceed, the period which would otherwise have constituted the balance of the Term of this Lease; and may grant concessions or free rent to the extent that the Landlord considers advisable and necessary to re-let the same; and,

(ii) make such alterations, repairs, and decorations in the Demised Premises as the Landlord, in its reasonable judgment, considers

advisable and necessary for the purpose of re-letting the Demised Premises; and the making of such alterations, repairs, and decorations shall not operate, or be construed, to release the Tenant from liability hereunder as aforesaid. The Landlord shall in no event be liable in any way whatsoever for failure to re-let the Demised Premises, or, in the event the Demised Premises are re-let, for failure to collect the rent thereof under such re-letting. The Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of the Landlord obtaining possession of the Demised Premises, by reason of the violation by the Tenant of any of the covenants and conditions of this Lease.

(i) The Tenant acknowledges that any default in the timely payment of the monthly installments of Annual Fixed Rent will result in additional expense to the Landlord, to verify the default and collect the Rent. The Tenant acknowledges further that the actual cost to the Landlord in each particular case will vary according to the circumstances of the case, and that the determination of the precise costs would, in itself, result in considerable expense. Accordingly, the Tenant agrees that if any monthly installment of Annual Fixed Rent due under this **Section 25** is not paid prior to the fifth (5th) day of the month when due, the Tenant shall pay the Landlord a late charge of \$100 with respect to the delayed or defaulted installment, as liquidated damages in lieu of the actual amount of expense incurred by the Landlord by reason of the delay or default in payment, and not as a penalty or as additional interest. Such late payment charges shall be in addition to all money damages and other rights and remedies available to the Landlord under this Lease, and under the law of Massachusetts.

SECTION 26. REMEDYING DEFAULTS

(a) If either party shall default in the observance or performance of any term or covenant on its part to be observed, or performed under, or by virtue of, any of the terms or provisions in any Section of this Lease, the other party, without being under any obligation to do so, and without thereby waiving such default, may remedy such default for the account, and at the expense of, the defaulting party, immediately and without notice in case of emergency, or, in any other case, if the defaulting party shall fail to remedy such default with all reasonable diligence within thirty (30) days after notice specifying such default in reasonable detail. If either party makes any expenditures or incurs any obligations for the payment of money in connection therewith, including, but not limited to, reasonable attorneys' fees in instituting, prosecuting, or defending any action or proceeding, such sums paid or obligations incurred, with interest at the rate of 2% per annum over the prime rate as announced by the Bank of America, and costs, shall be paid to it by the other party.

SECTION 27. REMEDIES

(a) The specific remedies to which the Landlord or the Tenant may resort under the terms of this Lease are cumulative, and are not intended to be exclusive of any other remedies or means of redress to which the Landlord or the Tenant, as the case may be, may be lawfully entitled in case of any breach, or threatened breach, by either of them of any provisions of this Lease. If there is more than one the Tenant, the obligations imposed by this Lease upon the Tenant shall be joint and several.

SECTION 28. NON-RECOURSE

(a) The Tenant shall look only to the estate held by the Landlord in the Demised Premises, and shall in no event have recourse to the Landlord, or to the individual estates of the persons signing herein for the Landlord, for the satisfaction of any claim arising out of, or resulting from, any term, covenant, or condition of this Lease.

(b) The Landlord shall not look to the individual estates of the persons signing herein for the Tenant, and shall in no event have recourse to the individual estates of the persons signing herein for the Tenant, for the satisfaction of any claim arising out of, or resulting from, any term, covenant, or condition of this Lease.

(c) Except as expressly provided herein, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, ANY LOSS OF USE, LOSS OF BUSINESS, OR LOSS OF PROFIT.

SECTION 29. WAIVER OF TRIAL BY JURY

(a) It is mutually agreed by and between the Landlord and the Tenant that the respective parties hereto shall, and they hereby do, waive trial by jury in any action, proceeding, or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of, or in any way connected with, this Lease, the relationship of the Landlord and the Tenant, the Tenant's use of, or occupancy of, said premises, and any emergency statutory or any other statutory remedy.

SECTION 30. WAIVER REQUIREMENTS

(a) No agreement to make or accept any surrender, change, modification, waiver, termination, discharge, release, or cancellation of this Lease, or to relieve the Tenant of any obligation or liability under this Lease, shall be valid unless in writing signed by the Landlord. The delivery of keys to any employee of the Landlord, or of the Landlord's agent, shall not operate as a termination of this Lease, or a surrender of the Demised Premises.

(b) The failure of the Landlord to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this Lease, or any of the Rules and Regulations annexed hereto, or hereafter adopted by the Landlord, as provided in **Section 19** above, shall not be deemed a waiver of such violation, nor prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. The receipt by the Landlord of rent, with knowledge of the breach of any covenant of this Lease, shall not be deemed a waiver of such breach. The failure of the Landlord to enforce any of said Rules and Regulations against the Tenant shall not be deemed a waiver of any such Rules and Regulations. No provisions of this Lease shall be deemed to have been waived by the Landlord unless such waiver is in writing signed by the Landlord.

(c) No payment by the Tenant, or receipt by the Landlord, of a lesser

amount than a monthly installment of Annual Fixed Rent (or any Additional Rent) shall be deemed to be other than on account of the earliest such installment, nor shall any endorsement or statement on any check or letter accompanying any check or payment as rent, be deemed an accord and satisfaction, and the Landlord may accept such check or payment without prejudice to the Landlord's right to recover the balance of such installment, or pursue any other remedy provided in this Lease.

SECTION 31. CONDEMNATION

(a) In the event of a Taking of the whole of the Demised Premises, this Lease, and the Term of this Lease, shall terminate as of the date of such Taking. If only a part of the Demised Premises shall be so taken, then, except as otherwise provided in this subsection, this Lease, and the Term of this Lease, shall continue in force and effect, but, from and after the date of the Taking, the Annual Fixed Rent and any Additional Rent shall be equitably reduced on the basis of the portion of the Demised Premises so taken. If more than 10% of the total area of the Demised Premises is taken, the Landlord, at the Landlord's option, may give the Tenant within sixty (60) days next following the date upon which the Landlord shall have received notice of the Taking, a thirty (30)-day notice of termination of this Lease; and, if more than 50% of the total area of the Demised Premises shall be taken, or, if, by reason of such Taking, the Tenant no longer has reasonable use of the Demised Premises, the Tenant, at the Tenant's option, may give to the Landlord within sixty (60) days next following the date upon which the Tenant shall have received notice of such Taking, a thirty (30)-day notice of termination of this Lease. In the event any such thirty (30)-day notice of termination is given by the Landlord or the Tenant, this Lease, and the Term of this Lease, shall terminate upon the expiration of said thirty (30) days. In the event of the termination of this Lease pursuant to any of the foregoing provisions of this **Subsection 31(a)** then, to the extent permitted by applicable law and such Taking, the Tenant shall have access to the Demised Premises in order to remove the Tenant's Special Installations and any other personal property then owned by the Tenant, and which the Tenant is entitled to remove pursuant to this Lease during the period of thirty (30) days from the date the Tenant is permitted access therefor. In the event of any Taking that does not result in the termination of this Lease, the Landlord shall repair, alter, and restore the remaining portions of the Demised Premises to their former condition to the extent that the same may be feasible.

(b) The Landlord shall have the exclusive right to receive any and all awards made for damages to the Demised Premises, and leasehold hereby created, or any one of them, accruing by reason of a Taking or by reason of anything lawfully done in pursuance of public or other authority. The Tenant hereby releases and assigns to the Landlord all the Tenant's rights to such awards, and covenants to deliver such further assignments and assurances thereof as the Landlord may from time to time request, hereby irrevocably designating and appointing the Landlord as its attorney-in-fact to execute and deliver in the Tenant's name and behalf all such further assignments therefor. However, the Tenant reserves any rights to any award for its moving expenses, or to any other special award not constituting part of the award, to which the Landlord would otherwise be entitled.

SECTION 32. ASSIGNMENT AND SUB-LETTING PROHIBITED

(a) The Tenant recognizes the uniqueness of the Building and the use to which it is being put, and that the expertise, character and methods of operation of the Tenant, as well as the effect the Tenant will have on the neighborhood, are taken into consideration as a basis for renting to the Tenant. Accordingly, the Tenant shall not mortgage, pledge, encumber, sell, assign, or transfer this Lease, in whole or in part, or sublease all or any part of the Demised Premises, or permit the use or occupation of all or any part of the Demised Premises, by any concessionaire, licensee, or other party, without the Landlord's written consent, which consent may be withheld at the Landlord's sole and absolute discretion. The Landlord will not unreasonably withhold its consent to an assignment or sublease to a parent, subsidiary, or affiliate of the Tenant (meaning any entity controlling, or controlled by, the Tenant). The Tenant shall reimburse the Landlord promptly, as Additional Rent, for reasonable legal expenses incurred by the Landlord in connection with any request by the Tenant for consent under this **Section 32**.

(b) If the Tenant's interest in this Lease is assigned in violation of the provisions of this **Section 32**, the Landlord may collect amounts payable by the Tenant under this Lease from the assignee; if the Demised Premises, or any part thereof, are subject to, or occupied by, or used by, any person other than the Tenant in violation of this **Section 32**, the Landlord, after default by the Tenant under this Lease, may collect rent from the sub-tenant, user, or occupant. In either case, the Landlord shall apply the net amount collected to amounts payable by the Tenant under this Lease, but neither any such assignment, sub-letting, occupancy, or use, nor any such collection or application, shall be deemed a waiver of any term, covenant, or condition of this Lease, or the acceptance by the Landlord of such assignee, subtenant, occupant, or user as tenant. Neither any assignment of the Tenant's interest in this Lease, nor any subletting, occupancy, or use of the Demised Premises, or any part thereof, by any person other than the Tenant, nor any collection of rent by the Landlord from any person other than the Tenant, as provided in this paragraph, nor any application of any such rent as provided in this paragraph, shall, in any circumstances, relieve the Tenant of its obligation fully to observe and perform the terms, covenants, and conditions of this Lease on the Tenant's part to be observed and performed.

SECTION 33. BROKERAGE BY TENANT; INDEMNITY

(a) Both parties to this Lease hereby warrant and represent to each other that they have not, directly or indirectly, dealt with any broker, agent, or other person with respect to this Lease; and both parties hereby agree to indemnify, hold harmless, and defend the other party from any claims for a brokerage commission, or other compensation, by any broker, agent, or other person engaged by either party in connection with the execution and delivery of this Lease.

SECTION 34. TRANSFEREE LIABILITY

(a) In the event of:

(i) any conveyance or other transfer of the Landlord's interest in the Demised Premises; or

(ii) any assignment of this Lease-

then, all liabilities and obligations of the grantor, transferor, lessor, or assignor, as the case may be, shall terminate, and all liabilities and obligations of the Landlord shall, *ipso facto*, be binding upon the new owner or lessee.

SECTION 35. SURRENDER

(a) Upon the expiration or other termination of the Term of this Lease, except as otherwise expressly provided elsewhere in this Lease, the Tenant shall remove all its property, and shall quit and surrender to the Landlord the Demised Premises, broom clean, in good order and condition, excepting only ordinary wear and tear, damage by fire, or other casualty. The Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of the Term of this Lease.

SECTION 36. LEASE AS ENTIRE AGREEMENT

(a) This Lease contains the entire agreement between the parties, and all prior negotiations, representations, warranties, and agreements with respect to the Demised Premises, or this Lease, are merged in this Lease. This Lease may not be changed, modified, or discharged, in whole or in part, orally, and no executory agreement shall be effective to change, modify, or discharge, in whole or in part, this Lease, or any obligations under this Lease, unless such agreement is set forth in a written instrument, executed by the party against whom enforcement of the change, modification, or discharge is sought.

SECTION 37. BINDING EFFECT; INDEPENDENT COVENANTS

(a) The terms and provisions of this Lease shall be binding upon and inure to the benefit of the Landlord and the Tenant and their permitted respective successors, and, except as otherwise provided in **Section 32** above, their assigns, subject, however, to the provisions of **Section 27** and **Section 28** above.

(b) The Landlord and the Tenant each warrant and represent on their own behalf that they are duly authorized to execute and enter into this Lease.

(c) The Tenant's agreements to pay Fixed Rent, Additional Rent, and other payments under this Lease are independent covenants. The Tenant shall have no right to withhold any payment of Fixed Rent, Additional Rent, or other payments because of any breach or alleged breach by the Landlord under this Lease, except as expressly set forth elsewhere in the Lease. Each term and provision of this Lease to be performed by the Tenant shall be construed to be both a covenant and a condition.

SECTION 38. ESTOPPEL CERTIFICATES

(a) The Tenant agrees from time to time, upon not less than fifteen

(15) days prior written request by the Landlord, to execute, acknowledge, and deliver to the Landlord a statement in writing certifying, as applicable, that this Lease is unmodified and in full force and effect, and that the Tenant has no defenses, offsets, or counterclaims against its obligations to pay the Annual Fixed Rent, any Additional Rent, and other charges hereunder; and to perform its other covenants under this Lease; and that there are no uncured defaults of the Landlord or the Tenant under this Lease (or, if there have been any modifications, that the same are in full force and effect as modified, and stating the modifications and, if there are any defenses, offsets, counterclaims, or defaults, setting them forth in reasonable detail); and the dates to which the Annual Fixed Rent, any Additional Rent, and other charges have been paid. Any such statement delivered pursuant to this paragraph may be relied upon by any purchaser, lessee, or Mortgagee of the Land or Demised Premises, or any assignee of any Mortgagee of the Land or Demised Premises.

SECTION 39. SUBORDINATION; RIGHTS OF MORTGAGEE

(a) The Tenant agrees, at the Landlord's request, to execute and deliver promptly any certificate or other instrument that the Landlord may reasonably request subordinating this Lease and all rights of the Tenant under this Lease to any Mortgage, and to all advances made under any such Mortgage, provided that the holder of any such Mortgage shall execute and deliver to the Tenant a non-disturbance agreement to the effect that in the event of any foreclosure of such Mortgage, such holder agrees not to name the Tenant as a party defendant to such foreclosure, nor to disturb its possession under this Lease so long as there shall be no default by the Tenant under this Lease.

(b) The Tenant agrees that if this Lease is so subordinated, no entry under any such Mortgage or sale for the purpose of foreclosing the same shall be regarded as an eviction of the Tenant, constructive or otherwise, or give the Tenant any right to terminate this Lease, whether it attorns or becomes tenant of the Mortgagee or new owner or not.

(c) Nothing contained in **Sections 39(a) or (b)** above, or in any such non-disturbance agreement or non-disturbance provision, shall, however, affect the prior rights of the holder of any first Mortgage with respect to the proceeds of any award in condemnation, or of any fire insurance policies affecting the Demised Premises, or impose upon any such holder any liability:

(i) for the erection or completion of the Demised Premises,
or;

(ii) in the event of damage or destruction to the Demised Premises by fire or other casualty, for any repairs, replacements, rebuilding, or restoration, except such repairs, replacements, rebuilding, or restoration as can reasonably be accomplished from the net proceeds of insurance actually received by, or made available to, such holder, or;

(iii) for any default by the Landlord under this Lease occurring prior to any date upon which such holder shall become the Tenant's landlord,
or;

(iv) for any credits, offsets, or claims against the rent under this Lease as a result of any acts or omissions of the Landlord committed or

omitted prior to such date, and any such agreement or provisions may so state.

SECTION 40. METHOD OF GIVING BILLS AND NOTICES

(a) Except as otherwise herein provided, any bill, statement, request, notice, or communication that may be desired, or be required to be given, made, or rendered to either the Tenant or the Landlord by the other party shall be in writing, and deemed sufficiently given, made, or rendered, if addressed to the appropriate party's Original Address, or subsequent address changed as specified in this **Section 40**, and delivered by hand, deposited by an overnight courier service, or sent by certified or registered mail, postage pre-paid, return receipt requested. Either party may at any time change its address for the aforementioned purposes by notice thereof given to the other party in the same manner.

SECTION 41. APPLICABLE LAW

(a) This Lease shall be construed in accordance with the laws of the Commonwealth of Massachusetts.

SECTION 42. HEADINGS FOR REFERENCE ONLY

(a) The Table of Contents and section headings in this Lease are for convenience and reference only, and in no way define or limit the scope or content of this Lease, or in any way affect its provisions.

SECTION 43. SEVERABILITY

(a) If any term of this Lease, or the application thereof to any person or circumstances, shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Lease shall be valid and be enforced to the fullest extent permitted by law.

IN WITNESS WHEREOF, the Landlord and the Tenant have executed, sealed, and delivered this Lease as of the day and year indicated below.

SIGNATURES

By: Town of Arlington

By: Adam W. Chapdelaine
Town Manager

By:
Tenant

By:

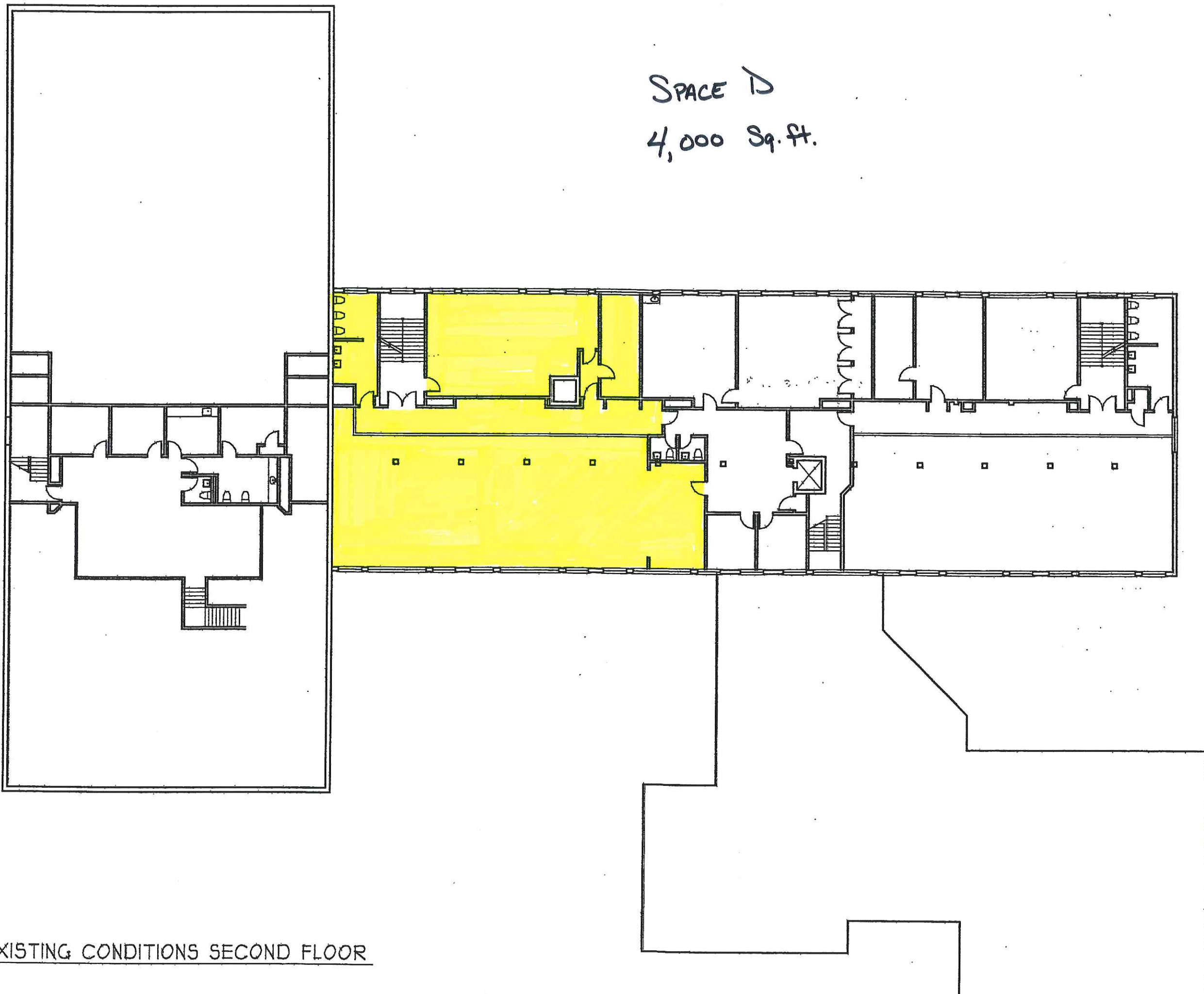
DATE EXECUTED: _____

TENANT RULES AND REGULATIONS

1. The sidewalks, entrances, passages, vestibules, stairways, corridors, or halls in or about the Demised Premises shall not be obstructed, or encumbered, or used for any purpose other than ingress or egress to and from the Demised Premises.
2. No awnings or other projections shall be attached to the outside walls or windows of the Demised Premises without the prior written consent of the Landlord. No curtains, blinds, shades, or screens shall be attached to, or hung in, or used in connection with, any window or door of the Demised Premises without the prior written consent of the Landlord. Such awnings, projections, curtains, blinds, shades, screens, or other fixtures must be of a quality, type, design, and color, and attached in a manner approved by the Landlord.
3. No articles shall be put in front of, or affixed to, any part of the exterior of the Demised Premises.
4. The water and wash closets, and other plumbing fixtures, shall not be used for any purposes other than those for which they were constructed, and no sweepings, rubbish, rags, or other substances shall be thrown therein. Neither the Landlord nor an occupant shall bring or keep, or permit to be brought or kept, any inflammable, combustible, or explosive fluid, material, chemical, or substance in or about the Demised Premises. The provisions of this Rule and Regulation shall be subject, in all respects, to the provisions of this Lease.
5. No motor vehicles, or animals of any kind (other than caged small specimen animals) shall be brought into, or kept in or about, the Building. This sentence shall be subject in all respects to the provision of this Lease. Neither the Landlord nor any occupant shall cause, or permit, any unusual or objectionable odors to emanate from the Demised Premises.
6. Except as may be expected in connection with the use of the Demised Premises as described in **Section 15** of the Lease to which these Rules and Regulations are attached, neither the Landlord nor any occupant shall make, or permit to be made, unseemly or disturbing noises, or disturb or interfere with the neighborhood, whether by the use of any musical instrument, radio, television set, or other audio device, unmusical noise, whistling, singing, or in any other way. Nothing shall be thrown out of any doors or windows.
7. No additional lock or bolts of any kind shall be placed upon any of the doors or windows, nor shall any changes be made in locks, or the mechanism thereof, without the Landlord's prior written consent, such consent not unreasonably to be withheld. the Landlord must, upon the termination of its tenancy, restore to the Landlord all keys, either furnished to, or otherwise procured by, the Landlord.
8. If the Demised Premises become infested with vermin, the Tenant, at its sole cost and expense, shall cause such vermin on the Demised Premises to be exterminated from time to time, to the satisfaction of the Landlord, and shall employ such exterminators therefor as shall be approved by the Landlord. If the cause of the vermin is located on

other than the Demised Premises, the Landlord will coordinate with the Tenant in taking action to ensure that the source is exterminated.

SPACE D
4,000 Sq. ft.



GIBBS SCHOOL
41 FORESTER STREET
ARLINGTON, MASSACHUSETTS

NASHAWTUC
ARCHITECTS INC.

Concord, MA 01742



978-371-0344

scale: 1"=20'

date: 06/20/02

drawn by: CD

checked by: BD

EXISTING CONDITIONS SECOND FLOOR