

Bingham Draft
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PLEASANT STREET LEASEHOLD CONDOMINIUM
CAMBRIDGE, MASSACHUSETTS

GROUND LEASE

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GROUND LEASE

THIS GROUND LEASE ("Lease"), signed and effective as of the ___th day of _____, 2003 by and between PRESIDENT AND FELLOWS OF HARVARD COLLEGE, a Massachusetts educational and charitable corporation having an address at Holyoke Center Room 912, 1350 Massachusetts Avenue, Cambridge, Massachusetts 02138 ("Lessor"), and Sally Zeckhauser, Sara Oseasohn, and Susan K. Keller, not individually but as Trustees of PLEASANT STREET GROUND LESSEE NOMINEE TRUST, a Massachusetts nominee trust under a Declaration of Trust dated _____, 2003, recorded with the Middlesex County Southern Registry District of the Land Court as Document No. _____ and to be noted on Certificate of Title No. 223316, having an address c/o Harvard Planning and Real Estate, 10 Mt. Auburn Street, Cambridge, Massachusetts 02138 ("Lessee").

W I T N E S S E T H:

ARTICLE 1.

Definitions

1.1. General Provisions. For all purposes of this Lease unless otherwise expressed and provided herein or unless the context otherwise requires, terms used herein without definition which are defined in the Condominium Documents (as hereinafter defined) or the Condominium Statute (as hereinafter defined) have the meanings assigned to them therein; each definition stated in Section 1.2 of this Lease applies equally to the singular and the plural forms of the term defined; and any reference to a document or exhibit defined in Section 1.2 of this Lease is to such document as originally executed, or, if modified, amended or supplemented in accordance with the provisions of the Condominium Documents, to such document as so modified, amended or supplemented and in effect at the relevant time of reference thereto.

1.2. Terms Defined. Each term set forth below in this Section 1.2 has the meaning stated immediately after it.

Additional Rent. All sums and other charges (other than Basic Rent) which Lessee assumes and agrees to pay under this Lease including but not limited to all insurance premiums, all real estate taxes and betterment assessments, all other sums provided in this Lease to be paid by Lessee to Lessor, all other expenses and obligations of every kind and nature whatsoever relating to the Premises or any part thereof which may arise or become due prior to or during the Term of this Lease, and all sums, other charges and expenses incurred by Lessor as the result of a Default.

Adjusted Fair Market Value of a Unit. With respect to a Harvard Eligible Unit, an amount equal to (a) the Fair Market Value of a Unit for such Harvard Eligible Unit, minus (b) the amount which is the product of the Lease Percentage multiplied by the Fair Market Value of a Unit for such Harvard Eligible Unit.

Affiliate of Sponsor. A corporation, partnership, trust, or other entity of which at least 80% of the interest thereof is owned or controlled by Sponsor or the holder of the beneficial interest in Sponsor, and includes a so-called nominee trust if Sponsor or such holder owns at least 80% of the beneficial interest therein.

Authorizations. Any license, permit, or other consent issued by any Governmental Authority pursuant to any Legal Requirement which is or may be required for the ownership, use or occupancy of a Unit.

Basic Rent. The basic rent shall be \$12,000 per year.

Buildings. The buildings located on the Land containing Units.

By-Laws. The provisions of the by-laws of the Board of Managers governing the organization and operation of the Board of Managers, as amended from time to time.

Common Elements. The common areas and facilities of the Condominium described in Section 4 of the Master Deed including the leasehold estate in the Land, the Buildings (except for the Units) and the Improvements.

Common Expenses. The expenses of administration, operation, maintenance, repair, or replacement of the Common Elements and expenses declared to be a Common Expense by (i) the Condominium Statute, (ii) the By-Laws or (iii) the Board of Managers acting pursuant to the By-Laws.

Condominium. The leasehold estate in the Land, the Buildings and the Improvements and all easements, rights, and appurtenances belonging to any of the foregoing, to be created upon the recording of the Master Deed with the Registry.

Condominium Documents. The Master Deed, the By-Laws, the Rules and Regulations, and this Lease, and any amendments thereto.

Condominium Statute. Chapter 183A of the General Laws of The Commonwealth of Massachusetts, as amended to the date of the recording of the Master Deed.

Current Dollars. As to any amount set forth in this Lease to be adjusted to "Current Dollars," such amount adjusted for inflation from the date of this Lease to the date of reference to the amount in the Lease, as follows. The base for computing the adjustment is the "Consumer Price Index for All Urban Consumers, Boston, Massachusetts Area, All Items, Index Base 1982-1984 = 100" published by the United States Department of Labor, Bureau of Labor Statistics (the "Index"), which is in effect on the date of this Lease (the "Beginning Index"). The Index published most immediately preceding the date of reference to the amount in this Lease (the "Extension Index") is to be used in determining the amount of the adjustment. If the Extension Index has increased over the Beginning Index, the amount set forth in this Lease shall be determined by multiplying the amount set forth in this Lease by a fraction, the numerator

of which is the Extension Index and the denominator of which is the Beginning Index, but in no event shall the adjusted amount be less than the amount originally set forth in this Lease. If the Index has changed so that the base differs from that in effect when the term of this Lease commences, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the term of this Lease, such other governmental index or computation with which it is replaced shall be used in order to obtain substantially the same result as would have been obtained if the Index had not been discontinued or revised.

Default. Any event or condition that would be an Event of Default hereof so long as any applicable requirement for the giving of notice or lapse of time or both have not been fulfilled.

Event of Default. Any Terminable Event of Default or Non-Terminable Event of Default.

Faculty Member. A full-time tenured professor, a full-time associate professor, or full-time assistant professor, of Harvard University who receives their salary from Harvard University. If there is a dispute over whether a person is a Faculty Member, the ultimate determination shall be made by the Appointments Office of the Harvard University faculty of which the person is or claims to be a member.

Fair Market Value of a Unit. The value of a Harvard Eligible Unit determined as if the fee interest in the Land, the Buildings and the Improvements were included in the Condominium, and otherwise in accordance with Section 9 of the Master Deed.

Force Majeure. Acts of God, strikes, restrictive Legal Requirements, riots and insurrections, acts of the public enemy, wars, natural disasters, fires, explosions, any act, failure to act or Default of the other party to this Lease or any other reason beyond the control of any party to this Lease; provided, however, lack of money shall not be deemed such a cause.

Governmental Authority. The United States of America, The Commonwealth of Massachusetts, the City of Cambridge, the County of Middlesex, and any political subdivision thereof and any agency, department, commission, board, court, bureau, or instrumentality of any of them.

Harvard Eligible Units. Units of the Condominium which are not Inclusionary Housing Units.

Improvements. All improvements and structures (other than the Buildings) now or at any time upon the Land.

Inclusionary Housing Covenant. That certain Inclusionary Zoning Housing Covenant for Eighteen Units at 157, 165 and 173 Pleasant Street, Cambridge, Massachusetts (Homeownership – Rev. 11/99), recorded with the Registry as Document

No. 1168446, as amended by a First Amendment to Inclusionary Housing Covenant Under Zoning to be recorded with the Registry with the Master Deed.

Inclusionary Housing Units. The eighteen Units of the Condominium designated as the Affordable Units in the Inclusionary Housing Covenant and identified on Exhibit C hereto.

Insurance Requirements. All terms of any policy of insurance maintained by the Board of Managers and applicable to the Condominium or any Unit therein, or any part or parts of either, and all requirements of the issuer of any such policy, and all orders, rules, regulations and other requirements of the National Board of Fire Underwriters (or any other body exercising similar functions) applicable to or affecting any condition, operation, use or occupancy of the Condominium, any Unit therein or any part or parts of either.

Land. The parcel of land (including the land under the Buildings and Improvements, but not including the Buildings, the Improvements, or any oil, gas, or mineral rights) which is described in Exhibit A hereto and all easements, rights, and appurtenances belonging thereto.

Late Charge. An amount equal to five percent of the amount of any payment due and payable hereunder which is not paid promptly when due.

Lease Percentage. Twenty-one percent. Periodically, but not more frequently than every four years, Lessor shall have the right to change such percentage amount for subsequent sales by unilaterally amending this Ground Lease based on such appraisals obtained by Lessor as Lessor deems appropriate and recording at the Registry notice thereof.

Leasehold Estate. The Lessee's interest in the Premises created pursuant to this Lease.

Lease Year. The period from July 1 through June 30 of each year during the term of this Lease.

Legal Requirements. All statutes, codes, ordinances (and all rules and regulations thereunder), all executive orders and other administrative orders, judgments, decrees, injunctions, and other judicial orders of or by any Governmental Authority which may at any time be applicable to parts or appurtenances of the Condominium.

Lessee. Initially, the Sponsor, and from and after Master Deed Recording Date, the Unit Owners from time to time of the Condominium (including the Sponsor so long as it owns any of the Units).

Lessee's Property. Equipment, fixtures, furniture, furnishings, and other personal property supplied or installed by Lessee insofar as any of the same are not, as a matter of law, part of a Unit.

Lessee's Share. With respect to each Unit, that percentage which is equal to the Proportionate Interest for such Unit.

Lessor. As defined in the preamble hereof.

Master Deed. The Master Deed dated as of _____, 2003 executed by Sponsor and to be recorded with the Registry immediately following the recording of this Lease.

Master Deed Recording Date. The date on which the Master Deed is recorded with the Registry.

Non-Terminable Event of Default. Any event or condition specified in Section 20.2 hereof if all applicable periods for the giving of notice or lapse of time or both have been fulfilled.

Partial Taking. With respect to either a Unit or the Condominium or the Premises, any Taking which is not a Total Taking.

Permitted Exceptions. Any liens or encumbrances on the Premises of the following character:

(a) Liens for taxes, assessments and other governmental charges assessed but not yet due and payable.

(b) Easements, reservations, restrictions and rights of way encumbering or affecting the Premises on the date of this Lease.

(c) The rights of Lessor and any other lessees from Lessor to exercise in common with respect to the Premises, the rights granted to Lessee hereunder.

(d) The Title Conditions.

(e) The terms and provisions of the Condominium Documents.

(f) The terms and provisions of the Inclusionary Housing Covenant.

Plan. A plan of land prepared by Beals and Thomas, Inc., dated February 12, 2003, entitled "Condominium Site Plan Pleasant Street Leasehold Condominium in Cambridge, MA (Middlesex County)" to be recorded with the Registry.

Premises. The Land, the Buildings and the Improvements.

Proportionate Interest. The Proportionate Interest shall equal, with respect to each Unit, the percentage of interest in the undivided ownership of the Common Elements which is appurtenant thereto, as set forth in Exhibit B to the Master Deed.

Qualified Appraiser. A qualified independent appraiser who is a Member of the Appraiser Institute and has at least ten years experience appraising properties similar to the Premises in the City of Cambridge.

Registry. Middlesex County Southern Registry District of the Land Court.

Rent. Basic Rent and all Additional Rent.

Rules and Regulations. Rules and regulations with regard to the maintenance and use of the Units and Common Elements as adopted from time to time by the Board of Managers.

Senior Administrator. A person who is a full-time employee receiving their salary from Harvard University and holds an appointment as a Provost or a Vice President of Harvard University, or as a Dean of one of the faculties of Harvard University, or such other person deemed to be a senior administrator by the guidelines adopted from time to time by the Harvard Corporation. A certificate indicating that a person is Senior Administrator signed by the Secretary of Harvard University and any two persons authorized to execute deeds conveying real estate owned by Lessor, when recorded with the Registry of Deeds, can be relied upon by all persons.

Sponsor. Sally Zeckhauser, Sara Oseasohn, and Susan K. Keller, not individually but as Trustees of Pleasant Street Ground Lessee Nominee Trust under a Declaration of Trust dated _____, 2003 which is recorded with the Registry as Document No. _____ and is to be noted on Certificate of Title No. 223316.

Stated Expiration Date. Ninety-nine years from the date hereof.

Taking. The taking or condemnation of title to all or any part of the Premises or the Leasehold Estate or the possession or use of any Unit by a Governmental Authority for any public use or purpose or any proceeding or negotiations which might result in such a taking or any sale or lease in lieu of or in anticipation of such a taking.

Taxes. All taxes, special general assessments, water rents, rates and charges, sewer rents and other impositions imposed by any Governmental Authority and charges of every kind and nature whatsoever, which shall or may during the term of this Lease be charged, levied, laid, assessed, imposed, become due and payable or become liens upon or with respect to the Premises or the Leasehold Estate or any part thereof or any Unit, appurtenances or equipment owned by Lessee thereon or therein or any part thereof or on this Lease, together with all interest and penalties thereon and any income or profits tax or tax of any other nature intended to be in lieu of the taxes here in before described.

Terminable Event of Default. Any event or condition specified in Section 20.1 hereof if all applicable periods for the giving of notice or lapse of time or both have been fulfilled.

Title Conditions. All covenants, agreements, restrictions, easements, and declarations of record on the date of the recording of the Master Deed so far as the same may be from time to time in force and applicable and as described in Exhibit A to the Master Deed.

Total Taking. (i) a Taking of the Condominium (as described in the By-Laws) as the result of which the Condominium is partitioned and removed from the provisions of the Condominium Statute or (ii) a Taking of the fee interest in all or substantially all of the Premises or a Taking of all or substantially all of the Leasehold Estate or such title to or easement in or over the Premises to the exclusion of Lessee which in the good faith judgment of the Board of Managers prohibits access to the Units or the exercise of any rights under the Lease necessary to the safety and management of the Condominium or the Units.

Unit. A unit of the Condominium.

Unit Mortgage. A mortgage granted by a Unit Owner on his Unit and Proportionate Interest in the Common Elements to a lending institution pursuant to Section 8.6 of the By-Laws.

Unit Mortgage Purchase Amount. With respect to any first Unit Mortgage of a Harvard Eligible Unit, an amount equal to the lesser of (i) the unpaid principal, interest, and other charges with respect to such Unit Mortgage on the date such Unit Mortgage is assigned to Lessor, and (ii) the sum of 90% of the Adjusted Fair Market Value of a Unit (as defined in the Master Deed) of such Harvard Eligible Unit at the time such Unit Mortgage was originated plus the monthly installments of principal and interest under such Unit Mortgage for three months.

Unit Mortgagee. The holder of a Unit Mortgage as to whom or which the notice to Lessor provided for in Article 17 has been given and received.

Unit Owner. The person(s) holding legal title to a Unit as shown by the records of the Registry.

Utility Expenses. Amounts paid or incurred for electricity, water, gas, and other utilities supplied or made available to a Unit which are not part of Common Expenses.

ARTICLE 2.

Premises

2.1. Premises. Lessor hereby leases and lets to Lessee, and Lessee hereby takes and hires from Lessor, upon and subject to terms, conditions, covenants, reservations, and provisions hereof, the Premises, subject only to Permitted Exceptions. From and after the recording of the Master Deed and conveyance of any Unit by the Sponsor, Lessor hereby agrees to accept performance of Lessee's obligations hereunder through the proportionate discharge of these obligations by individual Unit Owners.

2.2. Ownership of Building and Improvements. The Buildings and Improvements shall be or become part of the Premises but such Buildings (including the Units) and Improvements shall be owned by Lessee until the expiration or earlier termination or cancellation of this Lease.

ARTICLE 3.

Term

3.1. Term. The term of this Lease shall commence on the date hereof and shall continue until the Stated Expiration Date, unless earlier terminated pursuant hereto. Lessor shall give to each Lessee twelve months prior written notice of the Stated Expiration Date.

ARTICLE 4.

Rent

4.1. Basic Rent. Basic Rent shall be payable annually in arrears commencing with the Lease Year ending on June 30, 2003. On or before the end of each Lease Year, Lessee shall pay Lessor for the then current Lease Year the Basic Rent, without offset or deduction and without previous demand therefor. Basic Rent for any partial Lease Year included in the Term shall be prorated. Basic Rent shall be included in the Common Expenses assessed to each Lessee in respect of such Lessee's Unit and each Lessee shall be responsible only for its Lessee Share of Basic Rent.

4.2. Late Charge. Lessee shall pay Lessor the Late Charge, without offset or deduction and without demand therefor, which shall be due and payable as a result of Lessee's failure to pay Lessor Basic Rent when due.

4.3. Net Lease. This Lease is a net lease and Lessee's obligation to pay all Basic Rent and Additional Rent payable hereunder shall be absolute and unconditional, shall be paid without notice, demand, counterclaim, set-off, deduction, defense, abatement, suspension, deferment, diminution, or reduction, and shall not be affected by any circumstance whatsoever. The obligation to pay Basic Rent is an independent covenant of Lessee.

ARTICLE 5.

Use of Premises

5.1. Ownership, Occupancy, and Use Restricted. The Premises may be used as a residential condominium containing no more than 120 Units, of which eighteen shall be Inclusionary Housing Units and the balance shall be Harvard Eligible Units, and for no other purposes. The Units may be owned, occupied, and used only in accordance with the restrictions set forth in Sections 5 and 6 of the Master Deed which are reprinted below and may be specifically enforced by Lessor through this Lease. Lessee may not amend Sections 5 or 6 of the Master Deed without first obtaining the express, written consent of Lessor and any attempt to amend or purported amendment of Sections 5 or 6

of the Master Deed without Lessor's express, prior written consent shall constitute a Terminable Event of Default hereunder.

“5. Ownership Restricted. The purpose of the Condominium is to provide 102 units of housing for members of the faculty and senior administrators of Harvard University as required by the Ground Lease and to provide 18 units of housing to “Eligible Households” as defined in and as required by that certain Cambridge, Massachusetts Inclusionary Zoning Affordable Housing Covenant for Eighteen Units at 157, 165 and 173 Pleasant Street, Cambridge, Massachusetts (Homeownership – Rev. 11/99), recorded with the Middlesex County Southern Registry District of the Land Court as Document No. 1168446, as amended by a First Amendment to Inclusionary Housing Covenant Under Zoning to be recorded with the Registry with this Master Deed (as the same may be further amended of record from time to time, the “Inclusionary Housing Covenant”). The provisions of the Inclusionary Housing Covenant, as it may be amended hereafter, are independent of this Master Deed and nothing in this Master Deed or the By-Laws, as they may be amended, shall alter or affect the provisions of the Inclusionary Housing Covenant, or the rights of the owner of Inclusionary Housing Units established under the Inclusionary Housing Covenant, in any way. As used in this Master Deed, the term “Inclusionary Housing Units” mean the 18 Units of the Condominium designated as the Affordable Units in the Inclusionary Housing Covenant and identified on Exhibit C hereto, and the term “Harvard Eligible Units” mean Units of the Condominium that are not Inclusionary Housing Units.

(a) Harvard Eligible Units. The Unit Owner of a Harvard Eligible Unit must occupy such Unit as his or her principal residence. Without the prior, express written consent of Lessor in each instance, which consent may be arbitrarily withheld by Lessor in Lessor's sole discretion, no person, other than Sponsor or an Affiliate of Sponsor (as hereinafter defined), or the Board of Managers, or an Exempted Unit Owner (as hereinafter defined) shall at any time directly or indirectly, own any Harvard Eligible Unit, unless such person is a Faculty Member (as hereinafter defined) or a Senior Administrator (as hereinafter defined); provided, however, that in the case of the death of a Faculty Member or Senior Administrator, such Faculty Member's or Senior Administrator's spouse may own such Unit but may sell such Unit only to another Faculty Member or Senior Administrator or to the Sponsor. The term "Faculty Member" shall mean a person holding an appointment as a full-time professor, full-time associate professor, or full-time assistant professor of Harvard University who receives their salary from Harvard University. If there is a dispute over whether a person is a Faculty Member, the ultimate determination shall be made by the Appointments Office of the Harvard University faculty of which the person is or claims to be a member and a

certificate of such determination signed by the dean of that faculty and any two persons authorized to execute deeds conveying real estate owned by Lessor, when recorded in the Registry of Deeds, can be relied upon by all persons. The term "Senior Administrator" shall mean a person who is a full-time employee receiving their salary from Harvard University and holds an appointment as a Provost or a Vice President of Harvard University, or as a Dean of one of the faculties of Harvard University, or such other person deemed to be a senior administrator by the guidelines adopted from time to time by the Harvard Corporation. A certificate indicating that a person is Senior Administrator signed by the Secretary of Harvard University and any two persons authorized to execute deeds conveying real estate owned by Lessor, when recorded with the Registry of Deeds, can be relied upon by all persons. An "Affiliate of Sponsor" is a corporation, partnership, trust, or other entity of which at least 80% of the interest thereof is owned or controlled by Sponsor or the holder of the beneficial interest in Sponsor, and includes a so-called nominee trust if Sponsor or such holder owns at least 80% of the beneficial interest therein. A purported sale or transfer of a Harvard Eligible Unit (by anyone other than Sponsor or an Affiliate of Sponsor) to any person or entity, other than Sponsor, an Affiliate of Sponsor, or the Board of Managers, shall be voidable at Sponsor's option at any time within five years after Sponsor has actual notice of same, unless the sale or transfer complied with this Master Deed. No person, other than Sponsor or an Affiliate of Sponsor or the Board of Managers, shall at any time, directly or indirectly, own an interest in more than one Harvard Eligible Unit. Unit Mortgagees shall be deemed to hold Harvard Eligible Units in constructive trust for the Sponsor and the Board of Managers; and Unit Mortgagees may own Units only temporarily and are subject to the requirements of Section 8 hereof. Sponsor or an Affiliate of Sponsor shall be permitted at its own discretion to convey a Harvard Eligible Unit to a person or entity (the "Exempted Unit Owner") free and clear of any and all restrictions contained in this Section and Section 6 of this Master Deed, the By-Laws and the Rules and Regulations. Any such exemption from restrictions shall not run with such Harvard Eligible Unit and as such, if and when such Harvard Eligible Unit is conveyed by the Exempted Unit Owner to a person or entity other than Sponsor or an Affiliate of Sponsor, all restrictions set forth herein and in the By-Laws and the Rules and Regulations shall apply to such Harvard Eligible Unit and new Unit Owner. The restrictions contained in this Section and Section 6 of the Master Deed, the By-Laws and Rules and Regulations shall not apply to Sponsor or any Affiliate of Sponsor.

(b) Inclusionary Housing Units. Ownership and use of the Inclusionary Housing Units is restricted pursuant to the provisions of the Inclusionary Housing Covenant. Nothing in this Master Deed or the By-Laws, as they may be amended, shall alter the terms of the Inclusionary Housing Covenant in any way. By way of illustration, occupancy rights

and restrictions on Inclusionary Housing Units set out in the Inclusionary Housing Covenant are not affected by the terms of this Master Deed.

6. Occupancy and Use Restricted. The Units and the Buildings are intended to be used solely for residential purposes, subject to the restrictions set forth in Section 5 and this Section 6 and the provisions of the By-Laws and the Rules and Regulations.

Unless otherwise permitted by an instrument in writing duly executed by Lessor, (a) no Unit shall be used for any purpose other than as a dwelling for one family or for no more than two unrelated persons, provided that nothing contained herein shall prohibit any Unit Owner from having temporary guests (for a period not to exceed fourteen days) and live-in domestic employees, and provided further that (i) the maximum number of occupants of Harvard Eligible Units shall be limited to one in the case of a studio Unit, two in the case of a one-bedroom Unit, four in the case of a two-bedroom Unit, and five in the case of a three-bedroom Unit, and (ii) the maximum number of occupants of Inclusionary Housing Units shall be limited as provided in the Inclusionary Housing Covenant, and (b) no business activities of any nature shall be conducted in any Unit, except (i) as provided in Section 2 hereof, and (ii) that a person residing in any such Unit may maintain therein (if permitted by law) an office for his or her personal professional or business use, but no employees or persons other than a resident of such Unit shall engage therein in any such activities and no such office shall be advertised, held out, or used as a place for service to clients or patients or business invitees.

The Units shall be subject to the further restriction that no such Unit shall be used for, nor shall any Unit Owner engage in or conduct or permit or suffer any activities in violation of applicable provisions of the Ground Lease or any of the Title Conditions.

To the maximum extent permissible under applicable law, none of the Units shall be used for any so-called time-sharing programs or purposes, whereby the Unit Owner sells, leases, licenses, or otherwise grants an interest or a right of occupancy in or to any Unit or Units for one or more (monthly or shorter) fixed or floating intervals within any two or more successive years, including, without limitation, so-called time span ownership, interval ownership, vacation or other time-sharing license or lease programs or purposes. The provisions of this paragraph shall not, however, be construed to derogate from (i) the right of a Unit Owner to enter into a true lease of his Unit, subject to and in accordance with and all applicable provisions of this Section 6, all applicable provisions of this Master Deed, the By-Laws and Rules and Regulations, and all applicable provisions of the Inclusionary Housing Covenant in the case of an Inclusionary Housing Unit.

The parking spaces and storage bins included in the Common Elements are, in the case of the parking spaces, intended to be used solely for the parking of private passenger vehicles (including automobiles, motorcycles, recreational vehicles and to the extent customarily used primarily for the transportation of passengers, pick-up trucks) and, in the case of the storage bins, intended to be used solely for the storage of furnishings, equipment and the like, all subject to the restrictions set forth herein and the provisions of the By-Laws and the Rules and Regulations promulgated pursuant thereto. No Unit Owner shall park more than one vehicle in the parking spaces included in the Common Elements without the prior written consent of the Board of Managers. Only one vehicle may be parked in a parking space.

The foregoing restrictions are applicable to all of the Units. In addition to these restrictions, the Harvard Eligible Units are subject to the restrictions set forth in paragraph (a) below and the Inclusionary Housing Units are subject to the restriction, set forth in paragraph (b) below.

(a) Harvard Eligible Units. A Harvard Eligible Unit may be occupied only by the Unit Owner, the Unit Owner's immediate family, and not more than one unrelated person. No Unit Owner, other than Sponsor or an Affiliate of Sponsor, may rent, sublease, or license their unit to permit anyone to occupy all or any part of a Harvard Eligible Unit, without the prior, express, written consent of Sponsor in each instance, which consent may be arbitrarily withheld by Sponsor in Sponsor's sole discretion. In any event, Harvard Eligible Units owned by persons other than Sponsor or an Affiliate of Sponsor may be rented only to persons who are employees of Harvard University, students attending Harvard University, so-called "visiting scholars", so-called "fellows", or so-called "visiting faculty", as the terms "visiting scholars", "fellows", and "visiting faculty" are defined by the relevant Harvard University faculty. Harvard Eligible Units owned by Sponsor or an Affiliate of Sponsor may be rented by Sponsor or such Affiliate to anyone. A Unit Owner of a Harvard Eligible Unit may not give or transfer such Harvard Eligible Unit to his or her spouse in connection with a divorce and a Unit may not be transferred to any person who is not a Faculty Member, Senior Administrator, the Sponsor, or the Board of Managers. The foregoing limitations on Unit use, occupancy and ownership shall not apply to Sponsor or any Affiliate of Sponsor.

(b) Inclusionary Housing Units. The occupancy and use of the Inclusionary Housing Units are restricted pursuant to the provisions of the Inclusionary Housing Covenant. In addition, no Unit Owner, other than the Sponsor or an Affiliate of Sponsor, may rent, sublease, or license their unit to permit anyone to occupy all or any part of an Inclusionary Housing Unit without the prior, express written consent of the City of Cambridge

under the Inclusionary Housing Covenant in each instance, which consent may be arbitrarily withheld by the City in the City's sole discretion.

ARTICLE 6.

Common Expenses; Taxes and Utility Expenses

6.1. Taxes; Utility Expenses. Subject to the provisions of Section 6.2, each Lessee shall, during the term of this Lease, pay and discharge punctually, as and when the same shall become due and payable, (i) all Common Expenses assessed to such Lessee in respect of such Lessee's Unit, (ii) 100% of all Taxes and Utility Expenses charged, assessed, or apportioned directly to such Lessee or such Lessee's Unit not included in Common Expenses, and (iii) Lessee's Share of any Taxes, charges, liens, and other amounts assessed, or charged to the Premises or the Leasehold Estate.

6.2. Installment Payment. If permitted by law and if the Board of Managers is also doing so, Lessee shall have the right to apply for the conversion of any assessment for local improvements assessed during the term of this Lease to enable the same to be payable in annual installments, and upon such conversion Lessee shall pay and discharge punctually said installments as they shall become due and payable during the term of this Lease. Lessor agrees to permit the application for the foregoing conversion to be filed in Lessor's name, if necessary, and shall execute any and all documents requested by Lessee to accomplish the foregoing result. Lessee shall indemnify and hold harmless Lessor from any cost, loss, damage, or liability in connection therewith.

6.3. Compliance. Lessee shall be deemed to have complied with the covenants of Section 6.1 hereof if Taxes are paid either within any period allowed by law or by the Governmental Authority imposing the same during which payment is permitted without penalty or interest or before the same shall become a lien upon the Premises or a Unit, and Lessee shall produce and deliver to Lessor satisfactory evidence of such payment.

6.4. Taxation. All Taxes, including assessments which have been converted into installments as provided in Section 6.3, that shall become payable during each of the calendar or fiscal tax years, as the case may be, in which the term of this Lease commences or terminates, shall be apportioned pro rata between Lessor and Lessee in accordance with the respective portions of such year during which such term shall be in effect.

6.5. Contests. Subject to Lessor's prior approval, which shall not be unreasonably withheld, Lessee or its designees shall have the right to contest or review all Taxes by legal proceedings (which if instituted, Lessee or its designees shall conduct promptly at its own expense, and free of any expense to Lessor, and, if necessary, in the name of and with the cooperation of Lessor, and Lessor shall execute all documents necessary to accomplish the foregoing). Lessee shall indemnify and hold harmless

Lessor from any cost, loss, damage or liability in connection therewith and, at Lessor's request, if not otherwise required by law, shall deposit with Lessor or the taxing authority (or post bonds) equal to the amount of the contested taxes if reasonably necessary to protect Lessor's interests. Notwithstanding the foregoing, Lessee shall promptly pay all Taxes if at any time a Unit or the Premises or any part thereof shall be subject to forfeiture, or if Lessor shall be subject to any criminal liability, arising out of the non-payment thereof. In the event of any reduction, cancellation, or discharge, Lessee shall pay the amount finally levied or assessed against the Premises or adjudicated to be due and payable on any such contested Taxes.

6.6. Refunds and Rebates. Except as otherwise provided herein, if there shall be any refunds or rebates on account of the Taxes paid by Lessee under this Lease, such refund or rebate (or Lessee's Share thereof) shall belong to Lessee. Any refunds received by Lessor shall be deemed trust funds and as such are to be received by Lessor in trust and paid to Lessee forthwith. Lessor will, upon the request of Lessee, sign any receipts which may be necessary to secure the payment of any such refund or rebate.

6.7. Other Taxes. This Lease shall require and be construed to require Lessee to pay any and all other taxes that are, or may be, imposed upon (i) the Premises, (ii) the Leasehold Estate, (iii) the Lessor's interest in this Lease, and (iv) Lessor, its successors or assigns, to the extent such are in lieu of or in substitution for Taxes imposed on the Unit, the Leasehold Estate, the Premises or this Lease.

6.8. Cure Right. Lessor shall at all times have the right, but not the obligation, to pay any of the taxes or other amounts required to be paid under this Lease, and such payment shall be additional rent and shall be due from Lessee on demand.

ARTICLE 7.

Repairs, Additions, Replacements and Improvements

7.1. Maintenance. Lessee shall, at all times during the term of this Lease, at its own expense, individually and through the exercise all of its rights as a Unit Owner, keep and maintain or cause to be kept and maintained the Units in good repair and condition and shall cause the Board of Managers to keep and maintain the Buildings and the Improvements in good repair and condition, loss by fire or other casualty (unless and to the extent that insurance is required to be carried), and reasonable wear and tear excepted. Lessee shall make all necessary repairs, ordinary or extraordinary, foreseeable or unforeseeable, which are necessary to maintain such condition or required by law and shall use all reasonable precaution to prevent waste, damage or injury. Lessor shall not be required to furnish any services or to make any improvements, repairs, or alterations in or to the Buildings, Improvements, Premises, or the Units during the term of this Lease. Lessee shall cause the Board of Managers to make any and all repairs, alterations, additions, and replacements to the Buildings or Improvements consistent with the terms of the By-Laws.

7.2. Signs. Lessee (or the Board of Managers) will not erect or suffer the placement of any exterior signs which have not been first approved in writing by Lessor.

7.3. Lessor Design Approval. No alteration or additions to the Buildings or the Improvements, including repair or replacement after a casualty, shall be made unless Lessor has consented in advance in writing to the plans and specifications therefor; provided, however, that any non-structural alterations or interior changes may be made without first obtaining Lessor's consent if the same do not substantially alter the character, exterior appearance or structural integrity of the Buildings or the Improvements.

ARTICLE 8.

Requirements of Public Authority

8.1. Legal Requirements. During the term of this Lease, Lessee shall, at its own expense, promptly comply with all Legal Requirements, and Lessee shall pay all expenses, liabilities, damages, fines and claims, that may arise out of or be imposed because of the failure of Lessee to comply with the covenants of this Article 8.

8.2. Contests. With Lessor's approval in each instance, Lessee shall have the right to contest by appropriate legal proceedings diligently conducted in good faith, in the name of the Lessee, or Lessor (if legally required), or both (if legally required), without cost, liability or damage to Lessor the validity or application of any Legal Requirement and, if compliance therewith may legally be delayed pending the prosecution of any such proceeding, Lessee may delay such compliance therewith until the final determination of such proceeding.

8.3. Lessor's Assistance. Lessor shall execute and deliver any appropriate papers or other instruments which may be necessary to permit Lessee to contest the validity or application of any such Legal Requirement and to cooperate fully with Lessee in such contest.

ARTICLE 9.

Covenant Against Liens

9.1. Mechanics' Liens. Lessor's right, title, and interest in the Premises shall not be subject to liens of mechanics and materialmen for work done by or on behalf of Lessee in connection with improvements to any part of the Condominium. Notwithstanding such restriction, if because of any act or omission of Lessee, any mechanic's lien or other lien for payment of money shall be filed against any portion of the Premises, Lessee shall, at its own expense, cause the same to be discharged of record or bonded within sixty days after the filing thereof.

9.2. Right to Discharge. Without otherwise limiting any other remedy of Lessor for default hereunder, if Lessee shall fail to cause such liens to be discharged of record or bonded within the aforesaid thirty day period or to satisfy such liens within thirty days after any judgment in favor of such lien holders from which no further appeal

might be taken, then Lessor shall have the right to cause the same to be discharged. All amounts paid by Lessor to cause such liens to be discharged shall constitute Additional Rent and shall be due on demand.

ARTICLE 10.
Access to Premises

10.1. Access. Lessor, its agents and designees, shall have the right, but not the obligation, to enter upon the Premises and the Units upon such notice, at such time and in such manner as is reasonable under the circumstances to examine the same and to exhibit the Premises and the Units to prospective purchasers, tenants, mortgagees, insurance personnel, and persons who need to inspect the Premises and the Units for purposes consistent with this Lease and the Master Deed.

ARTICLE 11.
Conveyance and Assignment

11.1. Conveyance. Conveyance of all or any part of the interest in a Unit by Lessee shall constitute an assignment of all or the appropriate part of Lessee's Proportionate Interest in the Leasehold Estate under this Lease even if no instrument of assignment is executed. Acceptance of a deed to a Unit shall be deemed to constitute acceptance of such assignment and no separate instrument shall be required. Upon the conveyance of a Unit, Lessee shall be released from liability hereunder, and the purchaser of such Unit shall assume liability hereunder as Lessee, but only with respect to such Unit and only to the extent of its Proportionate Interest.

11.2. Compliance with Master Deed. Any conveyance of a Harvard Eligible Unit or an Inclusionary Housing Unit by Lessee shall be subject to the requirements of the Master Deed, specifically including Sections 7, 8, and 9 thereof, in the case of a Harvard Eligible Unit, and the Inclusionary Housing Covenant, in the case of an Inclusionary Housing Unit, as the case may be.

11.3. Assignment by Lessor. Lessor may assign or sell (or both) this Lease, or sell or otherwise transfer its interest in the Premises and the same shall not be a basis or grounds for a default under any Unit Mortgage. Lessor agrees to furnish to Lessee written notice of Lessor's assignment, sale, or transfer of this Lease within thirty days thereafter, together with the name and address of the assignee, purchaser, or transferee. Any assignee, purchaser, or transferee shall assume, by written, recordable instrument, the due performance of all of Lessor's obligations under this Lease, including any accrued obligations at the time of assignment, sale, or transfer.

ARTICLE 12.
Indemnity

12.1. Lessee's Indemnity. To the fullest extent permitted by law, Lessee shall indemnify and save harmless Lessor from and against any and all liability, damage, penalties, or judgments and from and against any claims, actions, proceedings and

expenses in connection therewith, including reasonable counsel fees, arising from injury to person or property sustained by anyone on the Premises, a Unit or the Condominium (other than any act(s) or omissions(s) of Lessor or its officers, agents, servants, employees, contractors, sublessees, or invitees of any nature). Lessee shall, at its own expense, defend any and all suits or actions (just or unjust) which may be brought against Lessor or in which Lessor may be impleaded with others upon any such above-mentioned matter, claim or claims, except as may result from the acts as set forth in Section 12.2. Lessor agrees to cooperate with Lessee in defense of any such suit or action. Notwithstanding the foregoing, any claims for indemnification made by Lessor arising from injury to person or property sustained by anyone in the Common Elements shall be brought against the Association, and all attachments and executions related to such claims shall be made only against common funds or property held by the Association and not against the Common Elements, other than the Leasehold Estate, and after such common funds and property have been exhausted, individual Unit Owners shall be liable for the balance due, if any, provided, however, that the amount for which a Unit Owner is liable shall be limited to a sum equal to such Unit Owner's Proportionate Interest times the balance due.

12.2. Lessor's Indemnity. Except for its intentional acts or negligence or the intentional acts or negligence of its agents, employees, or contractors, Lessor shall not be responsible or liable for any damage or injury to any property, fixtures, buildings, or other improvements, or to any person or persons, at any time on the Premises, including any damage or injury to Lessee or to any of Lessee's agents, employees, contractors or invitees.

12.3. Employees. For purposes of this Lease, references to Lessor and Lessor's officers, employees, servants, agents, contractors, and invitees excludes any person who owns a Unit or is a tenant or has rights to occupy a Unit and excludes any person or entity providing management services to the Association pursuant to a duly executed management agreement with the Association.

ARTICLE 13.

Insurance

13.1. Liability Insurance. Lessee shall provide or cause to be provided at its expense, and keep in force during the term of this Lease, a policy of commercial general liability insurance written on an occurrence basis and issued by a good and solvent insurance company licensed to do business in The Commonwealth of Massachusetts, rated B/6 or better by A.M. Best Company, selected by Lessee, and reasonably satisfactory to Lessor, and in an amount reasonably required by Lessor but in any event with a general aggregate limit of not less than \$6,000,000, and a per occurrence limit of not less than \$3,000,000 for bodily injury, property damage and medical payments. Such policy shall include Lessor as an insured. Lessee agrees to deliver certificates of such insurance to Lessor as of the date hereof and thereafter not less than ten days prior to the expiration of any such policy. Such insurance shall not be cancelable without ten days' prior written notice to Lessor. This insurance shall be in addition to the

commercial general liability insurance maintained by the Board of Managers as described in Section 6.7 of the By-Laws; provided, however, the insurance maintained by the Board of Managers shall satisfy Lessee's requirement herein if Lessor is named as a named insured on the Board of Manager's policy and the above dollar limits are satisfied.

13.2. Property Insurance. During the term of this Lease, Lessee shall insure or cause the Board of Managers to insure the Buildings and Improvements to be insured for the benefit of Lessor and Lessee as their respective interests may appear, on an "all risks" basis in an amount equal to the replacement value of the Buildings and Improvements (above foundation walls) by a good and solvent insurance company licensed to do business in The Commonwealth of Massachusetts rated B/6 or better by A.M. Best Company. The policy or a certificate thereof shall be held by any Unit Mortgagee(s) and by Lessor. Lessee agrees to deliver certificates of such insurance to Lessor as of the date hereof and thereafter not less than ten days prior to the expiration of any such policy. Such insurance shall not be cancelable without ten days' prior written notice to Lessor. All proceeds payable at any time and from time to time by any insurance company under such a policy shall be payable to the Board of Managers or Insurance Trustee, if so required by the By-Laws, and to such Unit Mortgagees, if any, or, if payment is not required to be made to the Board of Managers, the Insurance Trustee or the Unit Mortgagees, then to Lessee, if permitted by the By-Laws. Lessee shall pay the proceeds thereof to the Board of Managers as required by the By-Laws to be used to repair or replace the damaged Buildings or Improvements or damaged portion thereof to its condition prior to the casualty or, in the alternative, remove any damaged Buildings or Improvements as provided in Article 15 of this Lease. Lessor shall, at Lessee's cost and expense, cooperate fully with Lessee and execute any and all consents and other instruments and take all other actions necessary to obtain the largest possible recovery and to cause such proceeds to be paid as hereinbefore provided. Lessor shall not carry any insurance concurrent in coverage and contributing in the event of loss with any insurance required to be furnished by Lessee hereunder if the effect of such separate insurance would be to reduce the protection or the payment to be made under Lessee's insurance. The insurance maintained by the Board of Managers as described in Section 6.7 of the By-Laws satisfies the provisions of this Section 13.2.

ARTICLE 14.

Waiver of Subrogation

14.1. Waiver of Subrogation. All insurance policies carried by either party or on behalf of either party covering the Premises or a Unit, including but not limited to contents, fire and casualty insurance, shall expressly waive any right of subrogation on the part of the insurer against the other party or the entity carrying the insurance.

14.2. Waiver of Rights. All claims, causes of action, and rights of recovery for any damage to or destruction of persons, property, or business which shall occur on or about the Premises or a Unit, which result from any of the perils insured under any and all policies of insurance maintained by Lessor and Lessee or on behalf of

either, are waived by each party as against the other party and its partners, agents, officers, and employees, regardless of cause, including the negligence and intentional wrongdoing of the other party and its respective agents, officers and employees, but only to the extent of recovery, if any, under such policy or policies of insurance; provided, however, that this waiver shall be null and void to the extent that any such insurance shall be invalidated by reason of this waiver.

ARTICLE 15.

Damage or Destruction

15.1. Casualty Damage. In the event that, during the term of this Lease, the Condominium shall be destroyed or damaged in whole or in part by fire or other cause and the cost of repairing the casualty loss does not exceed ten percent of the amount determined to be the most recent annual replacement value of the Condominium made pursuant to Section 6.7 of the By-Laws, then Lessee shall vote its Proportionate Interest, if a vote of the Unit Owners is required under the By-Laws, so as to cause the same to be repaired, replaced, or rebuilt within a reasonable period of time.

15.2. Significant Damage. In the event that (i) the Condominium is damaged or destroyed, and (ii) the cost of repairing the casualty loss associated therewith exceeds ten percent of the amount determined to be the most recent annual replacement value of the Condominium made pursuant to Section 6.7 of the By-Laws, then the Unit Owners shall decide by vote within one hundred twenty days of the date of the casualty whether to cause the same to be repaired, replaced, or rebuilt within a reasonable period of time. If seventy-five percent of the Unit Owners vote within one hundred twenty days of the date of the casualty not to repair and restore the Condominium, and, as a result thereof, an order is entered in a court of competent jurisdiction partitioning the Condominium, the term of this Lease shall expire and come to an end on the day on which removal of all Buildings and Improvements so damaged or destroyed and regrading of the Land, if required by Lessor, is complete, or otherwise on the day Lessor waives in writing its right to have such Buildings and Improvements removed and the Land regraded, with the same force and effect as if said day had been originally fixed herein as the Stated Expiration Date, and neither party shall have any further rights or liabilities thereafter arising or accruing under this Lease. If the Unit Owners fail to vote within one hundred twenty days of the date of the casualty, Lessor may, at its option, give to Lessee a notice terminating this Lease upon a date specified in such notice, which date shall not be less than thirty days after the date of receipt by Lessee of such notice from Lessor and upon the date specified in said notice this Lease shall expire and come to an end unless prior thereto the Unit Owners shall decide by vote to whether to cause the Condominium to be repaired, replaced or rebuilt.

15.3. Repair. Subject to the rights of Unit Owners pursuant to the provisions of Section 17 of the Condominium Statute, as the same may be amended from time to time, if pursuant to the provisions of Section 15.2 a vote is required and the vote taken is to repair and restore the Condominium, then after any such damage or destruction to the Condominium, following which the Board of Managers, the Unit

Owners or the Board of Managers proceed to restore and rebuild the same in the manner provided in the By-Laws, this Lease shall continue in full force and effect. Plans and specifications used to repair, replace or rebuild the Condominium shall be and become the sole and absolute property of Lessor in the event that for any reason this Lease shall terminate. Lessee shall also assign to Lessor, or cause the Board of Managers to assign to Lessor, any contract with regard to the performance of such repairs, replacements or rebuilding by a general contractor or builder, said assignment by its terms to be effective upon any termination of this Lease or upon Lessor's re-entry upon the Premises following an Event of Default by Lessee and notice as herein provided. Such assignment shall also include the benefit of all payments made on account of the contract prior to the effective date of such assignment. Lessee shall cause such repairs, replacements or rebuilding to be performed substantially in accordance with the plans and specifications and any applicable Legal Requirements. During the course of such repairing, replacing and rebuilding, Lessee shall cause the Board of Managers to carry for the protection of Lessor such liability insurance in such amounts which may from time to time be reasonably required by Lessor.

In the case of damage or destruction involving a cost of repair of less than \$50,000 (as adjusted to reflect Current Dollars), the insurance proceeds shall be paid to the Board of Managers and shall be applied by the Board of Managers to the cost of the work. In the case of damage or destruction involving a cost of repair of more than \$50,000 (as adjusted to reflect Current Dollars), the insurance proceeds shall be paid to a national bank or commercial bank which is agreeable to acting as Insurance Trustee hereunder (the "Insurance Trustee") and shall be applied by the Insurance Trustee directly to the payment of bills submitted in connection therewith upon receipt by Lessor and the Insurance Trustee of:

(1) Evidence satisfactory to the Insurance Trustee that the insurance proceeds remaining to be disbursed are sufficient to pay all anticipated costs of the work. (The Board of Managers pursuant to the provisions of the By-Laws shall pay the deficiency before requesting the disbursement of insurance proceeds from the Insurance Trustee);

(2) Bills from contractors and subcontractors for work and materials in place, describing in reasonable detail such work and materials and bills for the reasonable fees of any architect or engineer for services relating to the work;

(3) A certificate signed by the Board of Managers stating that the amount of each such bill does not exceed the cost of such work, materials, or services, and that no part of such cost has previously been made the basis of the withdrawal of insurance proceeds; and

(4) A certificate of the architect or engineer in charge of the work, or of a third party not in the regular employ of any of the parties hereto, which architect, engineer or third party is reasonably satisfactory to Lessor and the Insurance Trustee, stating (i) that the work, materials or services described in the bills were necessary or appropriate and are in place or have been performed, (ii) that the amount specified in the

bills does not exceed the reasonable cost of such work, materials, or services (iii) that the work or material described in each bill, to the best knowledge of such architect, engineer or third party, has been supplied by the contractor or subcontractor submitting such bill or by a person who has supplied materials to such contractor or subcontractor, and (iv) to the best knowledge of such architect, engineer or third party, the additional amount, if any, required to complete the work.

15.4. Removal. If as the result of any such damage or destruction of the Condominium, the Condominium is partitioned and removed from the provisions of the Condominium Statute:

- (1) Lessee shall, at Lessor's option, vote to cause the Board of Managers to remove totally from the Premises all Buildings and Improvements that have been damaged or destroyed and shall fill and grade the Premises where necessary as a result of such removal, and shall apply the insurance proceeds to the cost of performing such removal and regrading; and
- (2) The balance of such insurance proceeds, if any, remaining after such application shall be paid to Lessee and divided among the Unit Owners in proportion to their respective Lessee's Share, subject to the rights of any Unit Mortgagees.

15.5. Lessor Design Approval. In the event that the Condominium is destroyed or damaged in whole or in part by fire or other cause and the Board of Managers, or Unit Owners, decide to restore, repair or rebuild the same in accordance with the provisions of this Article 15, such restoration, repair or reconstruction shall not proceed until Lessor has consented in advance and in writing to the plans and specifications for said restoration, repair or reconstruction, which consent shall not be unreasonably withheld.

ARTICLE 16. Eminent Domain

16.1. Total Takings. If there shall occur a Total Taking then this Lease shall automatically terminate as of the earlier of (i) the date that possession has been taken of the Premises or (ii) the date on which the Condominium is partitioned. In the event the Lease shall terminate or shall be terminated, neither party shall have any further rights or liabilities hereunder.

16.2. Distribution of Awards. In the event of a Total Taking, the parties hereto agree to cooperate in applying for and in prosecuting any claim for such Taking and further agree that the aggregate net Proceeds, after deducting all expenses and costs therewith, shall be distributed as follows;

(a) Determination of Values. The following values shall be determined as of the effective date of the Total Taking by agreement of Lessor and Lessee or, failing such agreement, by appraisal in the manner set forth in Section 16.2(c) hereof.

(1) Value of Lessor's Interest. The value of Lessor's interest shall be the then fair market value of the fee interest in the Premises as encumbered by this Lease, and

(2) Value of Lessee's Interest. The value of Lessee's interest shall be the then fair market value of the Leasehold Estate in the Premises under this Lease.

(b) Application of Award. After making the determinations described in subparagraph (a) above, so much of the net Proceeds which is available for distribution shall be applied as follows:

(1) First, to Lessor as a first charge against the Proceeds in the amount determined pursuant to Section 16.2(a)(1) above;

(2) Second, to Lessee as a second charge against the Proceeds in the amount determined pursuant to Section 16.2(a)(2) above, to be distributed to the Unit Owners and their respective Unit Mortgagees in accordance with Section 9.2 of the By-Laws; and

(3) Third, to Lessor or Lessee, as the case may be, the amount which is necessary to bring the amounts paid to Lessor under Section 16.2(b)(1) above and to Lessee under Section 16.2(b)(2) above into proportion based on the ratio of amounts described in Section 16.2(a)(1) representing Lessor's interest in the Proceeds and Section 16.2(a)(2) representing Lessee's interest in the Proceeds.

(c) Value Dispute. If Lessor and Lessee are unable to agree on the values to be determined under Section 16.2(a), the values shall be set by an independent panel of three Qualified Appraisers, one to be selected by Lessor, one to be selected by Lessee, and the third to be selected by the mutual agreement of the two Qualified Appraisers first selected. Such appraisals shall be made at the request of either Lessor or Lessee and shall be carried forward expeditiously once requested. Each party shall pay its own Qualified Appraiser's fees and expenses and one-half of the fees and expenses of the third Qualified Appraiser.

16.3. Partial Takings. In the event of a Partial Taking of the Premises, this Lease shall terminate as to the part of the Premises so taken but shall continue in full force and effect as to the remainder of the Premises. The award on account of such Partial Taking shall be distributed and applied as provided in Section 16.2. In the event of a Partial Taking of the Premises, and the portion remaining will, after restoration, permit the Premises to continue to be used for a Permitted Use, Lessee shall vote its Proportionate Interest to cause the Board of Managers to make all repairs to the Buildings, Improvements, Common Elements and the Units (but not Lessee's Property) affected by such Taking to the extent necessary to restore the same to a complete architectural whole (to the extent permitted, however, taking into consideration the amount of Land remaining after any such Taking); provided, however, that Lessee shall

not be obligated to expend an amount in excess of the Proceeds available to Lessee for such purposes, as hereinafter provided, but shall vote, if required to do so by the By-Laws, to treat such excess amount as a Common Expense. All Proceeds available or paid to Lessee upon such a Taking shall be paid to the Board of Managers or the Insurance Trustee, as the case may be, for the purpose of paying towards the cost of such restoration, or, in the event that the parties hereto agree to so restore, then only such portion as is agreed upon shall be paid to the Board of Managers or the Insurance Trustee, as the case may be, for such purpose and the balance shall be distributed pursuant to Section 16.4. All such restoration or rebuilding shall proceed in the manner provided in Section 15.3 hereof.

16.4. Distribution of Awards. All Proceeds available or paid to Lessee upon such Partial Taking in excess of the amount thereof needed by Lessee (i) to repair and restore the Premises or (ii) to contribute to the Board of Managers for the repair and restoration of the Premises, shall be distributed as provided in By-Laws.

ARTICLE 17. Mortgages

17.1. Unit Mortgages. With respect to any Unit (including both Harvard Eligible Units and Inclusionary Housing Units), Lessee and every subsequent owner of a Unit shall have the right to enter into Unit Mortgages on one or more occasions, from time to time, without the consent of Lessor. In no event and under no circumstances, however, shall Lessor be obligated to join in, or to subordinate Lessor's fee title to the Premises or Lessor's right to receive rentals hereunder, to any mortgage. No foreclosure of any Unit Mortgage shall affect this Lease.

With respect to Harvard Eligible Units only, in the event any Unit Mortgagee deems a default to exist under its Unit Mortgage of a Harvard Eligible Unit, such Unit Mortgagee shall give Lessor notice thereof, and if such Unit Mortgagee deems it desirable to commence foreclosure proceedings under its Unit Mortgage with respect to such default it shall notify Lessor of Unit Mortgagee's intent to so commence foreclosure proceedings at least thirty days in advance of the proposed date of the first publication of the notice of sale of such Harvard Eligible Unit. During such thirty-day period Lessor shall have the right but not the obligation (a) to remedy or caused to be remedied the default(s) under the Unit Mortgage specified in any such notice, in which event such Unit Mortgage shall accept such performance by or at the instigation of Lessor as if it had been done by its borrower, or (b) to purchase such Unit Mortgage for an amount equal to the unpaid principal, interest and other charges with respect to such Unit Mortgage, in which event such Unit Mortgagee shall execute and deliver to Lessor such instruments of assignment and endorsement of such Unit Mortgage and the note secured thereby as Lessor shall reasonably request and Lessor shall thereupon be subrogated to the rights of such Unit Mortgagee. If at the end of such thirty-day period the default(s) under such Unit Mortgage have not been remedied and Lessor has not purchased such Unit Mortgage, such Unit Mortgagee may (a) commence foreclosure proceedings under such Unit Mortgage, or (b) if such Unit Mortgage is a first Unit Mortgage, require Lessor to

purchase such first Unit Mortgage for its Unit Mortgage Purchase Amount, in which event Lessor shall accept an assignment of such first Unit Mortgage and the note secured thereby and pay such Unit Mortgagee the Unit Mortgage Purchase Amount, and Lessor shall thereupon be subrogated to the rights of such Unit Mortgagee. If Lessor acquires a Unit Mortgage of a Harvard Eligible Unit pursuant to this Section 17.1, the Faculty Member or Senior Administrator who is the Unit Owner of such Harvard Eligible Unit shall enter into a payroll deduction agreement with Lessor pursuant to which Lessor shall be entitled to deduct the monthly installment of principal and interest and other charges due under such Unit Mortgage from the salary or compensation due and owing from Lessor to such Faculty Member or Senior Administrator.

17.2. Rights of Unit Mortgagee. Lessor, upon providing to Lessee any notice of: (i) a Default under this Lease, (ii) a termination of the Lease, or (iii) a matter on which Lessor may predicate or claim a Default under this Lease, shall at the same time provide a copy of such notice to every Unit Mortgagee who has provided its name and address to Lessor at Lessor's address as herein specified or such other address as Lessor may from time to time specify in a recorded notice. No such notice by Lessor to Lessee shall be deemed to have been duly given unless and until a copy thereof has been so provided to every Unit Mortgagee. From and after such notice has been given to a Unit Mortgagee, such Unit Mortgagee shall have the same period, after the giving of such notice to it, within which to remedy any Default or acts or omissions which are the subject matter of such notice or to cause the same to be remedied, as is given Lessee after the giving of such notice to Lessee, to remedy, commence remedying, or cause to be remedied the defaults or acts or omissions that are the subject matter of such notice specified in any such notice. Lessor shall accept such performance by or at the instigation of such Unit Mortgagee as if the same had been done by Lessee.

The making of a Unit Mortgage shall not be deemed to constitute an assignment or transfer of the Unit encumbered thereby nor shall any Unit Mortgagee, as such, be deemed to be an assignee or transferee of the Unit so as to require such Unit Mortgagee, as such, to assume or otherwise be obligated to perform any of the terms, covenants or conditions on the part of Lessee to be performed hereunder, but the purchaser at any sale of the Unit in any proceedings for the foreclosure of any Unit Mortgage, or the assignee or transferee of the Unit under any instrument of assignment or transfer in lieu of the foreclosure of any Unit Mortgage shall be deemed to be an assignee or transferee of the Lease and shall be deemed to have agreed to perform all of the terms, covenants, and conditions on the part of the Lessee to be performed hereunder from and after the date of such purchase and assignment, but only for so long as such purchaser or assignee is the owner of the Unit. Any Unit Mortgagee or other acquirer of a Unit pursuant to foreclosure, assignment in lieu of foreclosure, or other proceedings may, upon acquiring the Unit, without further consent of Lessor, sell and assign the Unit on such terms and to such persons and organizations as are acceptable to such Unit Mortgagee or acquirer and, notwithstanding the provisions of the immediately preceding sentence, thereafter be relieved of all obligations under this Lease.

17.3. Amendment. This Lease shall not be modified or surrendered to Lessor or cancelled by Lessee, nor shall Lessor accept a surrender of this Lease by a Unit Owner without the prior written consent of any Unit Mortgagee of such Unit Owner, nor shall any merger result from the acquisition by, or devolution upon, any one entity of the fee and leasehold estates in the Premises unless the leasehold estates of all Unit Owners are acquired by the entity owning the fee estate in the Premises.

ARTICLE 18.

Performance by Board of Managers

18.1. Acceptance of Performance. Any act required to be performed by Lessee pursuant to the terms of this Lease may be performed by the Board of Managers and shall be acceptable as Lessee's act by Lessor.

ARTICLE 19.

Quiet Enjoyment

19.1. Lessor's Covenant. Lessee, upon paying the Rent and observing and keeping all covenants, warranties, agreements, and conditions of this Lease on its part to be kept, shall, subject to the Master Deed, By-Laws, Rules and Regulations, and terms of this Ground Lease, all as amended from time to time, the Legal Requirements, and the Permitted Exceptions, quietly have and enjoy the Premises during the term of this Lease, without hindrance or molestation from any person, firm or corporation lawfully claiming by, through or under Lessor.

ARTICLE 20.

Defaults; Events of Default

20.1. Terminable Defaults. The following shall, if any requirement for notice or lapse of time or both has not been met, constitute Defaults, and, if any such conditions have been met, constitute "Terminable Events of Default" hereunder:

(a) The failure of Lessee to keep, observe, or perform any covenant made by it in Sections 5.1, or 15. 1 hereof;

(b) Any attempt to amend Sections 5, 6, 7, 8, or 9 of the Master Deed without Lessor's express, prior, written consent;

(c) The purported amendment of the Master Deed by the Unit Owners, without the express, prior, written consent of Lessor, in any manner which would:

- (1) interfere with Sponsor's or any Affiliate's rights to complete development of the Condominium as aforesaid;
- (2) change the restrictions on unit ownership, permitted use, occupancy;

- (3) limit or restrict Sponsor's rights; or
- (4) modify in any way Sections 5, 6, 7, 8, or 9 of the Master Deed.

(d) With respect to any Harvard Eligible Units not owned by Sponsor or an Affiliate of Sponsor, the lapse or other termination, voluntary or involuntary, of the status of the owner of such Harvard Eligible Unit as a Faculty Member or Senior Administrator, or any occupancy or transfer of such Harvard Eligible Unit in violation of Sections 5, 6, 7, or 8 of the Master Deed; and

(e) The partition of the Condominium and/or the removal of the Condominium from the provisions of the Condominium Statute other than in accordance with Sections 15 or 16 hereof.

If any Terminable Event of Default shall occur and be continuing, Lessor may, at its option, give to Lessee a notice terminating this Lease upon a date specified in such notice, which date shall be not less than thirty days after the date of receipt by Lessee of such notice from Lessor and upon the date specified in said notice, the term and estate hereby vested in Lessee shall cease and any and all other right, title and interest of Lessee hereunder shall likewise cease without further notice or lapse of time, as fully and with like effect as if the entire term of this Lease had elapsed, but Lessee shall continue to be liable to Lessor as hereinafter provided. Notwithstanding the foregoing, Lessor agrees to terminate this Lease only with respect to the Unit Owner or Unit Owners responsible for such Terminable Event of Default and their respective Units(s). Only a Terminable Event of Default under Section 20.1 (c) or (e) shall give Lessor the right to terminate this Lease with respect to all Unit Owners. Lessor shall simultaneously send a copy of any such notice to any Unit Mortgagee, the Board of Managers, and any additional persons or parties having an interest in the Unit that Lessee may select, in writing, from time to time.

20.2. Non-Terminable Defaults. The following shall, if any requirement for notice or lapse of time or both has not been met, constitute Defaults, and, if any such conditions have been met, constitute "Non-Terminable Events of Default" hereunder:

- (a) The failure of Lessee to pay Basic Rent when due and payable;
- (b) The failure of Lessee to pay Additional Rent when the same shall be due and payable and the continuance of such failure for a period of thirty days after receipt by Lessee of notice in writing from Lessor specifying such failure;
- (c) The failure of Lessee to make such timely payment or performance under any provision of any Unit Mortgage so as to create a terminable default thereunder;
- (d) The failure of Lessee to keep, observe, or perform any covenant made by it in Sections 13.1 and 13.2 hereof;

(e) The failure of Lessee to perform any of the covenants, conditions and agreements contained herein or in the Condominium Documents on Lessee's part to be kept, observed or performed and the continuance of such failure without the curing of same for a period of thirty days after receipt from Lessor of notice in writing specifying in reasonable detail the nature of such failure, and provided Lessee shall not have cured said failure as provided in Section 20.3.

If any Non-Terminable Event of Default shall occur, Lessor shall have the right, but shall not be required, to pay such sums or do any act which requires the expenditure of monies which may be necessary or appropriate by reason of such Non-Terminable Event of Default (including, without limitation, commencing a suit in a court of competent jurisdiction for damages, specific performance or other appropriate injunctive relief), and in the event of the exercise of such right by Lessor, Lessee agrees to pay to Lessor forthwith upon demand all such sums (including, without limitation, attorneys' fees and expenses at both the trial and appellate levels), together with interest thereon at a rate equal to 3% over the base rate in effect from time to time at Fleet National Bank (but in no event more than 18% per annum), as Additional Rent. In no event shall Lessor charge Tenant interest twice on unpaid sums, pursuant to this Section. If at any time during the Term of this Lease, Fleet National Bank has ceased to exist, then the interest rate prescribed in this Section 20.2 shall be equal to 3% over the base rate at the largest nationally chartered bank having its headquarters in Boston, Massachusetts.

Lessor acknowledges and agrees that in no event shall it have the right to terminate the Lease in the event of a Non-Terminable Event of Default. Except as otherwise provided in the foregoing sentence, the specified remedies to which Lessor may resort under this Lease are not intended to be exclusive of any remedies or means of redress to which Lessor may at any time be entitled lawfully, and Lessor may invoke any remedy allowed at law or in equity as if specific remedies were not herein provided for.

20.3. Lessee's Best Efforts. In the event that Lessor gives notice of a Default of such a nature that it cannot be cured within such thirty day period then such Default shall not be deemed to continue so long as Lessee, after receiving such notice, proceeds to cure the Default in good faith as soon as reasonably possible and continues to take all steps necessary to complete the same within a reasonable period of time. No Default shall be deemed to continue if and so long as Lessee shall be delayed in or prevented from curing the same by reason of Force Majeure.

20.4. Elimination of Default. Notwithstanding anything to the contrary contained in this Article 20, in the event that any Default(s) of Lessee shall be cured in any manner hereinabove provided, such Default(s) shall be deemed never to have occurred and Lessee's rights hereunder shall continue unaffected by such default(s). The curing of any Default(s) within the above time limits by any of the aforesaid parties shall constitute a curing of any such Defaults) as if Lessee had cured the same hereunder.

20.5. Further Remedies. Upon any termination of this Lease pursuant to Section 20.1, Lessor may, in addition and without prejudice to any other rights and

remedies Lessor shall have at law or in equity, re-enter the Premises and the affected Unit(s), recover possession thereof and dispossess any or all occupants of the Premises and the affected Unit(s) in the manner prescribed by the statute relating to summary proceedings, or similar statutes; but Lessee in such case shall remain liable to Lessor as hereinafter provided.

ARTICLE 21.
Remedies on Default

21.1. Surrender. Upon the expiration of the term of this Lease, or upon the earlier termination of this Lease pursuant to Sections 15, 16 or 20 with respect to the Premises or one or more Units, Lessee shall quit and peacefully surrender the Premises or the affected Unit(s) to Lessor, and Lessor, upon or at any time after any such expiration or termination, may without further notice, enter upon and reenter the Premises or the affected Unit(s) and repossess itself thereof, by force, summary proceedings, ejection or otherwise, and may dispossess Lessee and remove Lessee and all other persons and property from the Premises or the affected Unit(s) and may have, hold and enjoy the Premises or the affected Unit(s) and the right to receive all rental income of and from the same.

21.2. Right to Relet. At any time or from time to time after any such termination with respect to the Premises or one or more Units, Lessor may relet the Premises, the affected Unit(s) or any part thereof, in the name of Lessor or otherwise, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the term of this Lease) and on such conditions (which may include concessions or free rent) as Lessor, in its reasonable discretion, may determine and may collect and receive the rents therefor. Lessor shall in no way be responsible or liable for any failure to relet the Premises or the affected Unit(s) or any part thereof, or for any failure to collect any rent due upon any such reletting.

21.3. Survival of Covenants. No such termination of this Lease shall relieve Lessee of its liability and obligations under this Lease and such liability and obligations shall survive any such termination. In the event of any such termination with respect to the Premises or one or more Units, Lessor may relet the Premises or the affected Unit(s), whether or not the Premises or the affected Unit(s) or any part thereof shall have been relet, Lessee shall pay to the Lessor the Rent up to the time of such termination of this Lease.

21.4. Right to Equitable Relief. In the event of any breach or threatened breach by Lessee of any of the covenants, agreements, terms or conditions contained in this Lease, Lessor shall be entitled to enjoin such breach or threatened breach and shall have the right to invoke any right and remedy allowed at law or in equity or by statute or otherwise as though re-entry, summary proceedings, and other remedies were not provided for in this Lease.

ARTICLE 22.
Reversion

22.1. Reversion Upon Expiration or Earlier Termination. Upon the expiration of the term of this Lease, or upon the earlier termination or cancellation of this Lease with respect to the Premises or one or more Units pursuant to Sections 15, 16, or 20 hereof, the affected Unit(s) and, if all of the Units in the Condominium are affected, the Premises, shall immediately revert to and become the sole property of Lessor and all rights of the affected Unit Owners and their Unit Mortgagees in their respective Units, in the Common Elements and in the Condominium shall thereupon terminate and Lessee shall quit and surrender the Premises and the Units in good condition, reasonable wear and tear excepted, and free and clear of all occupants, liens and encumbrances whatsoever except Permitted Exceptions. Unit owners shall have no right to remove any improvements so affixed to the Buildings, Improvements or Land as to become part of the realty upon the expiration or earlier termination of this Lease. Within thirty days of such reversion and surrender, Lessor shall pay to the Unit Owner of each affected Harvard Eligible Unit an amount equal to the Adjusted Fair Market Value of such Unit at the time of such expiration, termination or cancellation, subject to the rights of any Unit Mortgagees of such Harvard Eligible Unit who shall be entitled to receive directly from Lessor so much of such amount as may be required to satisfy the indebtedness secured by their Unit Mortgages, and Lessor shall pay to the Unit Owner of each affected Inclusionary Housing Unit (regardless of Lessor's obligation to reinstate under Section 22.3), an amount equal to the "Affordable Price" under the Inclusionary Housing Covenant of such Inclusionary Housing Unit at the time of such expiration, termination or cancellation, subject to the rights of any Unit Mortgagees of such Affordable Unit who shall be entitled to receive directly from Lessor so much of such amount as may be required to satisfy the indebtedness secured by their Unit Mortgages; except that, in each case if the Lease is terminated because of a partition or removal under Section 15.4 hereof, a Total Taking under Section 16.1 hereof or a partial Taking under Section 16.3 hereof, then the Unit Owner shall receive their Lessee's Share of any insurance proceeds or condemnation award, in accordance with Sections 15 and 16 hereof, subject to the rights of any Unit Mortgagees.

Upon the reversion of all of the Units to the Lessor, the Condominium shall be deemed removed from the provisions of Chapter 183A without any further action by the Unit Owners.

The reversion rights created in this Section 22 shall be superior in all respects to the right and interest of the holder of any interest of any nature whatsoever in any Unit including any mortgagee or holder of a lien upon a Unit, and any lessee, or occupant of a Unit. Upon the reversion of the Units to Lessor, the rights and interests of any and all such holders including any mortgagees, holders of liens, lessees, and occupants in the Units, the Common Elements and the Condominium, shall immediately and automatically terminate.

22.2. Acknowledgment of Reversion. The acceptance of a deed to any Unit by any party shall constitute an agreement by that party, for himself, his heirs, successors and assigns, to the foregoing covenants. Notwithstanding the foregoing, it shall be a customary practice, although not in any way a requirement or condition, that a Unit purchaser execute at the time of purchase of the Unit an acknowledgment of the fact that title to the Unit shall revert upon expiration or earlier termination of this Lease, in the form attached hereto as Exhibit B.

22.3. Reinstatement. Lessor shall have the right to reinstate this Lease with respect to any Harvard Eligible Unit which has reverted to Lessor pursuant to the provisions of Section 22 by executing and recording with the Registry a certificate of reinstatement in the form attached hereto as Exhibit D, in which event the Leasehold Estate in such Harvard Eligible Unit and its Proportionate Interest in the Common Elements shall immediately and automatically vest in the Sponsor, and the Sponsor shall have the right to use, sell or transfer such Harvard Eligible Unit and its Proportionate Interest in accordance with the provisions of this Ground Lease and the Master Deed.

Lessor shall be obligated to reinstate the Ground Lease with respect to any Inclusionary Housing Unit which has reverted to Lessor pursuant to the provisions of this Section 22 by executing and recording with the Registry a certificate of reinstatement in the form attached hereto as Exhibit D, in which event the Leasehold Estate in such Inclusionary Housing Unit and its Proportionate Interest in the Common Elements shall immediately and automatically vest in the Sponsor, and the Sponsor shall resell or rent such Inclusionary Housing Unit and its Proportionate Interest as follows: (i) on the termination of this Ground Lease as to any Inclusionary Housing Unit prior to termination of the Condominium, that Inclusionary Housing Unit shall remain subject to the Inclusionary Housing Covenant and shall be resold to a new owner in compliance with the terms of the Inclusionary Housing Covenant unless the Condominium has been converted to rental housing, in which event such Inclusionary Housing Unit shall be rented in compliance with the terms of the Inclusionary Housing Covenant, (ii) on the termination of the Ground Lease as to all Units, the Inclusionary Housing Units shall thereafter be subject to the provisions of the Cambridge, Massachusetts Inclusionary Housing Covenant under Zoning for Eighteen Rental Units at 157, 165 and 173 Pleasant Street, Cambridge, Massachusetts (Rental Rev. 10-99) recorded with the Registry as Document No. 1186466.

22.4. Holding Over. If following the expiration of the term of this Lease or earlier termination or cancellation of this Lease with respect to the Premises on one or more Units any Lessee continues to occupy the Premises or affected Unit(s), such Lessee shall be a tenant-at-sufferance only, shall be subject to all of the terms and provisions of this Lease, and shall pay as use and occupation each month an amount equal to 120% of the then fair market rent. Such a holding over, even if with the consent of Lessor, shall not constitute a tenancy at will or an extension or renewal of this Lease, and shall not diminish or affect Lessor's right to recover possession of the Premises or the affected Unit(s) by self help, re-entry by summary proceedings or otherwise, the provisions of this Lease, judicial process, or otherwise. Lessee shall save Lessor harmless and will

exonerate, defend, and indemnify Lessor from and against any and all damages that Lessor suffers on account of Lessee's holding over in the Premises or the affected Unit(s) after the expiration or earlier termination or cancellation of this Lease.

ARTICLE 23.

Waivers

23.1. No Waivers. No failure of Lessor or Lessee to complain of any act or omission on the part of the other party shall be deemed to be a waiver by said party of any of its rights hereunder. No waiver by Lessor or Lessee at any time, expressed or implied, of any provision of this Lease shall be deemed a waiver of a breach. No acceptance by Lessor of any partial payment shall constitute an accord or satisfaction but shall only be deemed a partial payment on account.

ARTICLE 24.

General Provisions

24.1. Force Majeure. In the event that Lessor or Lessee shall be delayed, or prevented from the performance of any act required hereunder by reason of Force Majeure, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

24.2. Notices and Communications. All notices, demands, requests and other communications provided for or permitted under this Lease shall be in writing, either delivered by hand or sent by first-class mail, postage prepaid, to the following addresses:

(a) if to Lessor c/o Harvard Planning and Real Estate, 8 Mt. Auburn Street, Cambridge, Massachusetts 02138, or at such other address as the Lessor shall have designated in writing to the Lessee, with a copy to such Persons as Lessor shall have designated in writing to Lessee, or

(b) if to Lessee, at Holyoke Center Room 912, 1350 Massachusetts Avenue, Cambridge, Massachusetts 02138, or at such other address as the Lessee shall have designated in writing to the Lessor.

Any notice provided for herein shall become effective only upon and at the time of receipt by the person to whom it is given, unless such notice is mailed by first-class registered mail, in which case it shall be deemed to be received on (i) the third Business Day following the mailing thereof or (ii) the day of its receipt, if a Business Day, or the next succeeding Business Day, whichever of (i) or (ii) be the earlier.

24.3. Certificates. Either Lessor or Lessee shall, without charge, at any time and from time to time hereafter, within ten (10) days after written request of the other, certify by written instrument duly executed and acknowledged (a) as to whether this Lease has been supplemented or amended, and if so, the substance and manner of

such supplement or amendment; (b) as to the validity and force and effect of this Lease, in accordance with its tenor as then constituted; (c) as to the existence of any Default or Event of Default; (d) as to the existence of any offsets, counterclaims or defenses thereto on the part of such other party; (e) as to the commencement and expiration dates of the term of this Lease; and (f) as to any other matters as may reasonably be so requested. Any such certificate may be relied upon by the party requesting it and any other person, firm, or corporation to whom the same may be exhibited or delivered, and the contents of such certificate shall be binding on the party executing the same.

24.4. Governing Law. This Lease and the performance thereof shall be governed, interpreted, construed and regulated by the laws of The Commonwealth of Massachusetts.

24.5. Partial Invalidity. If any provision of this Lease or the application thereof shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

24.6. Notice of Lease. If this Lease is not recorded Lessor and Lessee will at any time, at the request of either one, promptly execute duplicate originals of an instrument, in recordable form, which will constitute a Notice of Lease, setting forth a description of the Premises, the term of this Lease and any other portions thereof, excepting the rental provisions, as either party may request.

24.7. Interpretation. The section headings used herein are for reference and convenience only, and shall not enter into the interpretation hereof. This Lease may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. The term "Lessor" whenever used herein shall mean only the owner at the time of Lessor's interest herein, and upon any sale or assignment of the interest of Lessor such owner shall be relieved of any and all liability thereafter accruing under this Lease.

24.8. Entire Agreement. Lessor and Lessee acknowledge that prior written and oral agreements between them and all prior representations made by either party to the other have been incorporated in this Lease or otherwise satisfied prior to the execution hereof. This Lease may be amended only by instruments in writing executed by Lessor and Lessee or the Board of Managers acting on behalf of the Unit Owners as Lessee.

24.9. Parties. Nothing herein shall be construed as creating any relationship between Lessor and Lessee other than the relationship of landlord and tenant.

24.10. Absence of Fee Interest. If for any reason the Condominium is removed from the provisions of the Condominium Statute, in no event shall Lessee obtain a fee interest in the Premises, and the Lease shall remain in full force and effect during its

term, unless otherwise terminated in accordance with the provisions contained in the Lease.

24.11. Non-merger of Fee and Leasehold Estates. If under any circumstances both Lessor's and Lessee's estates in the Premises become vested in the same owner, this Lease nevertheless shall not be extinguished by application of the doctrine of merger except at the express written election of the Lessor recorded with the Registry and with the express written consent of all the Unit Owners as Lessee.

24.12. Amendments. Lessor and Lessee agree that any amendments made to this Lease with regard to Harvard Eligible Units will similarly be made with regard to Inclusionary Housing Units.

IN WITNESS WHEREOF, Lessor and Lessee hereto have caused this instrument to be executed in duplicate under seal as of the date first above written.

LESSOR:

PRESIDENT AND FELLOWS OF HARVARD
COLLEGE

By: _____

Name:

Title:

By: _____

Name:

Title:

LESSEE:

PLEASANT STREET GROUND LESSEE
NOMINEE TRUST

By: _____

Sally Zeckhauser, as Trustee and not
individually

By: _____

Sara Oseasohn, as Trustee and not individually

By: _____

Susan K. Keller, as Trustee and not individually

THE COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. _____, 2003

Then personally appeared the above-named _____, the _____ of President and Fellows of Harvard College, and acknowledged the foregoing instrument to be the free act and deed of President and Fellows of Harvard College, before me,

Notary Public
My commission expires:

THE COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. _____, 2003

Then personally appeared the above-named _____, the _____ of President and Fellows of Harvard College, and acknowledged the foregoing instrument to be the free act and deed of President and Fellows of Harvard College, before me,

Notary Public
My commission expires:

THE COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. _____, 2003

Then personally appeared the above-named Sally Zeckhauser acknowledged the foregoing instrument to be her free act and deed, as Trustee aforesaid, before me,

Notary Public
My commission expires:

THE COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. _____, 2003

Then personally appeared the above-named Sara Oseasohn acknowledged the foregoing instrument to be her free act and deed, as Trustee aforesaid, before me,

Notary Public
My commission expires:

THE COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. _____, 2003

Then personally appeared the above-named Susan K. Keller acknowledged the foregoing instrument to be her free act and deed, as Trustee aforesaid, before me,

Notary Public
My commission expires: